# CHAPTER M06

## FAMILIES AND CHILDREN RESOURCES

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## M06 FAMILIES AND CHILDREN RESOURCES

# CHAPTER M06
# FAMILIES AND CHILDREN RESOURCES

## SUBCHAPTER 10

## GENERAL RULES FOR FAMILIES AND CHILDREN RESOURCES

**M0610 Changes**

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## M06 FAMILIES AND CHILDREN RESOURCES

## M0610.000 GENERAL RULES FOR FAMILIES AND CHILDREN RESOURCES

# M0610.000 GENERAL RULES FOR FAMILIES AND CHILDREN RESOURCES

## M0610.001 OVERVIEW

**A. Introduction**

Medicaid is a needs based program. Two financial criteria, income and resources, are used to determine if a person is in need and is financially eligible for Medicaid. Most F&C categorically needy (CN) covered groups (see subchapter M0330) do not have a resource requirement. Resource policy does not apply to the following categorically needy covered groups:

- CN Pregnant Women & Newborn Children;
- Plan First,
- CN Child Under Age 19 (FAMIS Plus);
- IV-E Foster Care or IV-E Adoption Assistance Recipients;
- Low Income Families With Children (LIFC);
- Individuals Under Age 21;
- Special Medical Needs Adoption Assistance;
- BCCPTA,
- MAGI Adults (see M1460 for resource requirements)
- Former Foster Care Children Under Age 26

This section addresses how to determine resource eligibility for the following *covered groups and individuals*:

- F&C in Medical Institution, Income ≤ 300% SSI *age 18 years and older*;*
- F&C Receiving Waiver(CBC) Services *age 18 years and older**;
- F&C Hospice *age 18 years and older**; and
- all F&C medically needy covered groups.

***Children under age 18 in the F&C 300% SSI covered group are not subject to a resource test.***

All real and personal property legally owned by each member of the family unit/budget unit (FU/BU) is evaluated and the countable value is considered in determining Medicaid eligibility for the FU/BU.

Resources of each member of a FU/BU are evaluated using the rules in this chapter. Resource eligibility is determined by comparing the countable resources to the appropriate limit based on the composition of FU/BU. The policy governing the formation of the FU/BU is contained in M05.

**B. Policy Principles**

**1. Monthly Determinations**

Eligibility with respect to resources is a determination made for each calendar month, beginning with the third month prior to the month in which the application is received.

**2. Countable Resources**

Any assets that are resources but are not specifically excluded by policy are countable resources. Only countable resources are used to determine resource eligibility. See:

- M0610.002 for the resource limits;
- M0610.100 for the distinction between assets and resources;
- M0630.100 for a listing of exclusions.

**3. Whose Resources Must Count**

*For MN eligibility*, Medicaid law requires that resources are only considered available between spouses and from parents to their children under age 21 who live at home.

**4. Whose Resources *Do Not* Count**

Medicaid law does not allow certain resources to be considered in determining eligibility. Do not count resources:

- from a step-parent to a step-child;
- from siblings to siblings;
- from child to parent;
- from parent *when the child is between 18 and 21 and meets the 300% SSI covered group;*
- from spouse *when the spouses are living apart and neither spouse meets the definition of an institutionalized individual with a community spouse in M1480;*
- from an alien sponsor.

*For an individual between the ages of 18 and 21 who meets the F&C 300% SSI covered group, the resources of a parent are not counted. Children under age 18 in the F&C 300% SSI covered group are not subject to a resource test.*

*For married individuals who meet the F&C 300% SSI covered group, see subchapter M1480.*

**5. Total Countable Resources**

The total value of the countable resources owned or deemed available to all FU members are counted in determining the resource eligibility of each FU member.

The total value of the countable resources owned or deemed available to all BU members is counted in determining the resource eligibility of each BU member.

**6. Resource Eligibility**

If the total countable value of the FU/BU’s countable resources are at or below the resource limit at any point during the application month, retroactive month, or a month in which the case is pending, resource eligibility exists for that month.

**7. Excess Resources**

After determining countable resources in accordance with B.2 through *B*.5 above, if the family unit has resources other than the excluded items listed in M0630 totaling more than the allowable resource limit, determine if budget units can be formed. See Budget Unit rules in M0520. If BUs cannot be formed, or the BU's countable resources exceed the resource limit, resource eligibility does not exist.

If the FU/BU has a real property resource, see M0630.105 and M0630.110 for reasonable effort to sell real property.

**8. Income Not Resources**

When determining the value of resources available to the family/budget unit, do not consider any income as a resource in the month in which it is received.

# M0610.002 RESOURCE LIMITS

**A. Introduction**

A separate resource limit is set for each Medicaid classification. A resource limit is the maximum dollar amount of countable resources a FU or BU may own and the individuals within that unit be eligible for Medicaid.

**B. Policy Principles**

**1. Resource Eligibility**

A FU or BU with countable resources equal to or less than the resource limit applicable to the individual's covered group classification is resource eligible. A FU or BU with countable resources in excess of the limit applicable to the individual's covered group classification is not eligible for Medicaid.

**2. Resource Limits**

| F&C Classification | Limit |
|---|---|
| *Categorically Needy* | $1000 for the FU or BU |
| | |
| Medically Needy | $2000 for one person<br>$3000 for two persons and<br>$100 for each additional person in the FU or BU |

## M0610.100 DISTINCTION BETWEEN ASSETS AND RESOURCES

**A. Introduction**

Everything an individual owns is an asset. A resource is an asset the individual owns, has the right, authority, or power to convert to cash, and is not legally restricted from using for his/her support and maintenance. Changes in situations may result in an asset becoming a resource or a resource becoming an asset. The distinction is important as resources may affect Medicaid eligibility and assets that are not income or resources do not affect eligibility.

**B. Definitions**

**1. Assets**

Assets are all monies received and everything owned. An asset that is not income or a resource does not impact Medicaid eligibility.

**EXAMPLE**: An individual has an ownership interest in property but is not legally able to transfer that interest to anyone else. This ownership interest in the property is the individual's asset but because he is legally restricted from selling it (converting it to cash), it is not a resource and it does not meet the definition of income. It remains an asset, but it is not counted in determining his financial eligibility.

