

Article 6 Section 04 Property/Resources

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06.04.01 Property/Resources

06.04.01A General

Property rules for CMS and CMS Hardship are identical. Property ownership and determination of excluded and included property is noted in this section. The worker evaluates the property owned by members of the CFBU to determine the net market value of property included in the property reserve. Notice CMS-007 provides a general overview of CMS property requirements and CMS spend down regulations.

06.04.02 Property Reserve Limit

06.04.02A Property Reserve Limits

See [Appendix A](#) for the property limits.

06.04.03 Treatment of Personal Property

06.04.03A Bank Accounts

Bank Accounts

A. Individual Accounts/Accounts Held with Family Members*

The entire non-exempt amount in checking and savings accounts to which the applicant/beneficiary has unrestricted access will be included in the property reserve with the following limitations:

- Income received during a month and deposited in the month received is not considered property during that

- month; and
- Reasonable amounts saved from a child's exempt earnings for future education or for other future identifiable needs are exempt as proper "Reasonable" means a maximum of \$1,500 for purposes of this section.

B. Joint Account

- 1) Accounts held with persons who are not family members will be considered available in their entirety (excluding exempt monies) if the applicant/beneficiary has unrestricted access the funds, unless the following conditions are met:
 - If the applicant/beneficiary present evidence which clearly establishes that all or a portion of the funds are the property of a person who is not a family member, those funds are not considered the property of the applicant/beneficiary; or
 - If a withdrawal of funds in an unrestricted joint account is made by the person who is not the applicant/beneficiary, the worker will have no jurisdiction as to the disposition of the funds. However, the worker will require verification that the funds have been withdrawn by the joint tenant rather than the applicant/beneficiary, that they were the other tenant's property, and that they did not belong to the applicant/beneficiary. The withdrawal may have to be evaluated as to a transfer of assets.
- 2) If an applicant/beneficiary has restricted access to a checking or savings account, such as accounts which require two signatures or savings accounts held in trust by other than the applicant/beneficiary, only those funds actually available to the applicant/beneficiary are included in the property reserve.

**06.04.03B
Cash on Hand**

Cash on hand is included in property reserve, unless it is income received in that month.

**06.04.03C
Disaster
Assistance
Funds**

- 1) Funds
Disaster Assistance funds from federal, state or local government agencies, or disaster assistance organizations are permanently exempt and shall not be counted as income or property. Interest earned on funds exempt under this provision is exempt from income and property. If the exempt

funds have been commingled with nonexempt fund, interest accruing on the accounts must be prorated.

2) Interest

Any interest payments resulting from the retention of disaster funds are also exempt. Individuals should be advised to retain these funds in a separate account, rather than commingling them with other resources, so the interest that accrues can be readily identified and exempted.

**06.04.03D
Federal
Payments to
Indians and
Alaskan
Natives**

- 1) Payments received from the Federal Government under Public Lay 90-507 will be excluded from consideration as personal property when the total of non-exempt personal property, including such payments, does not exceed \$2,000 for each individual. Payments converted into other property will be treated the same as the payments. However, if the property received through such a conversion is again converted, the property acquired is included in the property reserve unless otherwise exempt.
 - 2) Payments received from Federal Government under Public Law 92-254 or Section 6 of Public Law 87-775 are exempt.
 - 3) Per capita payments distributed according to any judgment of the Indian Claims Commission or the Court of Claims in favor of any Indian Tribe are exempt.
 - 4) Shares of stock and money payments made to Alaskan Natives under the Alaskan Native Claims Settlement Act are exempt as long as the payments or stock remain separately identifiable and not commingled with non-exempt resources. Property obtained from stock investments under the Act is not exempt.
 - 5) Receipts derived from lands identified in [06.01.03](#) will be exempt providing all of the following conditions are met. The monies:
 - a) Are retained by the original recipient;
 - b) Are not commingled; and
 - c) Can be separately identified as a proportionate share of the applicant/beneficiary's property.
-

**06.04.03E
Hobbies**

Items used for hobbies or collections such as gun collections, stamp collections, art, etc., are exempt as household items.

06.04.03F

Public Law 94-385 provides for a Low Income Weatherization

Home Energy Assistance

Assistance Program (LIWAP) through the Department of Energy. Public Law 97-35 provides for a Low Income Energy Assistance Program (LIEAP) through the Department of Health and Human Services. LIEAP is composed of the Energy Crisis Intervention Program (ECIP) and the Home Energy Assistance Program (HEAP).

These programs provide payments either to the recipient or to vendors on behalf of the recipient for the purpose of home energy assistance. These payments shall not be considered income or property.

06.04.03G Household Items

All items used to furnish and equip a home are exempt.

06.04.03H Income Tax Refunds

- 1) Income tax refunds are included in the property reserve. Verifications includes:
 - viewing the check;
 - the income tax return (540, 1040); or
 - written correspondence from the State Franchise Tax Board or Internal Revenue Service.
 - 2) Renter's credit payments are exempt as property.
 - 3) Actual Earned Income Tax Credit (EITC) payments or advance payments made by an employer are exempt property in the month following the month of receipt.
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06.04.03I Livestock and Poultry

- 1) Livestock and poultry retained primarily for personal use are exempt. This includes pets and riding horses, etc.
- 2) The net market value of livestock and poultry retained primarily for profit will be included in the property reserve unless it is exempt as a business.
- 3) The net market value of livestock and poultry will be the net market value listed by the applicant/beneficiary on the Statement of Facts, unless the worker determines additional verification is required based on conflicting information. If verification is required:
 - a) The applicant/beneficiary will submit three appraisals from person or businesses dealing in livestock and poultry. The average of these appraisals will be the market value; and
 - b) Subtract any encumbrances of record from the market

value. This is the net market value.

