

MISSISSIPPI DIVISION OF MEDICAID
Eligibility Policy and Procedures Manual

302.04 REAL PROPERTY EXCLUSIONS

The value of the resources in this section may be excluded, in part or in whole, when determining eligibility.

302.04.01 HOME PROPERTY

An individual's home is property he has ownership interest in and is his principal place of residence. It may include:

- The shelter he lives in.
- The land on which the shelter is located.
- All buildings on the land.

Procedure
<p><u>Principal Place of Residence</u></p> <ul style="list-style-type: none">• A principal place of residence is the dwelling that an individual considers his/her principal home. It may be:<ul style="list-style-type: none">○ Real or personal property○ Fixed or mobile○ Located on land or water <p>Example: If a person owns and resides in a houseboat on a lake, the boat may qualify as home property.</p> <ul style="list-style-type: none">• If a person owns land and intends to reside on it, it may be considered home property if there is no other principal place of residence.• If a person owns the land, but not the shelter, the land is considered the residence. <p>Example: A person owns the land he lives on, but lives in a mobile home owned by his parents.</p> <ul style="list-style-type: none">• If a person owns the shelter, but not the land, the shelter is the residence. <p>Example: A person owns the mobile home, but rents the lot on which it is located.</p>

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Home Property (Continued)

Procedure

Home Exclusion

- The home exclusion applies to:
 - The shelter in which the individual lives
 - All buildings on the property
 - The land on which the shelter is located **and** any land adjoining it as long as it is not separated by land that neither the individual or spouse has an ownership interest in.
 - Easements and public rights of way (utility lines, roads, etc.) do not separate other land from the home plot.

Home Out-Of- State

If an applicant's home property is located out-of-state, policy governing state residency applies. It is not permissible for the individual to intend to return to his principal place of residence out-of-state and at the same time intend to reside in Mississippi. If the applicant intends to return home to another state, he cannot be considered a Mississippi resident for Medicaid eligibility purposes. If the applicant intends to reside in Mississippi, a home out-of-state cannot be excluded as his principal place of residence.

Evidence of Home Property Ownership

Ownership of home property can be verified by one or more items of evidence such as:

- Tax assessment notice
- Recent tax bill
- Current mortgage statement
- Deed
- Report of title search
- Evidence of heirship in an unprobated estate such as receipt of income from the property, a will, or evidence of relationship recognizable under state intestate distribution laws in cases where the home is unprobated property
- Title and current registration for mobile homes

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Home Property (Continued)

Procedure

Treatment of Home Property Under SSI Resource Policy

An individual's home, regardless of value, is an excluded resource if the individual:

- Resides in the home or
- Is absent and intends to return to the home

Example: An individual is residing with her children due to an illness, but intends to go home when health permits. The intent is based on the person's desire to return home.

No Intent to Return to Home

If the individual leaves the home and does not intend to return home to it, it is no longer considered the person's principal place of residence. The home exclusion no longer applies as of the date the individual leaves with the intent not to return or the date the individual no longer intends to return. The month after there is no intent to return, the property will be considered a countable resource unless another exclusion develops.

A home can be excluded without an intent to return, if:

- A spouse or dependent relative of an institutionalized individual continues to reside in the home while the individual is institutionalized;
 - Dependency may be financial or medical
 - Relatives may include child, step-child, grandchild, parent, step-parent, grandparent, sibling, step-sibling, half sibling, aunt, uncle, cousin niece, nephew, in-laws;

or

- Sale of the home would cause an undue hardship to a co-owner due to loss of housing.

Obtain a statement from the dependent relative or the co-owner to apply either of the above exclusions.

Multiple Residences

Only one residence can be excluded as home property. If there are multiple residences, determine the principal place of residence, considering such points as how much time is spent at each residence; where the individual is registered to vote; and which address the individual uses for mail and tax purposes.

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Home Property (Continued)

Procedure

Treatment of Home Property Under Liberalized Resource Policy

Under liberalized resource policy:

- Home property can be excluded regardless of intent to return home or whether a dependent relative lives on the property.
- Each client is allowed one home that can be excluded regardless of its use.
- If more than one residence is owned, exclude the property that would be most advantageous to the client.

Equity Interest Disqualification

For long term care applications filed on or after January 1, 2006, there is a disqualification for individuals with equity interest in their home of greater than \$500,000. Beginning in 2011, this home equity limit is subject to increase. Refer to the Chart of ABD Need Standards for the Limit in effect after 2011. This provision will not prevent an individual from using a reverse mortgage or home equity loan to reduce the total equity interest in the home.

This disqualification period means that the homeowner who is in long term care can qualify for all Medicaid services except vendor payment of nursing facility services as long as equity interest exceeds the \$500,000 limit. If Medicaid eligibility is dependent upon participation in the HCBS waiver, the individual is ineligible for full Medicaid services as long as equity in the home exceeds the limit; however, a Medicare Savings Program can be approved if criteria are met. Undue hardship can be found to exist if a lien or legal impediment exists causing the individual to be unable to access the equity.

