

opinion. However, if there are questions or issues that cannot be handled at the county level, submit the request to DAAS for an opinion.

## E-523 Personal Property Exclusions

MS Manual ??/??/16

Listed below are resource items that qualify for special exclusion from resources when specific conditions are met. Resource items which do not meet conditions for exclusion will be included with countable resources. When an excludable resource item has a value in excess of the exclusion limitation, the excess value will be included with countable resources.

### 1. Automobile

The term “automobile”, as used here, applies to any vehicle which is used to provide necessary transportation, such as passenger cars, trucks, boats, and special vehicles (e.g., motorcycles, snowmobiles, animals, animal-drawn vehicles, etc.).

One automobile per household is excluded regardless of value if it is used for transportation by the individual or a member of his household.



**NOTE:** The case worker will assume that the automobile is used for transportation unless there is evidence to the contrary.

When an individual or household owns more than one automobile, the exclusion will be applied in the manner most advantageous to the individual. The exclusion will be given to the automobile with the highest equity value. The equity value of any other automobile owned by the individual or member of the household is a resource when:

- a. It is owned by the individual or couple, and
- b. The automobile cannot be excluded under any other policy provision.

When the above general exclusion has been given to an automobile, a second automobile can be excluded only if it is essential to the means of self-support of an individual or couple. If a second vehicle is normally used in the operation of a trade or business and if the first excluded vehicle cannot also fulfill the self-support function, then the second vehicle may be excluded from counting toward the resource limitation.

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The following vehicles do not meet the definition of an automobile and therefore the general exclusion cannot be applied:

- a. A vehicle that has been “junked”;
- b. A vehicle that is used only as a recreational vehicle (e.g., a boat used on weekends for pleasure).

The equity value of such a vehicle will be considered a resource. The personal effects exclusion does not apply to such vehicles.

The equity value of all nonexcludable automobiles will be included with countable resources.

Determination of Current Market Value for a Non-Excluded Automobile - The determination of value for foreign and domestic passenger cars will be based on use of the “Trade-In” value in “Fair” condition as verified by one of the following free web sites:

- [www.kbb.com](http://www.kbb.com) (Kelley Blue Book)
- [www.edmonds.com](http://www.edmonds.com)
- [www.nada.com](http://www.nada.com) (Used for motorcycles, boats, RVs)
- [www.collectorcarmarket.com](http://www.collectorcarmarket.com) (Used for vehicles too old to list on KBB or NADA)

When the Trade In value is not available, a comparable value (i.e., wholesale or loan value) may be used. The caseworker will print a copy of the web page showing the vehicle value and the copy will be scanned in the electronic case file.

Fair market value is the average trade-in value of the vehicle as listed on the selected web site unless the individual disputes the value and presents conclusive proof that the information obtained from the web site is inaccurate.



**NOTE:** The value of special or optional equipment or low mileage will not be considered when determining the average trade-in value of the vehicle.

The caseworker will determine the average trade-in or wholesale value for the auto as listed on one of the above approved websites. When a non-excluded vehicle is too new to appear on the approved web sites, the caseworker may determine the current

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average trade-in value by contacting a local car dealer or by consulting a recent newspaper ad for used cars of the same make, model and year. A copy of the ad should be scanned into the electronic case record. Information obtained from contracts for purchase may be inaccurate because vehicles decrease in value substantially once they become “used”.

An individual may indicate that for some reason such as body damage, high mileage, inoperability due to motor failure or other major malfunction, a vehicle is in less than average condition. An individual is allowed to contest the website’s value of the vehicle when its depreciated condition makes its value “less than average”. The caseworker may accept statements from reputable repair shops to verify high mileage, motor failures or other major malfunctions. Police reports or insurance documents may be accepted as proof of the current condition of a vehicle if it has been wrecked. Other proof may be accepted if it is conclusive in the caseworker’s judgment.

If the value of the auto is not material to the eligibility determination (i.e., it is excluded or its countable resource value does not affect eligibility when combined with other countable resources), no further determination of exact value is necessary.

The value of an unexcluded automobile of obvious worth such as a Jaguar, Mercedes-Benz, Rolls Royce, Cadillac, Lincoln, Corvette, antique auto, or customized auto will be determined even when it is too old to be listed on kbb.com or nada.com. The value of these vehicles may be verified by a search on collectorcarmarket.com or by the use of the tax assessment method or by contact with a knowledgeable source. Knowledgeable sources include: automobile dealers, truck dealers or auto insurance companies. The tax assessment method of determining value consists of multiplying the county personal property tax assessment value of the vehicle by five.