**06.04.03J
Lump sum
Payments**

1) Types of Payments

This list is not all-inclusive and each situation must be evaluated separately. The following kinds of nonrecurring lump sum payments are to be treated as indicated in 2) below.

- a) Annuities
- b) Pensions
- c) Retirement payments
- d) Disability payments from an employer or insurance
- e) Veteran's payments, which include:
 - Pensions based on need;
 - Compensation payments;
 - Aid and Maintenance Payments;
 - Education assistance
- f) Worker's Compensation, except for amounts determined unavailable (refer to [06.01](#)).
- g) Railroad Retirement and any other payments made by the Railroad Retirement Board
- h) Unemployment Insurance Benefits
- i) Retirement, Survivors, and Disability Insurance payments from the Social Security Administration (RSDI)
- j) Reimbursement of Medicare premiums from the Social Security Administration.

2) Treatment of payments

- a) That portion of the lump sum payment which is intended to cover the regular benefit payment for the month of receipt is income.
- b) The remainder of the lump sum payment is property, except as indicated in c) through e) below.
- c) A Settlement received, from Worker's compensation or other public private insurance coverage, is exempt if not controlled by the applicant/beneficiary. No control exists if the applicant/beneficiary does not have sole access to it or cannot dispose of it at will. This would be the case if the settlement check was made payable to someone other than the applicant/beneficiary (attorney, physician, hospital, etc.) even though the applicant/beneficiary's name was also on the check.
- d) Retroactive SSI/SSP and SSA benefits payments are not to be included in the property reserve for a period of six months after the month in which they are received.
- e) Retroactive SSI/SSP Zebley cash awards to beneficiaries are not included in the property reserves for

a period of six months after the month in which they are received.

**06.04.03K
Marine Indian
Claims
Settlement
Payments**

These are payments to specific tribes or bands of Indians to settle their claims for ownership of land in the State of Maine. This Act prohibits the consideration of these payments as income or property or their use in any other basis for determining eligibility or share of cost.

**06.04.03L
Motor
Vehicles**

1. Exemption Criteria

One Motor vehicle is exempt, subject to the following conditions:

The applicant/beneficiary will be allowed to choose which vehicle is to be exempt; however, recreational and commercial vehicles are exempt under this section only if other motor vehicles are not available to provide transportation for the applicant/beneficiary. In the State of California, almost all trucks and vans are registered as commercial vehicles. However, a commercial vehicle is defined by CDHS as "a vehicle used in a business or money making venture." This means that the licensing of the vehicle, while a possible indication of status as a commercial vehicle, is not verification of such use. Thus, commercially licensed vehicles that are entirely for personal use cannot be considered commercial vehicles for CMS purposes.

2. Value Determination

The net market value of all non-exempt motor vehicles is included in the property reserve. The net market value of a motor vehicle is determined by the following process:

A. DMV Chart

- a) Obtain the most current vehicle registration to identify the class code and the year the motor vehicle was purchased. In those cases where the class of motor vehicle is unknown or unavailable, the worker or the applicant/beneficiary will contact the State Department of Motor Vehicles to determine the class or license fee of the motor vehicle. (Classic cars will have their value determined in the same manner as any other vehicle.)
- b) Locate the year the motor vehicle was purchased and class on the DMV License fee chart on [MPG 09.06 Appendix A](#) by determining how many years back from the current year was the purchase year (i.e.,

1988 is current year; purchase year 1984; the purchase year is 4 years prior to the current year). The value located in the 4th prior year column next to the class code would be the value used for the next step. If the purchase year is not listed, use the "year first sold."

- c) Divide the chart value by .0065. This is the market value of the vehicle.
 - d) Subtract any verified encumbrances from the market value. This is the net market value.
- B. If the applicant/beneficiary disagrees with the market value determined by using the State Department of Motor Vehicles (DMV) license fee chart, the worker will use the following methods to determine the market value, including but not limited to:
- a) The market value determined by the wholesale "Kelley Blue Book";
 - b) The market value determined by the "National Auto Dealers Association (NADA) Guide"; or
 - c) An estimate of market value obtained by the applicant or beneficiary from a disinterested knowledgeable source.

**06.04.03M
Musical
Instruments**

All musical instruments are exempt.

**06.04.03N
Personal
Effects**

- 1. Clothing
All items of clothing are exempt.
- 2. Jewelry
 - A. The following jewelry is exempt:
 - a) Wedding and engagement rings.
 - b) Heirlooms,
 - c) Any other item of jewelry with a net market value of \$100 or less.
 - d) For institutionalized individuals and their community spouses only, all jewelry is exempt.
 - B. The net market value of jewelry not exempted above will be included in the property reserve.
 - C. The net market value of jewelry is determined as follows:
 - a) The applicant/beneficiary must submit at least one written appraisal of current market value by a jeweler, insurance adjustor or personal property appraiser, or proof of the purchase price in the form of a sales slip which establishes the market value; and

- b) Subtract any encumbrances of record from the Market value. This is the net market value.
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**06.04.03O
Recreational
Items**

All recreation items are exempt except for recreational motor vehicles such as motor homes, snowmobiles, boats, campers, and trailers. (Examples of exempt recreational items are personal computers, TVs, VCRs, guns, stereos.)

