

12VAC30-40-280. More liberal income disregards.

A. For children covered under §§1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act, the Commonwealth of Virginia will disregard one dollar plus an amount equal to the difference between 100% of the AFDC payment standard for the same family size and 100% of the Federal Poverty Level for the same family size as updated annually in the Federal Register.

B. For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance shall be granted an income exemption consistent with the Act (§§1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§1902(a)(10)(A)(ii)(VIII), (IX); §1902(a)(10)(C)(i)(III)). Any interest earned on one interest-bearing savings or investment account per assistance unit not to exceed \$5,000, if the applicant, applicants, recipient or recipients designate that the account is reserved for purposes related to self-sufficiency, shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. For purposes of this section, "purposes related to self-sufficiency" shall include, but are not limited to, (i) paying for tuition, books, and incidental expenses at any elementary, secondary, or vocational school, or any college or university; (ii) for making down payment on a primary residence; or (iii) for establishment of a commercial operation that is owned by a member of the Medicaid assistance unit.

C. For the group described in §§1902(a)(10)(A)(i)(VII) and 1902(l)(1)(D), income in the amount of the difference between 100% and 133% of the Federal Poverty Level (as revised annually in the Federal Register) is disregarded.

D. For Aged, Blind and Disabled individuals, both Categorically Needy and Medically Needy, with the exception of the special income level group of institutionalized individuals, the Commonwealth of Virginia shall disregard the value of in-kind support and maintenance when determining eligibility. In-kind support and maintenance means food, clothing, or shelter or any combination of these provided to an individual.

E. For all Categorically Needy and Medically Needy children covered under the Family and Children covered groups, [§§1902(a)(10)(A)(i)(I), 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), 1902(a)(10)(A)(ii)(VIII), 1902(a)(10)(C)(ii)(I) and 1905(n) of the Act], the Commonwealth will disregard all earned income of a child under the age of 19 who is a student.

F. For all Categorically Needy and Medically Needy individuals covered under the Family and Children covered groups [§§1902(a)(10)(A)(i)(I), 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V), 1902(a)(10)(A)(i)(VI), 1902(a)(10)(A)(i)(VII), 1902(a)(10)(A)(ii)(VIII), 1902(a)(10)(C)(ii)(I) and 1905(n) of the Act], the Commonwealth will disregard the fair market value of all in-kind support and maintenance as income in determining financial eligibility. In-kind support and maintenance means food, clothing or shelter or any combination of these provided to an individual.

CERTIFIED: I hereby certify that these regulations are full, true, and correctly dated.

3/1/04

Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

12VAC30-40-290. More liberal methods of treating resources under §1902(r)(2) of the Act.

§1902(f) State

A. Resources to meet burial expenses. Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. In determining eligibility for benefits for medically needy individuals, disregarded from countable resources is an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be 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.

B. Life rights. Life rights to real property are not counted as a resource.

C. Reasonable effort to sell.

1. For purposes of this section, "current market value" is defined as the current tax assessed value. If the property is listed by a realtor, then the realtor may list it at an amount higher than the tax assessed value. In no event, however, shall the realtor's list price exceed 150% of the assessed value.

2. A reasonable effort to sell is considered to have been made:

a. As of the date the property becomes subject to a realtor's listing agreement if:

(1) It is listed at a price at current market value; and

(2) The listing realtor verifies that it is unlikely to sell within 90 days of listing given the particular circumstances involved (e.g., owner's fractional interest; zoning restrictions; poor topography; absence of road frontage or access; absence of improvements; clouds on title, right of way or easement; local market conditions); or

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b. When at least two realtors refuse to list the property. The reason for refusal must be that the property is unsaleable at current market value. Other reasons for refusal are not sufficient; or

c. When the applicant has personally advertised his property at or below current market value for 90 days by use of a "Sale By Owner" sign located on the property and by other reasonable efforts, such as newspaper advertisements, or reasonable inquiries with all adjoining landowners or other potential interested purchasers.