**EXAMPLE:** The county personal property tax value of a 1973 Lincoln Town Car is \$200. Multiply \$200 by five to obtain the current resource value of the vehicle. (\$200 X 5 = \$1,000) The value of the vehicle is \$1,000. This amount will be regarded as a resource to the individual if the vehicle cannot be excluded.

When contacting a knowledgeable source, an estimate of the wholesale value will be requested. In all value determinations, it is essential to obtain a complete and accurate description of the vehicle being evaluated. Document the case narrative as to determined values and the means used to make the value determinations (including the name and address of dealers used in knowledgeable source contact). All documentation

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used to determine the value of the vehicle must be scanned and indexed in the electronic case file.

Applicant Disagrees with Determined Value - If the applicant disagrees with the value determined for a non-excluded automobile which is material to the case (affects eligibility), he will be afforded the opportunity to provide two knowledgeable source statements to establish a different value. These appraisals will be at the applicant's own expense. It should be explained to the applicant that the agency is not bound to honor the appraisals; however, the agency will recheck any provided appraisals for accuracy and, if they are accurate, establish a value based on the appraisals.

#### **2. Life Insurance Policies**

- a. An individual is allowed to own policies with a combined face value of \$1500 or less without consideration of cash surrender value (CSV).
- b. Only policies that have CSV are considered against the \$1500 limit. These include Whole Life, Straight Life, Endowment, Limited Payment Life, etc.
- c. Policies without CSV are not counted as resources.

When the combined face value of policies with CSV owned by the individual is equal to or less than \$1500, there is no resource to be considered. However, the face value must be considered in determining excluded burial funds.

When the combined face value of policies with CSV owned by the individual exceeds \$1500, the CSV of the policies must be determined and counted as a resource. If the individual alleges that the insurance policies are intended to cover burial expenses, the CSV of such policies may be designated as a burial fund.

Most Whole Life policies come with a CSV chart which can be used to determine value. If the CSV cannot be determined from a chart provided with the policy or other available evidence, secure a DHS-81 from the client, and contact the insurance company to determine value. Any outstanding loans made against a policy's CSV will be deducted.

#### **3. Household Goods and Personal Effects**

Exclude household goods and personal effects from resources regardless of their dollar value. The resource exclusion for household goods and personal effects does not have a

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dollar limit. Household goods and personal effects will not be counted as a resource in determining an individual's eligibility.

**2. Income Producing Non-home Property (Personal Property)**

For the consideration of personal property used in conjunction with a trade or business, with employment, or with production of goods or services essential to daily activities, refer to [MS E-516](#).

**5. Burial Spaces and Funds**

**a. Burial Spaces**

The term “burial space”, as used here, applies to conventional burial plots, gravesites, crypts, mausoleums, urns, vaults, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons. Additionally, the term also includes necessary and reasonable improvements upon such burial spaces including headstones, markers, plaques, and arrangements for opening and closing the gravesite for burial of the deceased.

The value of burial spaces for the individual, his spouse or any member of the individual's immediate family will be excluded from resources. The term “immediate family”, as used here, applies to the individual's children (minor and adult), including adopted children and stepchildren, his brothers, sisters, parents (natural or adoptive), and the spouse of those individuals. Dependency or living in the same household are not factors.

If a burial space item is included in a contract or policy which accrues interest, the interest retained is excluded from both income and resources as it increases the value of the excluded burial space. This exclusion is in addition to the burial fund exclusions specified in item “b” below.

If a burial contract or policy (item “b” below) separately identifies a burial space from the other items in the contract or policy, the amount for the burial space may be allowed in addition to the \$1500 burial fund exclusion. For example, an individual has a \$2700 burial contract which lists \$900 for the casket and \$400 for the gravesite. A total of \$1300 may be excluded from resources under the burial space exclusion. The remaining \$1400 will be applied to the \$1500 burial fund exclusion.

**b. Burial Funds and Other Burial Arrangements**

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Burial funds are defined as revocable or irrevocable burial contracts, burial trusts, other burial arrangements, cash accounts, or other financial instruments (documents which have a definite cash value) clearly designated for burial expenses. Property other than listed above will not be considered “burial funds.”