1. Recreational Vehicle

Recreational vehicles include motor homes, snowmobiles, golf vehicles, all-terrain vehicles, motorbikes, etc.

Recreational vehicles will be handled as instructed in item [06.04.03L](#).

2. Boat, Campers, and Trailers

- A. The net market value of boats, campers, and trailers, including mobile homes, which are not assessed as real property by the county assessor, will be included in the property reserve unless exempt as either of the following:
- a) A Principal residence; or
 - b) A Vehicle used for transportation.

Note: Only one principal residence and one vehicle for transportation can be exempt.

B. Items in A above, which are assessed as real property by the county assessor of the county in which the property is located and which are not exempt as a principal residence, are considered other real property.

- C. The net market value of boats, campers, and trailers will be determined as follows:
- a) The Market value is one of the following:
 - The average of three appraisals by dealers, insurance adjustors, or personal property appraisers submitted to the worker by the applicant/beneficiary
 - The market value placed on the item by the County Assessor
 - b) The market value of the item determined by use of the State Department of Motor Vehicle's license fee chart; or
 - c) The original purchase price of the item if the applicant/beneficiary does not wish or is unable to provide three appraisals, or the market value cannot be determined in accordance with B or C.

- d) The net market value will be the market value less any encumbrances of record

D. Verification

The value must be verified by:

- viewing the vehicle registration;
 - obtaining appraisal statements; or
 - obtaining the purchase contract.
-

**06.04.03P
Relocation
Assistance**

Relocation Assistance payments are exempt from consideration as both income and property to the extent that the funds retained are separately identifiable. Interest earned from these funds is not exempt.

**06.04.03Q
State Hearing
Payments**

Payments made to beneficiaries by State DSS for late favorable State Hearing decisions are considered public assistance grants and are exempt as both income and property in the month of receipt. Any unexpended payment will be considered property in the month following the month of receipt.

**06.04.03R
Stocks,
Bonds,
Mutual Funds**

1. Treatment

Stocks, bonds, and mutual funds will be included in the property reserve. The value of these items will be the closing price on the date the property is evaluated.

2. Verification

The value of stocks, bonds, and mutual funds will be verified prior to granting by doing both of the following:

- A. Viewing the certificate or signed statement from the issuing institution stating a description of the investment, including the number of shares owned (narrate the information in the case file); and
- B. Taking one of the following actions:
 - a) Telephone contact with a recognized stock exchange broker to establish the current selling price of the property; or
 - b) Establishment of the current selling price of the property through listings in a current newspaper.
- C. Copy of an internet printout of the stock account can accepted as long as it contains the following information:
 - a) Owner's name;
 - b) Financial institution name;
 - c) Date;
 - d) Complete account number; and

e) Account balance.

3. Stocks Held by Natives of Alaska

Shares of stock in a regional or village corporation held by natives of Alaska for a 20-year period during which the stock cannot be conveyed, transferred, or surrendered are exempt. The verification procedures in item [06.04.04](#), apply here.

4. United States Savings Bonds

A. Treatment

United States Savings Bonds will be included in the property reserve. The value of these bonds will be the amount for which they can be redeemed.

B. Verification

U.S. Savings Bonds values will be verified prior to granting by viewing the bond. Narrate the information in the case file. The worker will contact any bank or Institution where the bonds can be redeemed to obtain the current value.

**06.04.03S
Times Shares
and
Campground
Memberships**

Time shares and campground memberships, etc. which do not have a real property deed and assessment are treated as personal property. Unless otherwise exempt, the verified value will be included in the property reserve.

**06.04.03T
Cash
Payments for
Medical and
Social
Services**

Cash received by an applicant/beneficiary specifically for a medical or social service is exempt as property for one calendar month following the month of its receipt.

- A. Medical services are defined as those services which are directed toward diagnostic, preventive, or therapeutic treatment of a medical condition and which are performed by a state licensed health professional.
- B. A social service is any service which is intended to assist a handicapped or socially disadvantaged individual to function in a society on a level comparable to that of an individual who does not have such a disadvantage.
- C. If it is unclear that the total cash payment is for a medical or social service, you need to verify how much of the cash payment is specifically for a medical or social service. For example, a Worker's Compensation payment may include regular monthly income plus an additional amount for a medical examination. The amount for the medical

examination would be exempt in the month following its receipt.