The disqualification period will not apply to an individual who has a spouse, child under age 21 or adult disabled child living in the home.

Reverse Mortgages

A reverse mortgage is an agreement in which a lending company makes a lump sum (subject to being counted as a resource the month following month of receipt); available line of credit (subject to being counted as a resource the month following month of receipt); or regular payments (treated as loan proceeds) to a homeowner during a specific period of time. The amount of payment is determined by the amount of equity the homeowner has in the home. The homeowner is allowed to remain in the home until his/her death. At that time, the home is sold and/or the lender is repaid. Reverse mortgages are available to homeowners age 62 or older who own a debt-free or nearly debt-free home. Funds received from a reverse mortgage in any form that are transferred, either in the month of receipt or subsequent months, are subject to a transfer penalty unless an allowable exception applies (such as spousal transfers).

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302.04.02 HOME REPLACEMENT FUNDS

If an individual sells an excluded home, the proceeds may be an excluded resource if he:

- Plans to buy another excluded home and
- Buys the home within 3 full calendar months following the month the proceeds are received.

302.04.02A INSTALLMENT SALES CONTRACT

If the proceeds from the sale of an excluded home are received under an installment sales contract, the contract is excluded if the individual:

- Plans to use the entire down payment and the entire principal portion of a given installment payment to buy another excluded home and
- Purchases the new home within 3 full calendar months following the month the down payment or installment payment is received.

Procedure
<p><u>Treatment of Home Replacement Funds Under SSI and Liberalized Resource Policy</u></p> <p>The case record must contain a signed statement from the individual/authorized representative of the intent to purchase a new home.</p> <p>Proceeds From the Sale</p> <p>The proceeds of the sale include the following:</p> <ul style="list-style-type: none">• Lump sum – The net amount the seller receives at closing/settlement• Installments – Down payment and principal portion of any installment payment <p>Verification may include copy of closing/settlement papers, contract for sale, copy of installment contract and amortization schedule or other evidence that shows the new proceeds and how paid or payable.</p> <p>Use of Proceeds</p> <p>Use of the proceeds to buy another excluded home includes payment of any costs that stem from the purchase. These include, but are not limited to:</p> <ul style="list-style-type: none">• Down payment• Closing/settlement costs

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Installment Sales Contract (Continued)

Procedure
<p>Use of Proceeds (continued)</p> <ul style="list-style-type: none">• Moving expenses• Loan processing fees and points• Necessary repairs and replacement of the new home's structures and fixtures costs, if identified and documented before the new home is occupied and stem directly from the purchase or occupancy of the new home. This may include: roof, heating and cooling, plumbing, built-in appliances, etc.• Mortgage payments• Use of proceeds to pay other costs will warrant their exclusion if such costs are identified and documented prior to occupancy and stem directly from the purchase or occupancy of the new home. <p>Verification may include copy of closing statement, copy of loan application, copy of home inspection reports, receipts for moving and repairs.</p> <p>Proceeds Not Re-Invested in a Timely Manner</p> <p>If the home is not replaced within the allowable 3-month period, the unused proceeds are a countable resource retroactive to the month following the month of receipt as follows:</p> <ul style="list-style-type: none">• Lump sum – the exclusion of the unused funds is revoked retroactively to the date of receipt• Installment contract – the exclusion of the contract itself and the unused portion of any installments received are revoked retroactively to the date the unused proceeds were received.<ul style="list-style-type: none">○ The exclusion of an installment contract, once revoked, will be reinstated if the individual intends to and does use the entire principal portion of a subsequent installment payment toward the purchase of another excluded home within 3 full calendar months of receiving such installment payment. <p>The exclusion does not apply to that portion of the proceeds of the sale of the original home that is in excess of the costs of the purchase and occupancy of the new home.</p> <p>NOTE: If replacement funds have been received for a damaged or destroyed home, refer to Section 302.09.03, "Cash or In-Kind Items Received for the Repair or Replacement of Lost, Damaged or Stolen Excluded Resources" and when applicable, Section 302.09.05, "Presidentially-Declared Major Disasters".</p>

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302.04.03 JOINTLY OWNED PROPERTY WHOSE-SALE WOULD CAUSE UNDUE HARDSHIP

The value of an individual's ownership interest in the jointly-owned property is an excluded resource for as long as the sale of the property would cause an undue hardship, due to loss of housing, to a co-owner.

Procedure

Treatment Under SSI and Liberalized Resource Policy

Undue hardship would result if the co-owner:

- Uses the property as his principal place of residence
- Would have to move if the property were sold
- Has no other readily available housing

Verify joint ownership and obtain a signed statement from the client and joint owner which documents the undue hardship. Hardship must be updated at every review. The exclusion ends when any one of the above conditions no longer exists.

Example: Mr. Allen and his son jointly own a piece of land. The son and his family live on the property and have no other place to live. Mr. Allen applies for Medicaid. The property is excluded because the sale would cause an undue hardship to his son. However, if the son owned another house nearby which was vacant and habitable, there would be other available housing. Under these circumstances, undue hardship would not exist and the value of Mr. Allen's interest would be countable.