**2. Resources**

Resources are cash and any other real and personal property that a member of the family or budget unit:

- owns;
- has the right, authority, or power to convert to cash (if not already cash); and
- is not legally restricted from using for his/her support and
- maintenance.

NOTE: A trust may be a countable resource even though the individual does not have the authority to convert it to cash or is legally restricted from using it. See subchapters M1120.200-202 and M1140.400-404 for policy and procedures specific to determine if a trust (other than one established by a will) is a resource.

**3. Countable Resources**

Resources that are not specifically excluded by policy are countable resources.

**4. Real Property**

Real property is land, including buildings or immovable objects attached permanently to the land. (See M620.150 for a mobile home that is taxed as real property.)

**5. Personal Property**

Personal property is any property that is not real property. The term encompasses such things as cash, tools, farm and business equipment, life insurance policies, automobiles, and mobile homes taxed as personal property.

**6. Ownership**

Ownership of property by an individual means that the individual has a clear legal entitlement to the property, real or personal, or a specific portion thereof.

**C. Policy**

**1. Sale or Trade of an Asset**

Proceeds from the sale or trade of an asset must be evaluated as income in the month of receipt.

**2. Sale or Trade of a Resource**

Proceeds from the sale or trade of a resource are also resources. The sale or trade of a resource is converting a resource from one form to another.

**3. Increased Value**

Increases in the assessed or market value of a resource are not income.

**4. Resources with Zero Value**

Property does not cease to be a resource simply because it has no current market value. Even though there is no value to count, the property remains a resource for so long as it meets the definition of a resource in B.2. above. If the property develops a market value at a later time, this is an increase in the value of a resource, not a receipt of income.

## M0610.200 UNKNOWN ASSETS

**A. Policy**

Real or personal property the FU/BU is unaware of and had no reason to be aware of is not considered an available resource for the period of time the unit can demonstrate it did not know or had no reason to know about the property. Once the unit becomes aware or has reason to become aware of the existence of the resource, it is considered available to the unit.

**B. Development and Documentation**

The family/budget unit has the burden of proving that the members of the unit were unaware of and had no reason to be aware of the resource.

- Obtain a signed statement from the applicant/recipient or authorized representative.
- Obtain supporting documentation including (but not limited to) signed statements from other individuals who are familiar with the individual's situation.

## M0610.400 WHAT VALUES TO APPLY TO RESOURCES

**A. Introduction**

The countable value of a resource is the owner's pro rata share of the equity value. The equity value is the fair market value minus encumbrances (legal debts) against the property. This section contains the procedures for determining the fair market values, equity values, and the countable values of resources.

**B. Policy**

The value of an asset as a resource to the individual or family is the client's equity in the real or personal property.

**C. Establishing Fair Market Value**

The fair market value of a resource is determined as follows:

**1. Real Property**

For real property other than the home, apply the local assessment rate to the tax assessed value

**2. Personal Property**

For personal property (other than motor vehicles) if it is taxed, use the tax assessed value. If not taxed, obtain one statement from a knowledgeable source such as a supplier or distributor.

**3. Motor Vehicles**

For countable motor vehicles:

a. the average trade-in value in the National Automobile Dealers Association (NADA) Official Used Car Guide, or

b. for an older car which does not appear in the current NADA guide, the average trade-in value found in the NADA Official Older Used Car Guide, or

c. if the vehicle is not listed in the NADA books, the value which is assessed for tax purposes, or

d. if the methods listed above are not available:

- one statement from a licensed dealer, or
- the statement of the applicant/recipient.

**D. Equity Value**

Equity value (EV) is the fair market value minus encumbrances (legal debts) against the property.

**E. Disputed Fair Market Value**

If the applicant/recipient disagrees with the fair market value as established above, the value may be changed using the following procedures:

**1. Vehicles**

Advise the applicant/recipient that the fair market value can be changed if the individual provides:

- one statement from a licensed dealer, or
  if the statement is not obtainable, the statement of the applicant/recipient

**2. Real or Personal Property**

Advise the individual in writing that the fair market value can be changed if the individual provides:

- two written estimates from appropriate qualified parties of the resource's current fair market value, or
- the reassessed tax value of real or personal property.

**3. Qualified Parties**

Appropriate qualified parties for this purpose are:

- personal property - Persons deemed qualified by the agency to value the property in question.
- real property - Lending institutions, appraisers, or licensed real estate firms.

**4. Revised Fair Market Value of Real or Personal Property**

The revised fair market value of real or personal property is the lesser of the following:

- the average of the two estimates;
- the current agency established value; or
- the reassessed value of real or personal property.

**5. Redetermina-tion**

If found eligible based on the revised fair market value, the recipient is not required to reestablish the fair market value at each redetermination.

The revised fair market value will serve as the fair market value until:

- the worker has reason to believe the fair market value has increased, or
- the value of other resources available to the recipient increases; or

- the recipient acquires additional resources which, when combined with the established fair market value of the disputed resource, cause the total value of the FU/BU's resources to exceed the applicable resource limit.

The recipient must reestablish the fair market value of the disputed resource according to item E. 1.- 4. above.

## M0610.500 OWNERSHIP

**A. Introduction**

The case record must contain verified information regarding ownership of property and its value, where applicable.

**B. Definition**

Ownership of property by an individual means the individual has a clear legal entitlement to the property, real or personal, or a specific portion thereof.

**C. Shared Ownership**

Assume, absent evidence to the contrary, that each owner of shared property owns only his or her fractional interest in the property. Divide the total value of the property among all of the owners in direct proportion to the ownership share held by each.

**D. Property Owned by SSI Recipient**

The value of any property owned by an SSI recipient living in the home is not a countable resource to individuals who meet a F&C covered group even though the SSI recipient is a child or is the parent of the child(ren) who meets a F&C covered group.

When property is owned jointly by an SSI recipient and a Medicaid applicant/recipient in the Families and Children categories, refer to:

- M0640.100 for policy on jointly owned real property,
- M0640.210 for policy on joint bank accounts, and

M0640.300 for policy on jointly owned vehicles.

## M0610.600 DETERMINING ELIGIBILITY BASED ON RESOURCES

**A. Policy**

The value of any asset that meets the definition of a resource counts against the applicable resource limit to the extent that the instructions in M0630 do not provide for its exclusion.