- D. Medical or social service agencies such as the American Red Cross, Easter Seals, and the Shriners may make payments for medical and social services as well as for other purposes. The amount specifically for social and medical services must be verified, and it is exempt. The excess is counted as unearned income in the month of receipt.
 - E. Exceptions
This one month exemption does not apply to:
 - a) Cash payments made to reimburse the beneficiary for services already paid.
 - b) Payment for work performed as a participant in a sheltered workshop.
 - c) Incentive payments to encourage individuals to participate in specific medical or social service programs.
 - d) Cash from any agency or insurance policy which pays a flat rate benefit without regard to the actual expenses incurred. Examples of these types of agencies are: Unemployment Insurance Benefits, Workers Compensation, Monthly Social Security, and Vocational Rehabilitation Benefits.
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**06.04.03U
Veteran's
Educational
Assistance
Program**

The Post-Vietnam Veterans Education Assistance Program (VEAP) is a contribution matching program for persons entering active military service after December 31, 1976. Persons on active military duty voluntarily contribute to the VEAP fund and may be eligible to receive educational benefits from the Veteran's Administration (VA) upon discharge from the military. The VA contributes \$2 for every \$1 contributed by the veteran.

The veteran may elect to withdraw his/her contribution, but forfeits the matching VA funds by doing so. When a veteran voluntarily withdraws his/her contribution, the amount is considered personal property upon withdrawal, since the withdrawal from VEAP means that the funds are no longer earmarked specifically for educational purposes.

**06.04.03V
Payment to
Victims**

- A. National Socialist Persecution Victims
 - a) Payments received by an individual who was persecuted on the basis of race, religion, physical or mental disability, or sexual orientation from Nazi Germany any other Axis regime, or any other Nazi controlled or Nazi-

allied country are exempt. Interest included as part of the payment is also exempt. Interest earned on these funds is not exempt from property and income regulations.

This includes payments made to the individual's heirs or the individual's estate. Note: this exemption applies to the person who receives the payment.

- b) If the exempt funds have been commingled with non-exempt funds, it is the client's responsibility to be able to distinguish which are the excluded commingled funds.
- c) Once these funds have been spent, conversion regulations detailed in [06.04.07](#) apply.

B. Victims of Crime

Payments made under the California Victims of Crime program shall be exempt as property for the 9-month period beginning after the month in which the payment was received.

**06.04.03W
Japanese-
American and
Aleutian
Restitution
Payments**

Restitution payments from the U.S. federal government or, effective January 1, 2000, from the Canadian government, to Japanese-Americans (or their survivors) and Aleuts, who were interned or relocated during World War II, are exempt if they are not spent and are identifiable. Also, effective January 1, 2000, when these payments have been converted to another form, exempt the amount of property equal to the amount of restitution payment received.

**06.04.03X
Austrian
Social
Insurance
Payments**

Payments

Payments that were made based on wage credits under Paragraphs 500-506 of the General Social Insurance Act (GSIA), to individuals who suffered a loss, presumably due to unemployment, resulting from the individual's imprisonment, flight from Austria, or other reasons relating to political, religious or ethnic persecution during the period from March 1933 through May 1945, are exempt from property to the extent that they are kept identifiable. This includes any interest that may be included in the payment.

Unspent interest earned from these exempt funds is included in the property reserve in the month following the month of receipt.

If these exempt funds are commingled with other non-exempt funds, it is the client's responsibility to distinguish which are the exempt funds. The exemption does not carry over to whatever has been purchased with these exempt funds. The property

acquired shall be included in the property reserve, unless otherwise exempt.

Verification

The client must present at least one of the items below. One item can be substituted as stated below.

- A. An award letter from an Austrian pension insurance agency (may be written in German) in favor of the client, which contains the language:
"Die Beguenstigungsvorschriften fuer geschaedigte aus politischen oder religioesen gruenden oder aus gruenden der abstammung wurden angewendet (500ff ASVG)."

Translation: ***"The regulations which give preferential treatment for persons who suffered because of political or religious reasons or reason of origin were applied (500ff ASVG)."***

If the client does not produce the award letter, he/she must make a reasonable attempt to obtain it. If the client is still unable to obtain the award letter, he/she may attest, under penalty of perjury, that he/she was imprisoned or unemployed in, or forced to flee from, Austria during the period 1933-1945 because of political or religious reasons; and

- B. A check copy or stub showing in Austrian pension payor. If the client does not produce a check stub or copy, he/she must make a reasonable attempt to obtain it. If still unable to obtain the check stub or copy, the client may attest, under penalty of perjury, that a particular account deposit represents such payment.

The client must at least produce a check copy/stub, an award letter, or corroborating statements from bankers, family members, guardians, conservators, etc. alleging that the payment is based, in whole or in part, on wage credits under Paragraphs 500-506 of the GSIA. In the absence of such documents, the client's attestations do not suffice as verification for this exemption.

**06.04.03Y
Susan Walker
v. Bayer
Corporation
Payments**

The Susan Walker v. Bayer Corporation court settlement is a result of a class action lawsuit involving individuals who received contaminated blood products in the process of medical treatment. Payments received under this settlement are exempt from property consideration as long as the funds are kept

identifiable. Interest earned from those funds is not exempt.

**06.04.03Z
National
Defense
Authorization
Act of 1997
Payments**

Payments made as a result of the National Defense Authorization Act of 1997 to persons captured and interned by North Vietnam are exempt as income and property. Recipients are sent a letter from the Office of the Assistant Secretary of Defense that identifies the payment as having been made in accordance with the National Defense Authorization Act of 1997.

**06.04.03AA
Ricky Ray
Hemophilia
Relief Fund
Act Payments**

Payments received under the Ricky Ray Hemophilia Relief Fund are for individuals with blood-clotting disorders, who contracted human immunodeficiency virus in the process of medical treatment, due to contaminated blood products. Payments received from this fund are exempt as property.

