

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07 **EXCLUSION OF PROPERTY ESSENTIAL FOR SELF-SUPPORT**

The exclusion of property essential to self support may apply to real or personal property. All property must be in current use or, if not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will resume. Resources excluded under this provision generally fall into four categories:

1. Property Essential to Self Support - Exclude Regardless of Value or Rate of Return (SSI and Liberalized)
2. Property Used to Produce Goods and Services - Exclude Up to \$6000 Equity Regardless of Rate of Return (SSI)
3. Non-Business, Income-Producing Property - Exclude Up to \$6000 Equity if it Produces a 6% Rate of Return (SSI)
4. Essential Property Exclusion - Liberalized Policy

**NOTE:** The income generated by income-producing property is not excluded under this provision. Income is either earned or unearned, depending on the type of income-producing property involved.

#### 302.07.01 **CURRENT USE REQUIREMENT**

The property must be in current use in the type of activity that qualifies it for exclusion under this provision. Current use is evaluated on a monthly basis. Property not in current use may be excluded only if:

- It has been in use and
- There is expectation that the use will resume

Resumption of use must be expected within 12 months of last use. This 12-month period can be extended for an additional 12 months if non-use is due to a disabling condition. Explain to the client that the property can be excluded for up to 12 months if resumption of the self-support activity can reasonably be expected to occur within that time.

#### **No Intent or Change of Intent to Resume Self Support Activity**

If the individual does not intend to resume the self-support activity, the property is a countable resource for the month after the month of last use.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### **Current Use Requirement (Continued)**

If there is a change of intent after the exclusion has been applied, the exclusion no longer applies as of the date of the change of intent. The property becomes a resource for the following month unless a different exclusion is met.

#### **Procedure**

##### **Not in Current Use - General**

If property is not in current use, obtain a statement in regard to:

- The date of last use
- The reason(s) the property is not in use; and
- When the individual expects to resume the self-support activity, if at all

##### **Not in Current Use - Disability**

If an individual alleges that self support property is not in current use because of a disabling condition, obtain a statement in regard to:

- The nature of the condition
- The date the self support activity ceased and
- When the individual intends to resume the activity, if at all

Prepare a special determination on whether up to an additional 12 months will be allowed for resuming use of the property.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07.02 PROPERTY ESSENTIAL FOR SELF-SUPPORT - EXCLUDED REGARDLESS OF VALUE OR RATE OF RETURN

The properties essential to self support described in this section include necessary capital and operating assets of a business, e.g., real property, buildings, inventory, equipment, machinery, livestock, motor vehicles, etc. They must be in current use or if not in current use due to circumstances beyond the individual's control, there must be a reasonable expectation that the required use will resume. The following types of properties essential to self support are excluded regardless of value or rate of return:

- Property used in a trade or business
- Government permits which represent authority to engage in an income-producing activity
- Personal property used by an employee in his work

#### 302.07.02A PROPERTY USED IN A TRADE OR BUSINESS

Property essential to self support used in a trade or business is excluded from resources, regardless of the value or rate of return. This is applicable to programs subject to both SSI and liberalized resource policy.

#### **Procedure - SSI and Liberalized Resource Policy**

When the individual alleges owning a trade or business property, obtain a statement in regard to:

- Description of the trade or business
- Description of the assets of the trade or business
- The number of years the business has been operated
- Names of any co-owners
- Estimated gross and net earnings of the trade or business for the current tax year

#### **Verification:**

Obtain a copy of the current year tax return (Form 1040 with schedules and attachments). Use the return to determine the net self employment earnings and validity of the trade or business. If the current year return is not available, obtain the latest return available

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07.02B GOVERNMENT PERMITS

Government permits represent authority granted by a government agency to engage in an income-producing activity. Examples are commercial fishing permits or tobacco crop allotments.

#### Procedure - SSI and Liberalized Resource Policy

When the individual alleges owning a government license, permit or other property which represents government authority to engage in an income producing activity, and which has value as a resource, obtain a statement regarding the information below:

- Type of license, permit or other property
- Name of the issuing agency, if appropriate
- If license is required for engaging in this activity
- How the license, permit or property is being used or
- If not being used, why not

**Verification:** Obtain a copy of the license, permit and/or other documents

### 302.07.02C PERSONAL PROPERTY USED BY AN EMPLOYEE FOR WORK

Personal property used by an employee for work is excluded from resources. Excluded items include tools, safety equipment, uniforms, etc.

#### Procedure – SSI and Liberalized Resource Policy

If the individual alleges owning items that are used in his work as an employee, obtain a statement regarding the following:

- Name, address and telephone number of employer
- General description of the job duties and the items
- Whether the items are currently in use

**Verification:** Absent evidence to the contrary, accept the individual's statement

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07.03 PROPERTY USED TO PRODUCE GOODS OR SERVICES – UP TO \$6000 EQUITY EXCLUDED REGARDLESS OF RATE OF RETURN (SSI)

- This exclusion applies to non-business property, real or personal property (but not cash or bank accounts), used to produce goods or services essential to daily living
- No specified rate of return is required
- Property must be in use or, if not in use for reasons beyond the individual's control, there must be a reasonable expectation that the required use will return
- If the equity value of the property exceeds \$6000, the excess is not excluded; it is countable toward the resource limit

**Example:** If the resource is valued at \$7000, then \$6000 is excluded and \$1000 is counted.

#### Procedure – SSI Resource Policy

##### Examples of Non-Business Property – Real or Personal

- Property used to grow produce or livestock raised solely for personal consumption in the individual's household
- Property used in activities essential to the production of food for home consumption – such as a tractor used for plowing or a boat for subsistence fishing

**NOTE:** This does not include any vehicle that qualifies as an automobile

When an individual alleges owning property that he uses to produce goods or services necessary for daily activities, obtain a statement giving:

- A description of the property
- How it is used
- Estimate of the CMV and any legal encumbrances

##### Verification:

Absent evidence to the contrary, accept the client's statement

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07.04 NON-BUSINESS, INCOME-PRODUCING PROPERTY – UP TO \$6000 EQUITY EXCLUDED IF RATE OF RETURN IS 6% (SSI)

Non-business, income-producing property is defined as property which includes land that produces rents or other land-use fees (e.g., non-liquid notes or mortgages, ownership or timber rights, mineral or oil exploration) or other non-liquid property which provides rental or other income, but is not used as part of a trade or business.