The total of the countable equity value of each countable resource belonging to or deemed to a member of the family/budget unit is compared to the resource limit. The resource limit is based on the number of individuals in the FU/BU and the classification of the individuals. If the total of countable resources is less than or equal to the resource limit, the individual is eligible for Medicaid. If the total of countable resources exceeds the resource limit, the individual is not eligible for Medicaid.

# CHAPTER M06
# FAMILIES AND CHILDREN RESOURCES

## SUBCHAPTER 20

## IDENTIFYING RESOURCES

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## M06 FAMILIES AND CHILDREN RESOURCES

## M0620.000 IDENTIFYING RESOURCES

**Section Page**

# M0620 IDENTIFYING RESOURCES

## M0620.140 TRUSTS

**A. Trusts Established By a Will**

For all classifications, any trust established by a will must be evaluated by the Assistant Attorney General (AAG) to determine if it is a countable resource.

**B. Operating Procedure for Trusts Established by a Will**

1. The applicant/recipient or authorized representative must submit the trust documents to the agency.
2. The agency must obtain such documents within the time standards established for determining initial/continuing eligibility and forward the documents to the Medicaid Regional Specialist who will consult with the Assistant Attorney General.
3. If the AAG advises that it is available without further court action, the amount of the trust must be counted as an available resource and compared to the appropriate resource limit.
4. If the AAG determines that the trust is not available, it is not a countable resource.
5. If the AAG cannot determine the availability of the trust or determines that court action is necessary to make the trust funds available, the applicant/recipient must initiate action, within 30 days of notification by the agency, to have the court release the trust funds.

Pending a determination by the court, the trust is not considered available provided the applicant/recipient demonstrates continued efforts to have the trust released.

**C. All Other Trusts**

For all classifications, follow policy in M1120.201.

## M0620.150 MOBILE HOMES

**A. Policy**

A mobile home in which the applicant/recipient lives and its contents are excluded resources.

If a mobile home is not used as the applicant/recipient’s home, it is a countable resource.

**B. Procedure**

**1. Determine if Real or Personal Property**

If a mobile home is not used as the applicant/recipient's home, determine if the property is taxed as real property or taxed as personal property.

**2. Establish Fair Market Value**

Use policy in M0610.400 to establish the fair market value of the mobile home as real or personal property.

**3. Rental Income**

If the mobile home is not used as the applicant/recipient's home, but is rented, it is a countable resource and the rental income is countable.

**C. References**

- Income From Self-Employment, M0720.200.
- Rental Income, M0730.505.
- Reasonable Effort to Sell Real Property, M0630.105 and M0630.110.

# CHAPTER M06
# FAMILIES AND CHILDREN RESOURCES

## SUBCHAPTER 30

## F&C EXCLUDED RESOURCES

## M0630 Changes

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## M06 FAMILIES AND CHILDREN RESOURCES

## M0630.000 F&C EXCLUDED RESOURCES

# M0630.000 Families and Children (F&C) EXCLUDED RESOURCES

## M0630.001 OVERVIEW

**A. Introduction**

After determining that an asset meets the definition of a resource, determine that resource's effect on eligibility. Certain resources do not count against the resource limit; i.e., they are excluded.

**B. Procedure**

Section M0630.100 below contains the policy and procedures for determining if an individual's resource is excluded from determining eligibility for Medicaid in an F&C covered group.

## M0630.100 EXCLUDED RESOURCES

**A. Identifying Excluded Resources**

As long as they are identifiable, exclude the resources described in the sections below.

If any funds derived from an excluded resource are combined with other resources, the individual must provide documentation to verify the excluded amount. Otherwise, the funds must be counted in determining eligibility.

**B. Types of Excluded Resources**

**1. Resources Owned By SSI Recipient**

Resources (real and personal property) owned solely by any individual in the household who is receiving SSI are excluded from the F&C individual's eligibility determination.

When property is owned jointly by an SSI recipient and an F&C applicant/recipient, only the share of the property owned by the F&C individual is considered available.

**2. Trusts**

See M0620.140 to determine if a trust is excluded.

**3. Sold or Transferred**

When any of the excluded resources are sold or transferred into cash or other liquidable assets, these items are countable resources and will be considered in relation to the applicable resource limit.

**EXAMPLE #1:** Ms. C sells her excluded vehicle and receives $500 from the sale. This sum of money is a countable resource.

**EXAMPLE #2:** Ms. H. sells her excluded home. She receives net proceeds of $20,000. This money is a countable resource and will be considered in relation to the applicable resource limit.

**4. Life Estates**

A life estate gives an individual certain property rights for the duration of his or her life, or someone else's life. A life estate in real property is not a countable resource.

**C. Procedure**

Sections M0630.110 through M0630.160 below contain the policy and procedures for determining whether a resource is partially or totally excluded in the resource eligibility determination.

- M0630.115 Home Property
- M0630.120 Personal Property
- M0630.125 Savings *or Other Investment* Account for *Purpose of Self-Sufficiency*
- M0630.130 Casualty Property Loss
- M0630.140 Government Program Benefits & Payments
- M0630.150 Education Assistance
- M0630.160 Indian Tribe Funds and Land.

## M0630.105 REASONABLE EFFORT TO SELL FOR THE CATEGORICALLY NEEDY COVERED GROUPS

**A. Policy**

When ownership of real property alone, or in combination with other countable assets, causes the family/budget unit's resources to exceed the $1000 resource limit, the applicant/recipient must be given the opportunity to receive Medicaid for the otherwise eligible family/budget unit for a maximum period of nine consecutive months while efforts are being made to dispose of the real property.

**B. Determining Nine Month Period**

The nine-month period runs for nine consecutive months regardless of whether Medicaid is received during all of that period. For an applicant, the period begins with the first month of entitlement. For a recipient, the nine-month period begins the month in which the recipient receives the property. When it is learned that the recipient owns property which has not been reported, the nine-month period begins in the month the unit became aware or had reason to become aware of the existence of the resource.

**C. Procedures**

**1. Written Notice**

Advise the applicant/recipient, in writing:

- of the amount by which the real property exceeds the resource limit;

- that if he/she is willing to make reasonable effort to sell the property he/she is eligible for Medicaid during the nine-month period, if otherwise eligible.