**06.04.03BB
Radiation
Exposure
Compensation
Trust Fund
Payments**

The Radiation Exposure Compensation Trust Fund provides payments to individuals who were exposed to fallout emitted from nuclear testing in Nevada during the 1950's and for a brief period in 1962. Payments received from this fund are exempt as property.

**06.04.03CC
Payments
Received for
the
Replacement
of Exempt
Property**

Any cash or in-kind items received from any source for purposes of replacing **exempt** property that is lost, damaged, or stolen is exempt property in the month of receipt. This includes any payments for temporary housing and any interest received from these payments. These payments remain exempt for nine months from the date of receipt.

If any of the money received for the repair or replacement of exempt property has not been spent, or contracted for the repair or replacement of the exempt property, within the nine-month exemption period, it becomes countable property following the nine-month exemption period. However, if the applicant/beneficiary still intends to repair or replace the exempt property and has not yet done so, the nine-month exemption period can be extended for up to an additional nine months if the applicant/beneficiary can show good cause. Good cause exists when circumstances beyond their control prevent the repair, replacement, or contracting for the repair or replacement of exempt property.

The worker must verify in the case record any payments received by an applicant/beneficiary for the repair or replacement of any lost, damaged, or stolen exempt property. The verification must show the source, value, date, and intended purpose of the item(s) received, including whether any cash is received for a purpose other than the repair or replacement of lost, damaged, or stolen exempt property. If the applicant/beneficiary cannot provide the necessary verification, workers can obtain the information over the phone from the person or entity providing the payment, and narrate the findings in the case record. The worker must also view the bank statements or contract for repair or replacement of the exempt property by the end of the exemption period to show that the money has been used.

**06.04.03DD
Individual
Development
Account (IDA)**

IDAs are trust accounts established by and for individuals eligible under the CalWORKs Program. Funds retained and interest accrued in IDAs shall be exempt when evaluating for Medi-Cal eligibility. Earned income and income tax refunds are the only type of income, which may be deposited into an IDA, and become exempt property. There is no income exemption for earnings prior to their deposit into an IDA.

A. IDA Account Status

- a) An IDA trust account may be established only for the following specific purposes:
 - **Postsecondary Educational Expenses** – Postsecondary educational expenses paid from an IDA directly to an eligible educational institution.
 - **First Home Purchase** – Qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer and if paid from an IDA directly to the person(s) to whom the amounts are due.
 - **Business Capitalization** – Business capitalization expenses paid from an IDA directly to a business capitalization account, which is established in a federally insured financial institution and is restricted to use solely for qualified business capitalization expenses.
- b) The trustee must be a qualified entity defined as either of the following:
 - Not-for-profit organization that is exempt from taxation under Section 501(c) or 501(a) of the Internal Revenue Code.

- State or local government agency acting in cooperation with a not-for profit organization described above.

B. IDA Verification

A copy of the IDA trust documents and verification of deposits and withdrawals must be filed in the case record. Prior to determining the IDA exempt, it must be verified that the individual was eligible to CalWORKs at the time the IDA was established.

C. Length of Exemption

The IDA remains exempt as long as funds are maintained in the IDA whether or not the individual or any family member remains eligible for CalWORKs. If funds are withdrawn for any other purpose than is listed in HH-1a above, the amount withdrawn is to be counted as property.

**06.04.03EE
IHSS Plus
Waiver
Income**

The income received under the In-Home Supportive Services (IHSS) Plus Waiver is exempt as property in any month after the month of receipt for Medi-Cal purposes. These exempt payments include:

- Caretaker wages that are paid to a parent of an IHSS Plus Waiver minor child recipient for services provided to that child (for the purposes of this exemption, a minor child is defined as a child up to age 21);
- Caretaker wages that are paid to a spouse of an IHSS Plus Waiver recipient for services provided to that recipient;
- Restaurant meal allowances supplied by IHSS; and
- The advance payment made to IHSS Plus Recipients to pay their caregivers directly for services provided under IHSS Plus Waiver.

**06.04.03FF
In-Home
Caregiver
Wages**

Effective January 01, 2005, in-home caregiver wages received by a spouse or parent for care of a spouse or minor child in receipt of federal, state or local government in-home services program shall be exempt as property for Medi-Cal purposes. This exemption includes payments received by a parent or spouse of an IHSS Residual recipient. For the purpose of this exemption, a minor child is defined as a child under 21.

**06.04.03GG
In-Home Care
Services**

Effective January 01, 2005, payments made by California Department of Social Services (CDSS) to an in-home care

Payments recipient for the purpose of purchasing in-home care services, including restaurant meals, shall be exempt as property for Medi-Cal purposes.