3. Notwithstanding the fact that the recipient made a reasonable effort to sell the property and failed to sell it, and although the recipient has become eligible, the recipient must make a continuing reasonable effort to sell by:

a. Repeatedly renewing any initial listing agreement until the property is sold. If the list price was initially higher than the tax-assessed value, the listed sales price must be reduced after 12 months to no more than 100% of the tax-assessed value.

b. In the case where at least two realtors have refused to list the property, the recipient must personally try to sell the property by efforts described in subdivision 2 c of this subsection for 12 months.

c. In the case of a recipient who has personally advertised his property for a year without success (the newspaper advertisements and "for sale" sign do not have to be continuous; these efforts must be done for at least 90 days within a 12-month period), the recipient must then:

(1) Subject his property to a realtor's listing agreement at price or below current market value; or

(2) Meet the requirements of subdivision 2 b of this subsection which are that the recipient must try to list the property and at least two realtors refuse to list it because it is unsaleable at current market value; other reasons for refusal to list are not sufficient.

4. If the recipient has made a continuing effort to sell the property for 12 months, then the recipient may sell the property between 75% and 100% of its tax assessed value and such sale shall not result in disqualification under the transfer of property rules. If the recipient requests to sell his property at less than 75% of assessed value, he must submit documentation from the listing realtor, or knowledgeable source if the property is not listed with a realtor, that the requested sale price is the best price the recipient can expect to receive for the property at this time. Sale at such a documented price shall not result in disqualification under the transfer of property rules. The proceeds of the sale will be counted as a resource in determining continuing eligibility.

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5. Once the applicant has demonstrated that his property is unsaleable by following the procedures in subdivision 2 of this subsection, the property is disregarded in determining eligibility starting the first day of the month in which the most recent application was filed, or up to three months prior to this month of application if retroactive coverage is requested and the applicant met all other eligibility requirements in the period. A recipient must continue his reasonable efforts to sell the property as required in subdivision 3 of this subsection.

D. Automobiles. Ownership of one motor vehicle does not affect eligibility. If more than one vehicle is owned, the individual's equity in the least valuable vehicle or vehicles must be counted. The value of the vehicles is the wholesale value listed in the National Automobile Dealers Official Used Car Guide (NADA) Book, Eastern Edition (update monthly). In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used. The value of the additional motor vehicles is to be counted in relation to the amount of assets that could be liquidated that may be retained.

E. Life, retirement, and other related types of insurance policies. Life, retirement, and other related types of insurance policies with face values totaling \$1,500 or less on any one person 21 years old and over are not considered resources. When the face values of such policies of any one person exceeds \$1,500, the cash surrender value of the policies is counted as a resource.

F. Resource exemption for Aid to Dependent Children categorically and medically needy (the Act §§1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§1902(a)(10)(A)(ii)(VIII), (IX); §1902(a)(10)(C)(i)(III)). For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance may have or establish one interest-bearing savings or investment account per assistance unit not to exceed \$5,000 if the applicant, applicants, recipient or recipients designate that the account is reserved for purposes related to self-sufficiency. Any funds deposited in the account shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for purposes related to self-sufficiency shall be exempt. For purposes of this section, purposes related to self-sufficiency shall include, but are not limited to, (i) paying for tuition, books, and incidental expenses at any elementary, secondary, or vocational school, or any college or university; (ii) for making down payment on a primary residence; or (iii) for establishment of a commercial operation that is owned by a member of the medical assistance unit.

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G. Disregard of resources. The Commonwealth of Virginia will disregard all resources for qualified children covered under §§1902(a)(10)(A)(i)(I), 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(ii)(VIII), and 1905(n) of the Social Security Act.

CERTIFIED: I hereby certify that these regulations are full, true, and correctly dated.

Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services

12VAC30-40-345. Eligibility under §1931 of the Act.

A. The state covers low-income families and children under §1931 of the Act as follows: AFDC children age 18 who are full-time students in a secondary school or in the equivalent level of vocational or technical training.

~~B. In determining eligibility for Medicaid, the agency uses the AFDC standards and methodologies in effect as of July 16, 1996, without modification, for individuals who do not receive TANF benefits.~~

~~C.~~ B. In determining eligibility for Medicaid, the agency uses the AFDC standards and methodologies in effect as of July 16, 1996, with the following modifications.