- that the disposition of the property will be evaluated as an asset transfer.

**2. Good Faith Effort**

The eligibility worker must:

- Explain to the applicant/recipient that agreeing to sell the property includes making good faith efforts to sell the property within a range of 10% of fair market value.
- Explore with the applicant/recipient ways to satisfy a good faith effort, which includes but is not limited to, listing the property with a real estate company, advertising in various ways, etc. Document discussion.
- Advise that failure to make good faith efforts to sell will result in ineligibility.
- Verify the good faith efforts to dispose of the property during the third and sixth months of the disposal period. Document the case record.

**3. Notification of Contract**

Advise the applicant/recipient to report to the agency no later than the next working day after a contract to sell the property is made.

**4. Failure to Sell**

If the property has not been sold in the nine-month period, the individual and family is no longer eligible in an F&C CN covered group. The family remains ineligible until the property has been disposed of or until such time as the property does not preclude eligibility.

**D. One-Time Exclusion**

This exclusion of property is a one-time per resource, limited exclusion. If the individual reapplies in an F&C or CN covered group and still owns the property, the property cannot be excluded under the reasonable effort to sell provision.

## M0630.110 REASONABLE EFFORT TO SELL FOR THE MEDICALLY NEEDY

See policy and procedures in M1130.140

## M0630.115 HOME PROPERTY

**A. Policy**

For all F&C classifications, the home in which the applicant/recipient lives and its contents are excluded.

If income is received from the use of the property or buildings on it, evaluate the income as earned or unearned income according to M07.

**B. Definitions**

**1. Home**

The home means the house, lot, and all contiguous property. It also means any buildings, in addition to the house, which are situated on the property.

**2. Contiguous Property**

Contiguous property means the land, and improvements which are not separated from the house lot by land owned by others. Streams and public rights of way which run through the property and separate it from the home will not affect the property's contiguity.

**3. Other Shelter as Home Property**

If the family/budget unit is using a vehicle, a boat, a camper, or another type of shelter as a home, this shelter is an excluded resource. Ownership of this resource does not affect eligibility for the period of time the family/budget unit lives in it. The month the family/budget unit moves to a house or apartment, the vehicle, boat, camper, or other shelter that the family/budget unit owns becomes an available resource and must be evaluated per M0640.

## M0630.120 PERSONAL PROPERTY

**A. Motor Vehicle**

**1. *All Groups Other Than Medically Needy (MN)***

*For F&C covered groups other than MN,* one motor vehicle with an equity value of $1,500 or less is excluded.

**2. MN**

For the MN covered groups, one vehicle of any value is excluded.

**B. Income-producing Farm or Business Equipment**

For all classifications, income producing farming and business equipment is excluded. If farm or business equipment is not producing income, it is countable personal property.

**C. Tools and Equipment**

For all classifications, the following are excluded:

- tools and equipment belonging to a temporarily disabled member of the family/budget unit during the period of disability;
- tools and equipment belonging to an unemployed parent when such tools and equipment have been and will continue to be used for employment.

**D. Life Insurance**

**1. *All Groups Other Than MN***

*For F&C covered groups other than MN*, the cash value of any life insurance policy owned by the individual or his/her spouse is counted.

**2. MN**

For MN covered groups, all life insurance policies on a person under age 21 years are excluded.

Any life, retirement, or other related types of insurance policies with face values totaling $1500 or less on any one person 21 years old and over are excluded. When the face values of such policies of any one person exceed $1500, the cash surrender value of the policies is counted as a resource.

**E. Burial Plots**

**1. All Groups Other Than MN**

For F&C covered groups other than MN, one burial plot per member of the family/budget unit is excluded.

**2. MN**

All burial plots are excluded for MN.

**F. EITC Refunds or Advance Payments**

For all classifications, Earned Income Tax Credit refunds and advance payments are excluded as resources in the month following the month of receipt. Any portion of the refund or advance payment retained after the month following the month of receipt is a countable resource.

**G. Bona Fide Loans**

For all classifications, all bona fide loans are excluded, regardless of the intended use. See M0640.800.

***H. COVID-19 Relief* Payments**

*COVID-19 relief payments provided under federal law* are not counted as income and are **not** counted as resources for **12 months following the month** of receipt. Interest earned on the payments is countable as income for individuals subject to a resource test per M0610.001.

## M0630.121 BURIAL ARRANGEMENTS

**A. All Groups Other Than MN**

**1. Bona Fide Funeral Agreement**

A bona fide funeral agreement covering a family/budget unit member with a maximum equity value of $1500 per individual is excluded. A bona fide funeral agreement is a formal agreement for funeral and burial expenses, such as a revocable burial contract, burial trust, or another funeral arrangement (generally with a licensed funeral director). Passbook bank accounts, or simple “set asides” of savings for funeral expenses, and cash surrender values of life insurance policies are not bona fide funeral agreements and **are not** excluded resources.

NOTE: Funds in excess of the $1500 burial limit per individual are counted against the resource limit. See section M0640.500.

**2. Irrevocable Burial Contracts**

Irrevocable burial contracts, regardless of value, are not counted as resources since they cannot be converted to cash by the individual.

**B. MN**

Burial funds are excluded from resources up to a maximum of $3,500 per individual. From August 1, 1994 on, in order for resources to be disregarded under the burial funds exclusion, they must be in the following forms:

- irrevocable burial trusts established on or after August 11, 1993;
- revocable burial trusts;
- revocable burial contracts; other revocable burial arrangements (including the value of certain installment sales contracts for burial spaces);
- cash;
- financial accounts (e.g., savings or checking accounts);
- other financial instruments with a definite cash value (e.g., stocks, bonds, certificate of deposit, life insurance policies, etc.).

Use the ABD policy and procedures in M1130.410 and M1130.420 for MN F&C groups.

## M0630.125 SAVINGS OR OTHER INVESTMENT ACCOUNT FOR THE PURPOSE OF SELF-SUFFICIENCY

**A. Policy**

For all covered groups that have resource requirements, up to $5,000 of principal and interest in one savings or other investment account for the purpose of self-sufficiency, is excluded. Investment accounts may include but are not limited to, mutual funds, money market accounts and stock ownership.