302.04.04 EXCLUSION OF REAL PROPERTY DUE TO REASONABLE EFFORTS TO SELL

Real property may be excluded from resources if the owner is making reasonable efforts to sell it and those efforts have been unsuccessful. The individual must maintain their efforts to sell unless good cause, i.e., circumstances beyond the individual's control prevent his taking the required actions to accomplish reasonable efforts to sell, exists. In addition, the individual must accept a reasonable offer for the property.

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Exclusion of Real Property Due to Reasonable Efforts to Sell (Continued)

Procedure
<p><u>Treatment Under SSI and Liberalized Resource Policy</u></p> <p>The specific requirements listed below must be met in order for this exclusion to apply:</p> <p>Reasonable Efforts To Sell</p> <ul style="list-style-type: none">• Reasonable efforts to sell real property consist of taking all necessary steps to sell it through media serving the geographic area in which the property is located. Reasonable efforts specifically mean that:<ul style="list-style-type: none">○ Within 30 days of signing Form-320A, Agreement to Sell Property, the owner(s) must:<ul style="list-style-type: none">▪ List the property with an agent; or▪ Begin to advertise in at least one of the appropriate local media, place a "For Sale" sign on the property (if permitted), begin to conduct open houses or otherwise show the property to interested parties on a continuing basis and attempt any other appropriate methods of sale; and• Except for gaps of no more than 1 week, the owner must maintain efforts of the type listed above; and• The owner does not reject any reasonable offer to buy the property and accepts the burden of demonstrating to Medicaid's satisfaction that an offer was rejected because it was not reasonable. <p>Reasonable Offer To Buy</p> <ul style="list-style-type: none">• Assume that an offer to buy the property at a particular price is reasonable if at least two-thirds of the estimated current market value (CMV) is or will be received. The CMV is established by obtaining a knowledgeable source estimate of the property as outlined in 301.01.08, Verifying Current Market Value.

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Exclusion of Real Property Due to Reasonable Efforts to Sell (Continued)

Procedure

Good Cause

Good cause exists when circumstances beyond an individual's control prevent the required action to accomplish reasonable efforts to sell. If good cause exists for failure to meet any of the criteria specified above, the exclusion can continue provided action is taken to resume efforts to sell.

Examples of good cause include:

- No offer to buy is received
- A legitimate offer does not result in a sale
- Escrow begins, but closing does not take place within the disposal period
- Incapacitating illness or injury, such as the individual becomes homebound or hospitalized for a prolonged period due to illness or injury and cannot take steps necessary to sell the property or to arrange for someone to sell it on his behalf

Example: Sandy Patterson is a Medicaid recipient whose property has been excluded due to a bona fide effort to sell. She accepted a reasonable offer for the property; however, the buyer backed out of the deal at closing. Ms. Patterson immediately started sales efforts again. Good cause exists.

Failure To Make Reasonable Efforts

Unless there is good cause, failure to meet any of the criteria specified under "Reasonable Efforts to Sell" and "Reasonable Offer to Buy" means that:

- An individual is not making reasonable efforts to sell the property and is not accepting a reasonable offer to buy;
- The individual's countable resources include the value of the property beginning with the month following the month in which reasonable efforts to sell stop or the month following the month the owner failed to accept a reasonable offer to buy; and
- The individual will be charged with an improper payment, if applicable.

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Exclusion of Real Property Due to Reasonable Efforts to Sell (Continued)

Procedure

Initial Verification of Efforts To Sell

The effort to sell must be documented in the case record within the 30-day time period for applying the exclusion by requiring all proof such as:

- Copy of the listing agreement with the real estate agent in current use;
- Dated advertisement(s) indicating the property is for sale;
- Contracts with local media to advertise the property;
- A photograph of the "For Sale" sign on the property, in conjunction with other efforts;
- Any other relevant items.

Effective Date Of Exclusion

If the appropriate proof is submitted, the exclusion is applied back to the first of the month in which the effort to sell was initiated.

If a reasonable effort to sell was in existence prior to the date of application, the exclusion can be applied retroactively provided the effort is documented and DOM-320A is signed.

If the effort to sell is just beginning, the exclusion applies effective with the first month DOM-320A is signed (provided it is signed within 30 days). If not signed within 30 days, the exclusion applies as of the first month a reasonable effort to sell is initiated.

Follow-Up Contacts

Contacts must be scheduled at 90-day intervals until the property is sold or the exclusion ends. Follow-up contacts may be by telephone to determine efforts being made to accomplish the sale and to document whether there has been any offer to buy since the prior contact. If an offer to buy has been refused, a statement must be submitted explaining the refusal.

NOTE: The refusal of an offer to buy must be evaluated under the "Reasonable Offer to Buy" guidelines. If the refusal is unacceptable, the exclusion ends beginning with or retroactive to the month after the month of the refusal to sell.

If the reasonable efforts to sell are not continuing at each follow-up contact, determine if good cause exists. If good cause does not exist, the exclusion ends beginning with or retroactive to the month after the month the reasonable efforts stopped.