The individual and his spouse can have an exclusion of \$1500 each of funds specifically set aside for their burial arrangements. This exclusion is in addition to the burial space exclusion.

It is required that burial funds be kept in an account separate from other non-excluded funds. Burial funds and other funds may not be commingled in the same account.

Interest earned on excluded burial funds is excluded from income and resources, if left to accumulate and become a part of the burial fund.

If burial funds are commingled with other non-burial funds, all of the funds will be counted as a resource, and no exclusion of burial funds will be allowed. When an applicant agrees to (and does) separate his commingled funds, eligibility may begin effective the date of entry into a facility, provided the individual’s total countable resources did not exceed \$3500 (\$2000 resources, \$1500 cash for burial) on the first day of the month of entry and he is otherwise eligible.

If any excluded funds, or accumulated interest, set aside for burial expenses are used for a purpose other than the burial arrangements of the individual or his spouse for whom the funds were set aside, the amount used will be considered unearned income in the month in which it was accessed, and a resource (to the extent retained) in the following month.

The most common type of burial funds and burial arrangements are shown below, and must be considered in the order given in their application to the \$1,500 burial exclusion.

- 1) Life Insurance Policies, other than those specifically designated for burial (See Item #3) - The total face value of all insurance policies on the life of an individual owned by the individual (or spouse) will reduce the \$1500 burial exclusion if the cash surrender value of those policies was excluded in determining eligibility. If the total face value of policies considered here is \$1500, no further exclusions are allowed.

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**NOTE:** Life insurance policies with no cash surrender value will be totally disregarded as both resources and burial funds.

- 2) Irrevocable Contracts - Burial Association policies (membership through a funeral home) and some prepaid burial contracts (including those funded by deferred annuity and insurance policies) are considered irrevocable and are not treated as a resource, regardless of the value. Groups that issue prepaid burial contracts must have a permit to sell from the Arkansas Insurance Department, and the contract must be written on an approved Arkansas Insurance Department form. Irrevocable trusts that have been established by the applicant/client or representative which are payable only upon death to a specified funeral home for burial of the client shall not be considered an irrevocable contract under this section unless the funeral home designated under the arrangement is licensed by the Arkansas Insurance Department to sell prepaid burial contracts.

All prepaid burial contracts, including those funded through annuities and life insurance policies, which are irrevocably assigned to a funeral home,

- Must include an itemized list of specified services and merchandise to be provided by the funeral home at the death of the individual.
- Each item on the list must show a value of the service or merchandise.
- The total value of the itemized services and merchandise must equal the cash payment made to purchase the arrangement.

If a partial payment has been applied to the prepaid burial plan by attaching insurance or cash payments, the prepaid plan may be worth more than the annuity. Any amounts itemized as “miscellaneous” or other unspecified services will not qualify for exclusion. Such amounts will be included with the amount paid for unspecified services and merchandise, and the total will be subject to a transfer of resources penalty (see 5d below). The total amount paid for the plan through insurance, annuities or cash payments must not be greater than the cost of the prepaid funeral plan. If the value of the annuity or the total amount paid is greater than the cost of the prepaid funeral plan, the difference is an uncompensated transfer.

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**NOTE:** If there is an uncompensated transfer, check the date of the funeral plan and annuity. If the date is outside the look back period, disregard the transfer.

The local funeral home may be able to advise the county if a contract is irrevocable, if the county cannot make this determination by reading the policy. Irrevocable contracts will be counted toward the \$1500 burial exclusion.

If face values of insurance policies in Item (1) are less than \$1500, then the value(s) of irrevocable contracts in Item (2) will be applied toward the \$1500 exclusion. If a combination of insurance (with face value less than \$1500) and irrevocable contracts equals \$1500 or more, no further burial exclusions will be allowed, and any combined amount in excess of \$1500 will be totally disregarded.

When the caseworker can determine a pre-paid burial annuity meets these conditions, the annuity does not need to be sent to the DAAS for an opinion.

However, if there are questions or issues that cannot be handled at the county level, submit the request to the DAAS for an opinion.