Any excess principal and/or interest over the $5,000 limit is a countable resource.

**B. Requirements**

**1. Must Be Kept Separate**

The funds on deposit in such an account cannot be commingled with funds intended for another use.

**2. More Than One Account**

If the family unit has more than one savings account established for self-sufficiency, the family unit must specify which account is the excluded resource.

**3. Withdrawals**

Self-sufficiency expenditures may include expenses related to securing and maintaining employment, education, home purchase, vehicle purchase, starting a business or other purposes reasonably determined to promote self-sufficiency. If any amount is withdrawn from the account for any purpose other than self-sufficiency, any portion of the amount determined to be misused will be treated as a countable resource in the month following the month withdrawn, if it is retained.

**C. Notification**

The eligibility worker must explain the policy in this section to the applicant/recipient who has one of these accounts.

**D. Documentation**

When a savings or investment account established for the purpose of self-sufficiency is first reported or discovered, the agency must verify the amount in the account and obtain a written statement from the applicant/recipient which includes the purpose of the account. The balance must be verified at application and redetermination.

# M0630.126 WALKER V. BAYER SETTLEMENT PAYMENTS

***A. Policy***

Section 4735 of the Balanced Budget Act of 1997 (P.L. 105-33) states that payments described in this subsection from the settlement of the Susan Walker v. Bayer Corp., et.al., class action lawsuit are NOT counted as resources in determining eligibility for Medicaid. Payments described in this subsection are:

1. payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et.al., 96-C-5024 (N.D.III.); and

2. payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement of Walker v. Bayer Corp., et.al., and that is signed by all affected parties on or before the later of

   X December 31, 1997, or

   X the date that is 270 days after the date on which such release is first sent to the persons to whom the payment is to be made.

To be excluded as a resource, the Walker v. Bayer funds cannot be commingled with other funds.

The interest earned on these funds is NOT excluded.

**B. Development & Documentation**

Information received by claimants in this lawsuit shows that claimants can choose to receive the payment in one of three ways - in a lump sum, a structured settlement, or a special needs trust. Regardless of which form the individual chooses, the payment(s) are excluded if the requirements in subsection A above are met AND the payments are held in a separate account or financial instrument. To be excluded as a resource, the Walker v. Bayer funds cannot be commingled with other funds.

**1. Verification**

Verify the source of the funds from a letter from the individual=s attorney or a copy of the check which identifies the payor as a Walker v. Bayer settlement account. Verify by deposit records that all the funds deposited in the account or financial instrument were from the Walker v. Bayer settlement.

**2. Count the Interest Earned**

Exclude only the Walker v. Bayer payment amounts that were deposited. Any interest earned on these funds must be evaluated as unearned income in the month of receipt and as a resource thereafter.

# M0630.130 CASUALTY PROPERTY LOSS PAYMENTS

**A. Policy**

For all classifications, cash and in-kind items received for the repair or replacement of lost, damaged, or stolen resources may be excluded for up to 12 months.

In situations involving casualty property loss payments for the repair or replacement of damaged/lost resources, such payments will not be considered resources if the recipient:

- initiates action to repair or replace the resource prior to or within 30 calendar days after the receipt of the payment; AND
- expends the payment for such repair or replacement within 12 months after receipt; AND
- keeps the payment separate from other resources.

NOTE: If the payment is not kept separately from other resources, the lump sum policy in M0730.800 applies.

**B. Development and Documentation**

Verification of initiation of action to repair or replace the resource, expending the payment within 12 months, and the use of the payment must be documented in the record.

# M0630.140 GOVERNMENT PROGRAM BENEFITS & PAYMENTS

**A. Policy**

For all classifications, certain government benefits and payments are excluded resources.

**B. Excluded Benefits and Payments**

**1. *SNAP***

The value of the food coupons under the *Supplemental Nutrition Assistance Program (SNAP) (formerly* Food Stamps) is excluded.

**2. USDA Commodities**

The value of foods donated under the U.S.D.A. Commodity Distribution Program is excluded.

**3. Child Nutrition Act**

The value of supplemental food assistance received under the Child Nutrition Act of 1966 is excluded. This includes all school meal programs, the Women, Infants and Children (WIC) Program and the Child Care Food Program.

**4. Relocation Assistance**

Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is excluded.

**5. Older Americans Act**

Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended, is excluded.

**6. Domestic Volunteer Service Act**

Payments to VISTA volunteers under Title I, when the monetary value of such payments is less than minimum wage as determined by the director of the Action Office, and payments for services or reimbursement for out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and other programs pursuant to Titles II and III, of Public Law 93-113, the Domestic Volunteer Service Act of 1973 are excluded.

The worker must contact the Action Office at the following address or telephone number when VISTA payments are reported: Action Office, 400 N. 8th Street, Richmond, Virginia 23219, (804) 771-2197.

**7. Support Disregards**

Disregarded support payments, if retained following the month of receipt, are excluded resources. See M0730.

**8. Disaster Relief**

Federal major disaster and emergency assistance provided under the Disaster Relief and Emergency Assistance Amendments of 1988 and disaster assistance provided by state and local governments, and disaster assistance organizations (Public Law 100-707) are excluded.

**9. Payments to Japanese Ancestry & Aleuts**

Payments received by individuals of Japanese ancestry under the Civil Liberties Act of 1988, and by Aleuts under the Aleutian and Pribilof Islands Restitution Act (Public Law 100-383) are excluded.

**10. Agent Orange**

Any payment received from the Agent Orange Settlement Fund or any other fund established in response to the Agent Orange product liability litigation is excluded. To verify whether a payment is an Agent Orange payment, use documents in the individual's possession. If the individual cannot provide verification or the situation is unclear, write to the Agent Orange Veteran Payment Program, P. O. Box 110, Hartford, CT 06304, Attention: Agent Orange Verification. Include in the request the veteran's name and social security number. If a survivor of the qualifying veteran was paid, also provide the survivor's name and social security number.

**11. Radiation Exposure Compensation**

Payments received by individuals under the Radiation Exposure Compensation Act (Public Law 101-426) are excluded.

**12. Certain HUD Funds**

Funds in an escrow account established under the Family Self-Sufficiency Program of the Department of Housing and Urban Development are excluded.