06.04.04 Verification of Property

**06.04.04A
Verification of
Bank Account** Bank account balance verification must show that the applicant/beneficiary is property eligible in the first month of the certification period before certifying CMS. When recertification occurs during the last month of the current certification period, verify bank account balances for the last month of the current certification period. In addition to current account statements and signed correspondence from the institution holding the fund, the following items can verify balances:

- An automated teller machine (ATM) slip is acceptable verification of bank account balance only in conjunction with the last bank statement received by the beneficiary. The worker must be able to verify that the ATM slip is for the same account as the bank statement.
 - a teller receipt from the institution holding the funds, provided that it contains the entire account number, the date, and the name of the individual who owns the account.
 - A bank passbook is acceptable verification when current month entries have been stamped, initialed and dated by bank personnel.
-

**06.04.04B
Verification of
Market Value
of Other Real
Property** The market value of other real property must be verified by viewing any of the following:

- a current tax statement from the Tax Assessor's Office;
- records maintained by the Tax Assessor; or
- a written statement from a qualified real estate appraiser which gives the appraised value of the property.

Note: To verify the value of property located outside of San Diego County, a letter from the County Tax Assessor's Office where the property is located may be used.

**06.04.04C
Verification of
Encumbrance
of Other Real
Property** Encumbrances must be verified by viewing:

- a payment book issued by the institution or person holding the encumbrance which indicates the amount owed; or
- written correspondences from the institution or person holding the encumbrance which states the current amount

owed.

**06.04.04D
Verification of
Income Tax
Refunds**

Income tax refunds can be verified by one of the following:

- viewing the check;
 - viewing the income tax return (540, 1040); or
 - written correspondence from the State Franchise Tax Board or Internal Revenue Service.
-

**06.04.04E
Life Insurance
Policies**

The Cash Surrender Value (CSV) of non-exempt life insurance policies must be verified by viewing either the following:

- the value tables located in the policy; or
 - signed correspondence from the insurance company which indicates the current value.
-

**06.04.04F
Burial Plots,
Vaults, Crypts**

The net market value of non-exempt burial plot, vault, or crypt will be the amount listed on the CMS application with no additional verification required unless the value exceeds \$1,800.

If the value exceeds \$1,800, the applicant/beneficiary will be required to submit a statement of value from the organization from which the plot, vault or crypt was purchased. The net market value shall be determined by taking the value shown on statement and subtracting any encumbrances.

06.04.05 Property Spenddown

**06.04.05A
General**

The applicant/beneficiary will be given notice CMS-007 to read and sign, at each application, recertification and reapplication. The applicant/beneficiary may sign the Image Verification Checklist (CMS-107) in lieu of the CMS-007. The applicant's/beneficiary's signature on either form acknowledges that they have received the CMS-007 and understand its content. The signed CMS-007 or CMS-107 shall be considered to be sufficient evidence that the applicant read and understood the information provided in the CMS-007. Staff must be available to answer any questions the applicant/beneficiary may have regarding the CMS-007.

The applicant/beneficiary is not required to complete a

spenddown for any month in which he/she was not informed of the CMS excess property reduction requirements. If otherwise eligible, the applicant/beneficiary shall be approved CMS benefits only for any month prior to the month in which he/she was informed of the requirement.

**06.04.05B
Computation**

Workers list the items of property and total their value on the automated CMS-39D. The property limit for the CFBU is subtracted from the total value of non-exempt property to arrive at the amount of excess property. This is the amount that must be spent.

**06.04.05C
Allowable
Expenses**

The applicant may reduce excess property by paying actual CMS medical expenses, current month rent or mortgage, and current month utilities, excluding cable TV.

06.04.06 Property Utilization

**06.04.06A
Property
Utilization**

CMS does not require applicants to utilize other real property and, therefore, CMS does not exempt other real property based upon how it is used. The first \$6,000 of the combined net market value of all other real property is exempt. **The net market value in excess of \$6,000 shall be counted in the property reserve.**

06.04.07 Property Conversions

**06.04.07A
General**

A conversion of property means to change property from one form to another without changing ownership.

A. Effect on Eligibility

The conversion of property may affect CMS eligibility. Although the conversion in itself has no effect on eligibility, the property obtained through the conversion may have affected eligibility and must be evaluated.

Example: A life insurance policy was exempt but has been cashed in for \$500. When the \$500 is added to the beneficiary's property reserve, the reserve exceeds the limit and makes the beneficiary ineligible.

B. Common Situations of Property Conversions

The following are common situations in converting property:

a) *Sale of Property*

If an applicant/beneficiary sells an item of real or personal property, the proceeds from the sale will be considered property rather than income.

b) *Life Insurance*

If an applicant/beneficiary borrows against a life insurance policy, the money received is considered property rather than income.

c) *Insurance Payments*

Insurance or other third-party payments for the loss or damage of property are treated as converted property rather than income.

06.04.08 Property Transfers

**06.04.08A
General**

A transfer of property means a change in ownership so that a person no longer holds title to, or beneficial interest in, the property. This applies to any type of property. CMS evaluates **all** situations where the applicant transferred property without adequate consideration. Each transfer must be evaluated individually.