3) Revocable Contracts

- a) Some Prepaid Burial Contracts may be revocable and, if the \$1500 burial exclusion limit has been reached by the preceding funds in Item #1 or #2, the value of the revocable contract will be treated as a resource. If the limit has not been reached, the value of the revocable contract will be used to reduce the \$1500 exclusion, with any amount over \$1500 considered a resource after the funds are no longer commingled.
- b) An insured burial contract is a burial arrangement covered by a life insurance policy. These policies are normally considered revocable. If the \$1500 burial exclusion limit has been reached by the preceding funds, the total cash surrender value of the burial insurance policy will be treated as a resource. If the limit has not been reached, the cash surrender value will be used to reduce the \$1500 exclusion, with any cash surrender value over \$1500 considered a resource after the funds are no longer commingled.



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- 4) Cash, Checking, Savings Accounts, or Other Funds - If these funds are specifically designated as burial funds (by the client's written statement in case record), they may be used to reduce the \$1500 burial exclusion. If the \$1500 limit has been reached by funds in Items (1), (2), and (3), then the cash funds in Item (4) will be considered as a resource. If the limit has not been reached, then the cash funds may be used to reduce the \$1500 exclusion, with any amount remaining to be treated as a resource after the funds are no longer commingled. The cash surrender value of life insurance policies, if designated for burial, may also be used to reduce the \$1500 exclusion.
- 5) Contracts or Policies Purchased/Owned by Others- Some contracts or policies are purchased and owned by individuals who are not the applicant/client, but they designate the applicant/client, as beneficiary. These contracts/policies are not considered a resource to the applicant/client; however
- Irrevocable contracts/policies owned by other individuals will count against the \$1500 exclusion, but
  - Revocable contracts/policies owned by other individuals will not count in the \$1500 exclusion.

The above rule does not apply when the purchaser/owner declares the contract/policy was purchased with the applicant/client funds.

Ownership can usually be determined by reading the policy/ contract. If the buyer's name shown is not the applicant/client, then the policy/contract is owned by someone other than the applicant/client.

c. Out-of-State Burial Arrangements

Some burial arrangements with out-of-state funeral homes may be excluded from resources. If it is verified that the arrangement is irrevocable, the value of the arrangement will not be countable. If questionable, submit a request for an opinion to DAAS. (Re. [MS E-501](#))

d. Transfer of Resources Penalty Applicable to Irrevocable Burial Funds

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**RULE FOR APPLICATIONS APPROVED 11/1/95 AND LATER**

Transfer of Funds to Funeral Homes - If the value of the merchandise and services itemized in a prepaid irrevocable funeral plan is equal to the payment made for the plan or to the face value of the life insurance or annuity irrevocably assigned to the funeral home as payment for the plan, the funeral home now has ownership of the policy and it can be assumed that the individual has purchased a funeral for fair market value. If the value of the itemized merchandise and services is less than the payment, a period of ineligibility will be imposed for an uncompensated transfer. For example, if an individual pays \$15,000 to a funeral director but the contract specifies only \$5000 worth of merchandise and services, there is a \$10,000 uncompensated transfer for which a period of ineligibility will be imposed.

Transfer of Funds to a Trust, Certificate of Deposit or Other Instrument Designated for Burial If an individual has a revocable trust, certificate of deposit or other instrument and the fund is designated only for burial, any amount over the \$1500 burial fund limit is a countable resource. If the fund is irrevocable, the amount over \$1500 is also a countable resource. (Re. [MS H-304](#)) If the trust, CD, etc., is irrevocably assigned to a funeral home, a penalty for transfer of resources will be applied unless there is an agreement with the funeral home (which must be licensed by the Arkansas Insurance Department to sell prepaid burial contracts) to provide specified services and merchandise equal in value to the fund.

6. Any SSI or SSA retroactive payments that were due for one (1) or more prior months will be excluded from countable resources for nine (9) months. This rule is applicable to an eligible individual, an ineligible spouse, and/or any other persons whose resources are subject to deeming. (Interest accruing to the lump sum funds is not excludable).

Once the money is spent, the exclusion does not apply to countable resources that were purchased with the money, even if the 9 months have not expired.

7. Section 4735 of the Balanced Budget Act of 1997 (Public Law 105-33) states that payments made from any fund established as a result of a class settlement in the case of *Susan Walker vs. Bayer Corporation* are excluded from countable resources. This case involved hemophiliacs who contracted the HIV virus from contaminated blood products. Also excluded from countable resources are payments made pursuant to a release of all claims in a case that is entered into in lieu of the *Walker vs. Bayer* class settlement and that is signed by all affected parties on or before the later of December 31, 1997, or 270