**13. Victims of Nazi Persecution**

Payments received by victims of Nazi persecution under Public Law 103-286 are excluded.

# M0630.150 EDUCATION ASSISTANCE

**A. Policy**

For all classifications, certain types of education assistance payments are excluded resources.

**B. Excluded Education Assistance**

**1. Programs Administered By U.S. Secretary of Education**

Any grant or loan to any undergraduate student for educational purposes made or insured under any program administered by the U.S. Secretary of Education is excluded. Programs that are administered by the U.S. Secretary of Education are:

- Pell Grants,
- Supplemental Educational Opportunity Grant,
- Perkins Loan,
- Guaranteed Student Loans (including the Virginia Education Loans),
- PLUS Loans,
- Congressional Teachers Scholarship Program,
- College Scholarship Assistance Program,
- Virginia Transfer Grant Program.

**2. Programs Under Title IV of Higher Education Act**

Student financial assistance received under Title IV of the Higher Education Act is excluded. Assistance excluded under this provision, whether awarded to an undergraduate or graduate student, includes but is not limited to:

- Pell Grants,
- Supplemental Educational Opportunity Grants,
- State Student Incentive Grants,
- Federal College Work-Study Programs,
- Perkins Loans (formerly National Direct Student Loans), and
- Guaranteed Student Loans (including PLUS loans and Supplemental Loans for Students).

**3. Student Assistance Under Public Law 101-392**

Student financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act made available for attendance costs (Public Law 101-392) is excluded. Attendance costs are defined below:

a. tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

b. an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

**4. BIA Student Assistance**

Student financial assistance received under Bureau of Indian Affairs (BIA) Student Programs is excluded.

**C. Documentation**

Obtain verification of the source of the education assistance through the school.

# M0630.160 INDIAN TRIBE FUNDS & LAND

**A. Policy**

For all classifications, certain types of Indian funds and land are excluded resources.

**B. Excluded Funds and Land**

**1. Funds and Distributions**

Any funds distributed to, or held in trust for, members of any Indian tribe under the following Public Laws are excluded:

- Public Law 92-254,
- Public Law 93-134,
- Public Law 94-540,
- Public Law 98-64,
- Public Law 98-123,
- Public Law 98-124,
- Public Law 97-458.

Additionally, interest and investment income accrued on such funds while held in trust, and purchases made with such interest and investment income, are excluded.

**2. Native Corporations Under P.L. 100-241**

The following types of distributions received from a Native Corporation under the Alaska Native Claims Settlement Act (Public Law 100-241) are excluded:

a. Cash (including cash dividends on stock received from a Native Corporation) to the extent that the total received does not exceed $2,000 per individual per calendar year;

b. Stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock);

c. A partnership interest;

d. Land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and

e. An interest in a settlement trust.

**3. Maine Indians & Micmacs Settlement Acts**

Funds received pursuant to the

- Maine Indians Claims Settlement Act of 1980 (Public Law 96-420), and
- Aroostook Band of Micmacs Settlement Act (Public Law 102-171)

are excluded.

**4. Income From Submarginal Land**

Income derived from certain submarginal land of the United States which is held in trust for certain Indian tribes (Public Law 94-114) is excluded.

**C. Documentation**

Obtain verification of the type of Indian funds or land through the tribal council.

# CHAPTER M06
# FAMILIES AND CHILDREN RESOURCES
# SUBCHAPTER 40

# TYPES OF COUNTABLE RESOURCES

# TABLE OF CONTENTS

## M06 FAMILIES AND CHILDREN RESOURCES

## M0640.000 TYPES OF COUNTABLE RESOURCES

# M0640.000 TYPES OF COUNTABLE RESOURCES

## *M0640.001 OVERVIEW*

**A. Introduction**

This subchapter contains instructions for the development of resources whose value ordinarily will count toward the resource limit. Use these instructions only after you have made certain that the asset:

- is a resource, based on instructions in the M0610 subchapter; and
- is not an excluded resource, based on instructions in the M0630 subchapter.

NOTE: A trust may or may not be a countable resource. See M0620.140 to determine if a trust established by a will is a countable resource. For all other trusts, see M1120.201.

NOTE: If the individual is a married institutionalized individual, go to *subchapter M1480.*

# REAL PROPERTY

## M0640.100 NON-HOME REAL PROPERTY

**A. Definition**

Non-home real property consists of land and buildings or immovable objects that are attached permanently to the land and that do not meet the definition of a home (house, lot and all contiguous property).

**B. Development and Documentation of Fair Market Value**

Ascertain fair market value from the Commissioner of Revenue or Assessor's Office.

**C. Ownership/Value**

**1. Sole Owner**

If the applicant/recipient is the sole owner, the property is a resource.

If the applicant/recipient is the sole owner with a living spouse, the property is a resource to the applicant/recipient regardless of the spouse's willingness to join in a deed to sell the property.

**2. Tenants by Entirety**

If the property is held by the applicant/recipient and spouse as tenants by the entirety with survivorship at common law:

a. When the applicant/recipient and spouse are living together, the property is a resource regardless of the spouse's consent to sell.

When the spouses live apart, if the separated spouse gives consent to dispose of property, one-half of the total value of the property is considered a resource to the applicant/recipient. If the separated spouse does NOT give consent to dispose of property, **none** of the property is counted as a resource to the applicant/recipient.

b. If a decree of divorce has been entered, one-half of the total value of the property is considered a resource.

c. If the spouse is deceased, *the* total value of the property is a resource.

d. If the non-applicant spouse cannot be located by the agency or if that spouse refuses to cooperate with the agency, he/she is considered unwilling to give his/her consent to sell the property or to join in a deed and the property is not a resource. Document the case record regarding the separated spouse's refusal to cooperate or the agency's inability to locate the applicant's spouse.

**3. Tenants in Common**

If the applicant/recipient jointly owns property with other than a spouse as tenants in common or joint tenants, the applicant/recipient's prorata share is considered a resource. If the joint owner refuses to join in a deed to sell the property, the estimated cost of a partition suit is deducted to determine the value of the applicant/recipient's share of the property.

a. If documentation does not clearly establish the applicant/recipient's interest in jointly owned property, the eligibility worker must contact the Medicaid Regional Specialist to obtain an interpretation from the Assistant Attorney General.

b. Deduct the estimated cost of partitioning and attorney fees in establishing equity value when the joint owner refuses to join in a deed to sell:

- Estimated costs associated with a partition suit must be based on prevailing community charges as determined by a local person having knowledge of the cost of such an action.