**06.04.08B
Transfer Not
Resulting In
Ineligibility**

- A. Transfers of property occurring more than two years before the date of application are not evaluated, regardless of the circumstances surrounding the transfer. This applies even if there is substantial evidence that the transfer was made solely for the purpose of qualifying for CMS.
- B. Transfer of property that was exempt at the time of the transfer. Property, which is determined to be exempt based on specific conditions, loses exempt status once the conditions are no longer met.
- C. Transfer of property whose net market value when included in the property reserve does not cause ineligibility. The value of the transferred property at the time of the transfer will no longer be counted in the property reserve.
- D. Transfer of property which received adequate consideration. Adequate consideration means that cash or property that was of equal value to that of the transferred property was received, and was legal at the time and place the transfer occurred. Adequate consideration also includes:

- Satisfying a legal debt; and
 - Reimbursing someone, other than a responsible relative, for care or benefits provided. There must be a prior written agreement or understanding specifying the type of care to be given, the rate of pay, and that reimbursement would be made. Applicants must provide evidence to establish that the value of the care or benefits provided was equivalent to the value of the transferred property.
- E. Transfer of property when foreclosure or repossession of the property was imminent at the time of transfer and there is no evidence of collusion.
- F. Transfer of property when the applicant received an enforceable life care contract that does not include complete medical care. In this case, each full item of need provided under the life care contract is considered income in kind.
- G. Transfer of property made without receipt of adequate consideration, but the applicant provides convincing evidence to the worker that shows that the transfer was not made to qualify for CMS.
- H. Transfer of property when there is a written transmutation of a married couple's nonexempt community property into equal shares of separate property through an inter-spousal agreement.
- I. Transfer of property if denial of CMS would cause undue hardship. Undue hardship exists when except for this transfer, the person would be:
- otherwise eligible;
 - the person is unable to obtain medical care without CMS; and
 - one of the following conditions exist:
 - The person was:
 - incompetent at the time of the transfer; or
 - competent but unduly influenced.

**06.04.08C
Transfers
Resulting In
Ineligibility**

- A. Applicant receives an enforceable life care contract that includes complete medical care.
- B. Transfer of property without adequate consideration within two years from the application date. See previous section [06.04.08B4](#) regarding adequate consideration.
- C. Adequate consideration was not received for the transfer of non-exempt property. It is presumed that transfers of non-exempt property without adequate consideration are made to become eligible to CMS. The applicant may overcome this presumption by providing convincing evidence, including

a written subjective statement that shows the sole purpose of the transfer was for reasons other than to become eligible to CMS. This may include, but is not limited to, evidence that the transfer was made to avoid probate and/or the applicant had no knowledge of CMS or its benefits at the time of transfer.

**06.04.08D
Documentation
of Transfers**

The worker documents the decision about the effect of the transfer on eligibility, including the reasons for the decisions in the case narrative. When a period of ineligibility occurs because of a property transfer, the application or recertification is denied. The worker indicates the period of ineligibility in the CMS IT System comments section.

**06.04.08E
Period of
Ineligibility**

A. Beginning Date

The period of ineligibility begins with the first of the month following the date that transfer occurred. There may be consecutive periods of ineligibility from consecutive transfers of property without adequate consideration. If consecutive transfers occurred, evaluate each separate month when a transfer occurred using the computation below.

B. Ending Date

The period of ineligibility ends when any of the following situations occurs:

- a) The property that was transferred and caused ineligibility is conveyed back to the applicant;
- b) The applicant receives adequate consideration for the property; or
- c) The excess net market value has been reduced to zero (the months of ineligibility have been reduced to zero).

C. Computation

This computation is done on the back of form MC 176P.

- a) Determine the net market value of the property at the time of transfer less any consideration received. The result is the net value of the transferred property.
- b) Subtract the unused portion of the property reserve limit that was in effect at the time of the transfer. The result is the excess net value of the transferred property and is used to determine the period of ineligibility.
- c) The period of ineligibility is determined by dividing the

excess net value of the transferred property by the CMS Hardship MNL for the CFBU. The result is the number of ineligible months. Use the CMS Hardship MNL during each individual month since the date of the transfer. Income received by the CFBU after the transfer does not effect this computation.

- d) Deducting verified actual medical expenses, the cost of out-of-home care that exceed the CMS Hardship MNL, and cost of major home repairs needed to put the home into a livable condition may reduce the period of ineligibility. When consecutive transfers without adequate consideration are made, individual actual costs items can only be used one time to reduce property.

**06.04.08F
Transfer of
Property with
Retention of
Life Estate**

Property transferred by the applicant with retention of a life estate is treated like any other transfer to determine whether the transfer causes ineligibility. A life estate is an interest in real or personal property whose duration is limited to the life of the person holding it, or the lives of one or more other designated persons. Generally, a life estate entitles the owner of the life estate to possess, use, and obtain profits from the property as long as he/she lives. Actual ownership of the property is passed to another individual. A purchaser of the property would have to buy the property subject to the life estate, unless the life estate was also sold. A life estate interest in real property is considered real property and a life estate interest in personal property is considered personal property.

A life estate is a legal arrangement which may be created by any method of voluntary transfer of ownership permitted by law, for example deed or testamentary will.

Life estates held by CMS clients are often exempt as the principal residency. In many cases, the applicant/owner of the property will grant a remainder (future) interest in his/her property to another individual(s) and reserve a life estate interest for him/herself. Frequently a life state is created upon the death of one spouse from his/her separate property. The deceased spouse bequeaths the ownership of the property to a son or daughter but grants the surviving spouse a life estate interest on the property so that the surviving spouse may continue to live in the property for the remainder of his/her life.

