

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

304.07.01 ELIGIBILITY DETERMINATION INVOLVING CONSERVATORSHIPS

To determine how to handle a case involving a legal guardian or conservator, it is necessary to obtain a copy of the original decree appointing an individual as guardian or conservator. In addition, obtain copies of any legal documents which may subsequently have been issued by the court to amend or change the original decree, if any have been issued. If a guardianship or conservatorship is in the process of being established, the client's resources are considered available until court documents are presented as outlined below:

- If the court order specifies disbursement of funds, any payments made to or on behalf of the client count as unearned income to the client.
- If the court order does not specify the disbursement of any non-liquid resources conserved by the court, consider the funds as a countable resource.
- If the court order specifies that conserved non-liquid resources, such as property, may be disposed of for the benefit of the client, consider the property, etc., as a countable resource. If the court order is silent on the subject of disposal of non-liquid resources, consider the resources countable unless or until the court is petitioned for disposal.
- A court order may specify the disbursement of liquid resources and not mention disposal of any conserved non-liquid resources or vice versa. In such a case, abide by the court's decision regarding the disbursement or disposal issue specified and count as a resource the unspecified resource.

Example: A conservatorship court order specifies the release of \$100 per month from a savings account with a \$5000 balance and fails to mention the disposal of 50 acres of property owned by the client. The \$100 is counted as income while the balance of the account is excluded as a resource. The property is countable until the court is petitioned for the purpose of disposing of the property.

- Court orders that are not specific on the availability of conserved resources result in the availability of the conserved resource to the client until the month the court is petitioned for use of the conserved funds or resources. A valid petition will exclude the resource provided the petition requests the court to rule as to the disposal and/or disbursement of conserved resources. The exclusion will apply until the court rules in the matter at which time the case must be reviewed in light of the court decision.