- Shared partition costs (commissioner's fees, survey costs, etc.) are deducted from the whole property's value.

- The individual's attorney's fees is deducted from the individual's prorata share of the property value that remains after deducting shared partition costs (and liens, if any).

- After calculation, add the remainder to other countable resources and compare the total to the resource limit for the FU/BU classification.

# M0640.110 OTHER PROPERTY RIGHTS

**A. Life Estates**

A life estate gives an individual certain property rights for the duration of his or her life, or someone else's life. A life estate in real property is not a countable resource.

**B. Remainder Interest**

When property is owned by one party and a second party has a life estate or "life rights" to the property, then the first party has a remainder interest in the property. A remainder interest is a countable resource.

To determine the fair market value of a remainder interest in property, multiply the tax assessed value of the property by the fraction corresponding to the age of the individual who has life rights. M0640, Appendix 1 contains the table used to perform this calculation.

# M0640.200 CASH AND LIQUID ASSETS

**A. Policy**

Cash held by the individual is a resource. Money in a financial institution is a liquid asset and is a resource. Absent evidence to the contrary, assume that the person designated as the owner on the account owns all the funds in the account and has the right to withdraw funds from the account.

Interest received is treated as income in the month received and as a resource thereafter.

**B. Development and Documentation**

1. Document, in addition to the balances themselves:

   - the name and address of the financial institution;
   - the account number(s); and
   - the exact account designation.

2. Cash and liquid assets can be verified by documentation in the individual's possession such as: savings account book, bank statement, trust agreements, or affidavits.

3. Other acceptable verification includes bank clearances, credit union records, savings and loan records, and joint bank account statements.

4. When it is necessary to request account information from a financial institution, have the individual sign an authorization for the release of the information.

# M0640.210 JOINT BANK ACCOUNTS

**A. Policy**

If it is established that an applicant/recipient, owns a joint bank account with another party and that all funds in the joint account belong to the other party, and the account was established for the convenience of the other party, it is not considered a resource to the applicant/recipient.

If it cannot be established that all the funds in the account belong to the other party, the applicant/recipient's pro rata share will be considered the resource.

**B. Development and Documentation**

Verify ownership of the account by a statement from both parties. If a statement of ownership cannot be obtained from both parties, assume the applicant/recipient owns a pro rata share of the account. For example, if the account is owned by the applicant/recipient and one other individual, the applicant/recipient's pro rata share is one-half.

# M0640.300 MOTOR VEHICLES

**A. Policy**

1. ***All Groups Other Than MN***

One motor vehicle owned by the FU/BU with an equity value up to $1500 is excluded. Any equity value above $1500, is a countable resource.

2. **MN**

One vehicle of any value is an excluded resource.

3. **Used as a Home**

For all classifications, if the FU/BU is using a vehicle, a boat, or a camper as a home, the vehicle is excluded for the period of time the FU/BU lives in it. The month that the FU/BU moves to a house or an apartment the vehicle, boat, camper, or other shelter that the FU/BU owns becomes an available resource and must be evaluated.

**B. Value of Vehicle**

1. **Listed in NADA**

The average trade-in value listed in the current NADA Official Used Car Guide or the average trade-in value listed in the NADA Official Older Used Car Guide is considered the fair market value from which encumbrances must be deducted in order to establish equity value. Do not adjust the average trade-in value amount specified in the NADA guides for optional features, special equipment for the handicapped, mileage, condition, operability, etc.

2. **Not Listed in NADA**

If a motor vehicle is not listed in the current NADA Guide, or the Older Used Car Guide, the applicant/recipient may provide a statement of assessment for tax purposes which contains the value of the vehicle in order to establish the equity value.

3. **Licensed Dealer's Statement**

If a tax assessment statement is not available, the applicant/recipient can provide a licensed dealer's statement in order to establish the value. It is the responsibility of the applicant/recipient to obtain this licensed dealer's statement, but if assistance is requested, the EW must contact a licensed dealer to ascertain the fair market value.

4. **Re-verification of Equity Value**

Re-verify the motor vehicle's equity value only at redetermination unless the recipient reports a change in equity value before redetermination.

5. ***Disputed Value***

*If the applicant/recipient disagrees with the fair market value established by the agency, the individual must be given an opportunity to dispute the finding and provide the agency with a written statement of the value from a disinterested knowledgeable source, such as a used car dealer.*

*If eligibility is established using the revised vehicle value, the value of the vehicle is not re-verified at subsequent redeterminations.*

**C. Ownership of Two or More Vehicles**

1. ***All Groups Other Than MN***

If two or more motor vehicles are owned by the family/budget unit, the motor vehicle with the highest equity value will be excluded up to $1,500.
The equity value in all other vehicles plus the equity *value* above $1500 in the excluded vehicle is combined and is counted as a resource.

2. **MN**

*If more than one vehicle is owned, the individual's vehicle with the highest equity value is excluded. The equity value in all other vehicles must be counted*. The value used for countable vehicles is the average trade-in value listed in NADA Guide. In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used.

**D. Motor Vehicles Jointly Owned**

If a motor vehicle is owned jointly by a member of the family/budget unit with any individual not in the family/budget unit, the agency must establish whether or not the non-member is willing to sell the vehicle(s). If the non-member is willing to sell, the family/budget unit member's prorata share of the equity is considered an available resource.

If it is established that the non-member is not willing to sell, then the vehicle(s) is not counted as a resource. The non-member's refusal to cooperate with the agency or the agency's inability to locate the non-member is considered his/her unwillingness to sell the property.

## M0640.400 LIFE INSURANCE

**A. Policy**

1. ***All Groups Other Than MN***

A life insurance policy is a resource if it generates a cash surrender value (CSV). Its value as a resource is the amount of the CSV.

All life insurance policies on a person under age 21 years are excluded.

2. **MN**

Any life, retirement, or other related types of insurance policies with face values totaling $1,500 or less on any one person 21 years old and over are excluded. When the face values of such policies of any one person exceed $1,500, the cash surrender value of the policies is counted as a resource.