1. The agency applies higher income standards than those in effect as of July 16, 1996, increased by no more than the percentage increases in the CPI-U since July 16, 1996. The agency increases the July 16, 1996, income standards shown in 12VAC30-40-220 by the annual increase in the CPI beginning July 1, 2001.

2. The agency uses less restrictive income or resource methodologies than those in effect as of July 16, 1996. The agency does not consider resources in determining eligibility.

The agency disregards all earned income of a child under the age of nineteen who is a student. The agency disregards the fair market value of all in-kind support and maintenance as income in determining financial eligibility for the above referenced group.

3. The income or resource methodologies that the less restrictive methodologies replace are as follows:

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a. Resources. The family resource limit was \$1,000. Additionally, Any any applicant or recipient may have or establish one savings or investment account not to exceed \$5,000 if the applicant or recipient designates that the account is reserved for purposes related to self-sufficiency. Any funds deposited in the account and any interest earned on or appreciation in the value of the funds shall be exempt when determining eligibility for as long as the funds and interest on or appreciation in value of remain in the account. Any amounts withdrawn and used for purposes related to self-sufficiency shall be exempt. For purposes of this section, "purposes related to self-sufficiency" shall include, but is not limited to, paying for tuition, books and incidental expenses at any elementary, secondary or vocational school or any college or university; making down payment on a primary residence; or establishing a commercial operation that is owned by a member of the Medicaid assistance unit. The income or resource methodologies that the less restrictive methodologies replace are as follows:

~~a. Resources. Any individual or family applying for or receiving assistance may have or establish one interest bearing savings or investment account per assistance unit not to exceed \$5,000 at a financial institution if the applicant or recipient designates that the account is reserved for one of the following purposes: (i) paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university; (ii) making down payment on a primary residence; or (iii) business incubation. Any funds deposited in the account shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in~~

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~~the account. Any amounts withdrawn and used for any of the purposes stated in this section shall be exempt. For purposes of this section, "business incubation" shall mean the initial establishment of a commercial operation that is owned by a member of the Medicaid assistance unit. The net worth of any business owned by a member of the assistance unit shall be exempt from consideration as long as the net worth of the business is less than \$5,000.~~

b. Income. Any interest or appreciation earned on one interest-bearing savings account per medical assistance unit not to exceed \$5,000 at a financial institution, if the applicant or recipient designates that the account is reserved for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university, or for making down payment on a primary residence or for business incubation, shall be exempt when determining eligibility for medical assistance for as long as the funds and interest remain on deposit in the account. For purposes of this section, "business incubation" means the initial establishment of a commercial operation owned by a member of the Medicaid assistance unit.

b. Income earned by a child under the age of nineteen who is a student was counted in determining eligibility in accordance with the AFDC income methodologies that were in effect as of July 16, 1996.

c. The fair market value of in-kind support and maintenance is counted as income when evaluating the financial eligibility of the above referenced group. In-kind support and

maintenance means food, clothing or shelter or any combination of these provided to an individual.

D. C. The agency continues to apply the following waivers of the provisions of Part A of Title IV in effect as of July 16, 1996, or submitted prior to August 22, 1996, and approved by the secretary on or before July 1, 1997. For individuals who receive TANF benefits and meet the requirements of Virginia's §1115 waiver for the Virginia Independence Program, the agency continues to apply the following waivers of the provisions of Part A of Title IV in effect as of July 16, 1996, or submitted prior to August 22, 1996, and approved by the secretary on or before July 1, 1997. The waiver contains the following more liberal income disregards:

1. Earned income will be disregarded so long as the earnings plus the AFDC benefits are equal to or less than 100% of the Federal Income Poverty Guidelines. For any month in which earnings plus the AFDC standard of payment for the family size exceed the Federal Poverty Income Guidelines for a family of the same size, earned income above 100% of the Federal Poverty Income Guidelines shall be counted.

2. ~~One automobile valued at \$7,500.~~

These waivers will apply only to TANF cash assistance recipients. These waivers will be continued only for as long as eligibility for TANF was established under the welfare reform demonstration project for which these waivers were originally approved.

CERTIFIED: I hereby certify that these regulations are full, true, and correctly dated.

Date

Patrick W. Finnerty, Director

Dept. of Medical Assistance Services