Generally a life estate guarantees the life tenant/beneficiary the right to make full use of the property for as long as he/she lives and the right to income (if any) earned from the property. Some

life estates may be restricted, however. Some may require the life estate owner to actually reside on the property and may not allow the property to be rented. Some entitle the remainderman to any and all income from the property. Some also require the remainderman to pay part or all of the maintenance, taxes or other expenses related to the property rather than the life tenant. The document granting the life estate should reflect any restrictions, if they exist, and must be viewed by the worker. Although life estates, in the strict legal definition, refer only to estates in real property, common usage of the term also refers to interest in personal property based on the life of the life tenant or some other person(s).

A. Definitions

It is not essential that the words "life estate" be used when a life estate is created, other phrases commonly used are:

- a) "To person A for the term of his/her life,"
- b) "Person A reserves the possession or use of the property for the term of person A's lifetime,"
- c) "To person A for the life of person x,"
- d) "To person A, but on person A's death to go to person B and his/her heirs."
- e) Life Tenant/Beneficiary — The person that holds a life estate interest. The life tenant/beneficiary need not be the same person as the grantor.
- f) Grantor/Trustor — The person who owns property and gives a life estate to a life tenant with a future interest to one or more remainderman. The grantor may reserve a life estate interest for someone other than him/herself.
- g) Remainderman — The person(s) who owns the property subject to the life estate and who is entitled to the use of the property once the life estate ends (usually upon the death of the life tenant). Remainderman has a remainder interest or future interest (i.e., right to use or right to income) in the property.
- h) Revocable — A life estate which can be revoked or terminated by its own terms.
- i) Irrevocable — A life estate which cannot, in any way, be revoked by its own terms.

B. Verification

Workers must request and obtain a copy of the legal document which created the life estate. This is usually a grant deed.

C. When to Calculate Value

The value of the life estate must be calculated as part of an eligibility determination when:

- a) The life estate is a nonexempt resource; or
- b) The nonexempt life estate was transferred and the transfer is determined to be a disqualifying transfer. A determination must be made as to whether adequate consideration was received for the transfer; or
- c) Nonexempt property was transferred with the retention of life estate. The value of the life estate is needed in order to determine the amount of consideration received for the property transfer.

D. The Value of a Life Estate

a) Revocable Life Estate

The net market value of a revocable life estate is determined by using the net market value of the property on which the life estate is held if all of the following conditions exist:

- The life estate is revocable by someone in the CFBU or the community spouse;
 - The CFBU member or the community spouse was the owner of the property when the life estate was established; and
 - The CFBU member or community spouse is retaining a life estate interest in the property.
- b) To determine the net market value of a revocable life estate:
- Determine the current market value of the property (i.e., assessed value or appraised value); and
 - Deduct encumbrances of record from the market value to determine the net value of the property.

E. In All Other Cases

The net market value of the life estate is determined by using the "Life Estate Value Tables." The following are some examples when to use this method:

- a) The life estate is irrevocable.
- b) The CFBU member or community spouse was not the owner of the property when the life estate was established.
- c) The life estate is revocable but not by anyone in the CFBU or the community spouse.

F. Using Life Estate Value Factor Tables

[MPG 09.09 Appendix A](#) lists the life estate value factors. To use these tables, the worker must take the following steps:

Step	Action
1	Determine the current market value according to the method for the type of property (real property, motor vehicle, etc.).
2	Subtract any encumbrances to determine the net market value;
3	Using the appropriate table, determine the life estate value factor by using the applicant/beneficiary's current age.
4	Multiply the life estate value factor by the net market value.

**06.04.08G
Property Used
to Purchase a
Principal
Residence**

Applicants who do not own a principal residence can use the proceeds of real property to buy a principal residence. Applicants may also sell their current principal residence to purchase a new principal residence. In these situations, the proceeds from the sale of the real property are exempt with the following conditions:

- a) The applicant must intend to use the proceeds to purchase a principal residence;
- b) The proceeds may also be used to pay for moving costs, necessary furnishings, and repairs or alterations to the new principal residence; and
- c) The proceeds are exempt for a period of up to six months from the date of receipt. If a part of the proceeds is used for some other purpose, the remainder is still exempt as long as the remainder is being kept to apply to the purchase of a principal residence.

06.04.09 Pension Funds and Annuities

**06.04.09A
General**

Pension Funds are funds held in Individual Retirement Accounts (IRAs) or work-related retirement funds that are administered by an employer for providing income when employment ends (examples include pension, disability, or retirement plans administered by an employer, union, contractor of an employer or union, etc.). Self-employed individuals may also have established a pension fund for themselves, sometimes referred to as KEOGH plans. Also, depending on the requirements established by the employer, some profit sharing plans may qualify as retirement funds.

Annuity is a contract to make periodic payments of a fixed or variable sum paid to an annuitant which are payable unconditionally. An annuitant purchases an annuity with his or her property or property rights.

Pension funds and annuities held in the name of the applicant's spouse, community spouse, parent or parent's spouse **are not** automatically exempt if that person is not eligible or does not choose to receive CMS.

**06.04.09B
Pension
Funds and
Annuities**

Pension funds and annuities are non-exempt for purposes of determining whether an interspousal agreement is equally divided.

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Appendix A Property Limit

Property Limit

PROPERTY LIMIT	
CFBU SIZE	LIMIT
1	\$2,000
2	\$3,000
3	\$3,150
4	\$3,300
5	\$3,450
6	\$3,600
7	\$3,750
8	\$3,900
9	\$4,050
10	\$4,200