**B. Development and Documentation**

Verify the availability and the cash value of the policy by contacting the insurance companies or examining the policies of all family/budget unit members.

## M0640.500 BURIAL ARRANGEMENTS FOR COVERED GROUPS *OTHER THAN MN*

**A. Policy**

A bona fide funeral agreement covering a family/budget unit member, with a maximum equity value of $1,500 per individual is excluded. A bona fide funeral arrangement is a formal agreement for funeral and burial expenses, such as a revocable burial contract, burial trust, or another funeral arrangement (generally with a licensed funeral director). Passbook bank accounts, or simple "set asides" of savings for funeral expenses, and cash surrender values of life insurance policies are not bona fide funeral agreements and **are not** excluded resources. See M0630.121.

**B. Excess Funds**

Funds in excess of the $1,500 per individual limit are counted against the resource limit.

**C. Irrevocable Contracts**

Irrevocable burial contracts, regardless of value, are not counted as resources since they cannot be converted to cash by the individual.

## M0640.510 BURIAL ARRANGEMENTS FOR THE MEDICALLY NEEDY

**A. Policy**

Burial funds are excluded from resources up to a maximum of $3,500 per individual. From August 1, 1994 on, in order for resources to be disregarded under the burial funds exclusion, they must be in the following forms:

- irrevocable burial trusts established on or after August 11, 1993;
- revocable burial trusts;
- revocable burial contracts;
- other revocable burial arrangements (including the value of certain installment sales contracts for burial spaces);
- cash;
- financial accounts (e.g., savings or checking accounts);
- other financial instruments with a definite cash value (e.g., stocks, bonds, certificate of deposit, life insurance policies, etc.).

**B. Reduction of Burial Exclusion**

The maximum exclusion amount is reduced by:

1. the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources; and

2. the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting

the individual's or his spouse's burial expenses when that trust, contract, or other arrangement is not a countable resource.

**C. Development and Documentation**

Use the ABD policy and procedures in M1130.410 and M1130.420 for medically needy F&C groups.

# M0640.800 LOANS

**A. Policy**

All bona fide loans are excluded, regardless of intended use. Loans may be from a private individual as well as from a commercial institution.

If the applicant/recipient indicates that money received was a loan, but does not provide required verification, the money is unearned income in the month received and a resource thereafter.

**B. Bona Fide**

A simple statement signed by both parties indicating that the payment is a loan and must be repaid is sufficient to verify that a loan is bona fide.

**C. Used to Purchase Resource**

Any resource purchased with the proceeds of a loan must be evaluated to determine if the resource is totally or partially excluded according to resource policy in M06.

**D. Encumbrance Against Property**

When a bona fide loan is used to purchase real or personal property, the amount owed on the loan is considered an encumbrance against the property if the loan is a recorded deed of trust or lien against the property.

**E. Interest on Proceeds of a Loan**

Interest earned on the proceeds of a loan while held in a savings account, checking account, or other financial instrument are counted as unearned income in the month received and a resource thereafter.

# M0640.900 CHILD SUPPORT REFUNDS

**A. Policy**

Refunds of child support from the Division of Child Support Enforcement (DCSE) identified as closed case refunds are countable resources.

**B. Reference**

M0730.400

# FAMILIES AND CHILDREN REMAINDER INTEREST TABLE

| AGE | REMAINDER | AGE | REMAINDER | AGE | REMAINDER |
|---|---|---|---|---|---|
| 0 | .02812 | 40 | .08429 | 80 | .56341 |
| 1 | .01012 | 41 | .08970 | 81 | .58033 |
| 2 | .00983 | 42 | .09543 | 82 | .59705 |
| 3 | .00992 | 43 | .10145 | 83 | .61358 |
| 4 | .01019 | 44 | .10779 | 84 | .63002 |
| 5 | .01062 | 45 | .11442 | 85 | .64641 |
| 6 | .01116 | 46 | .12137 | 86 | .66236 |
| 7 | .01178 | 47 | .12863 | 87 | .67738 |
| 8 | .01252 | 48 | .13626 | 88 | .69141 |
| 9 | .01337 | 49 | .14422 | 89 | .70474 |
| 10 | .01435 | 50 | .15257 | 90 | .71779 |
| 11 | .01547 | 51 | .16126 | 91 | .73045 |
| 12 | .01671 | 52 | .17031 | 92 | .74229 |
| 13 | .01802 | 53 | .17972 | 93 | .75308 |
| 14 | .01934 | 54 | .18946 | 94 | .76272 |
| 15 | .02063 | 55 | .19954 | 95 | .77113 |
| 16 | .02185 | 56 | .20994 | 96 | .77819 |
| 17 | .02300 | 57 | .22069 | 97 | .78450 |
| 18 | .02410 | 58 | .23178 | 98 | .79000 |
| 19 | .02520 | 59 | .24325 | 99 | .79514 |
| 20 | .02635 | 60 | .25509 | 100 | .80025 |
| 21 | .02755 | 61 | .26733 | 101 | .80468 |
| 22 | .02880 | 62 | .27998 | 102 | .80946 |
| 23 | .03014 | 63 | .29304 | 103 | .81563 |
| 24 | .03159 | 64 | .30648 | 104 | .82144 |
| 25 | .03322 | 65 | .32030 | 105 | .83038 |
| 26 | .03505 | 66 | .33449 | 106 | .84512 |
| 27 | .03710 | 67 | .34902 | 107 | .86591 |
| 28 | .03938 | 68 | .36390 | 108 | .89932 |
| 29 | .04187 | 69 | .37914 | 109 | .95455 |
| 30 | .04457 | 70 | .39478 | | |
| 31 | .04746 | 71 | .41086 | | |
| 32 | .05058 | 72 | .42739 | | |
| 33 | .05392 | 73 | .44429 | | |
| 34 | .05750 | 74 | .46138 | | |
| 35 | .06132 | 75 | .47851 | | |
| 36 | .06540 | 76 | .49559 | | |
| 37 | .06974 | 77 | .51258 | | |
| 38 | .07433 | 78 | .52951 | | |
| 39 | .07917 | 79 | .54643 | | |