#### Procedure – SSI Resource Policy

When an individual alleges owning non-business real property that produces income, document the following:

- The number of years he has owned the property
- Any co-owners of the property
- A description of the property
- The estimated CMV of the property and any encumbrances
- The estimated net and gross income from the property for the current tax year

#### Verification:

- Establish that the property is producing income:
  - If available, obtain a copy of the tax return for the year prior to filing the application or redetermination.
  - When no tax returns are available, obtain other evidence, e.g., a person leasing land for mineral or oil exploration should have a copy of the lease agreement for the period in question.
- Verify the equity value of the property

#### Treatment

- This exclusion applies to non-business, income-producing property
- Up to \$6000 of the equity value can be excluded from resources if the property produces a net annual return equal to at least 6% of the excluded equity value
- Any equity that exceeds \$6000 counts toward the resource limit
- If the net annual return is less than 6%, the entire equity value is counted

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### Non-Business, Income Producing Property (Continued)

#### Procedure – SSI Resource Policy

**Example:** At review, Mr. Cameron reports that he lives in an apartment and is renting out his formerly excluded home, which has an equity value of \$13,000. Even if the property produces a 6% net annual return, \$7000 of his equity cannot be excluded and counts as a resource under SSI policy..

#### Exceptions

If the property produces less than a 6% net annual return, the exclusion may be allowed only if the following apply; otherwise, none of the EV is excluded under this provision:

- Lower return that is beyond the individual's control, such as
  - Crop failure
  - Fire
  - Illness
- There is a reasonable expectation that the property will again produce a 6% return

#### Development When Rate of Return is Less than 6%

- If earnings decline for reasons beyond the client's control, up to 24 months is allowed for resumption of a 6% net annual rate of return. This 24-month period begins with the first day of the tax year following the one in which the rate dropped below 6%.
- Set a 12-month tickler to check on the individual's progress with the business. The individual can have the additional 12 months to achieve the 6% net annual rate of return if he is actively pursuing the activity.
- If the individual has stopped actively pursuing the activity, the value of the property counts as a resource the month following the review.
- If the property is still not producing at least a 6 percent net annual return at the end of the 24-month period, discontinue the exclusion. The value of the property counts as a resource the month following the month the 24-month period ends.

# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### Non-Business, Income Producing Property (Continued)

#### Procedure – SSI Resource Policy

##### Multiple Properties

If an individual owns more than one piece of property:

- The 6% return rule applies individually to each piece
- The \$6000 equity value limit applies to the combined equity values of properties meeting the 6% return rule

If all the properties meet the 6% test, but total EV exceeds \$6000, that portion of the total in excess of \$6000 is not excluded under this provision.

**Example:** Mr. Green has a piece of land on which he grows corn for sale at market. The equity value of the land is \$7000.

1. He nets \$500 per year in sales.  $\$500 \div \$7000 = 7.14\%$ ; therefore, \$6000 of the EV is excluded and \$1000 counts as a resource.
2. Last year his crop was struck by lightning and caught on fire. He made no money, but expects to plant and sell again next year at the regular rate. The \$6000 may still be excluded because Mr. Green had no control over the fire. His 24-month period begins January 1 of the tax year following the year in which the loss occurred. A tickler is set to check on his progress in 12 months.

**Example:** Mr. Green owns three non-connected acres of pastureland. He rents them to different horse and cattle owners for \$500 per year each. The land has equity values of \$2000, \$3500 and \$1200 for a total of \$6700.

- 6% rule:  $\$500 \div \$2000 = 25\%$  return  
 $\$500 \div \$3500 = 14\%$  return  
 $\$500 \div \$1200 = 42\%$  return
- Since the 6% rule is met, \$6000 is excluded and \$700 is countable



# MISSISSIPPI DIVISION OF MEDICAID

## Eligibility Policy and Procedures Manual

### 302.07.05 **ESSENTIAL PROPERTY EXCLUSION - LIBERALIZED POLICY**

Under liberalized resource policy, the essential property exclusion is applied as follows:

#### **Property Essential to Self Support Under Liberalized Policy**

As previously indicated, property essential to self support, defined as property used in a trade or business, government permits and personal property used by an employee for his job, is excluded regardless of value or rate of return. The procedures for documentation and verification for each type are discussed in Section 302.07.02 above.

#### **Property Used to Produce Goods or Services Under Liberalized Policy**

The \$6000 exclusion cap is lifted under liberalized policy; therefore, property used to produce goods or services essential to daily living is also excluded regardless of value or rate of return. The procedures for documentation and verification of this type of property are discussed in Section 302.07.03.

#### **Non-Business, Income-Producing Property Under Liberalized Policy**

With the \$6000 exclusion cap lifted under liberalized policy, non-business, income-producing property must produce a net annual return of 6% of the EV of each property. If multiple properties are involved, each must be evaluated under the 6% rule. The procedures for documentation and verification of this type of property are discussed in Section 302.07.04.

**NOTE:** Property that a client sells via a property settlement agreement must meet the 6% net annual return criteria and the agreement must be actuarially sound in order to avoid a possible transfer of resources penalty for the institutional client as discussed in Section 302.02.02.