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IDAPA 16
TITLE 03
CHAPTER 05

16.03.05 - RULES GOVERNING ELIGIBILITY FOR AID TO THE AGED, BLIND AND DISABLED (AABD)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare, according to Section 56-202, Idaho Code, adopts these rules for the administration of public assistance programs. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho Department of Health and Welfare are known and will be cited as IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (7-1-99)

02. Scope. These rules provide standards for issuing AABD cash benefits and related Medicaid. (7-1-99)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, the Department has written statements interpreting this chapter available for public inspection and copying at cost at the Regional Offices. (7-1-99)

003. ADMINISTRATIVE APPEALS.
The participant can request a fair hearing to challenge a Department decision under IDAPA 16.05.03, Section 300, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-99)

004. INCORPORATION BY REFERENCE.
The Department is adopting by reference the "Medicare Modernization Act - Prescription Drug Program Guidance to States for the Low Income Subsidy (LIS)," dated May 25, 2005. The guidelines may be viewed at the main office of the Department of Health and Welfare. It is also available online at http://www.cms.hhs.gov/States/Downloads/StateLISGuidance4-4.pdf. (4-11-06)

005. DEFINITIONS.
For purposes of this chapter, the following terms apply. (3-20-14)

01. AABD Cash. An EBT payment to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments. AABD Cash is a payment of a supplemental cash amount to an individual who meets the program requirements. This payment may be made through direct deposit or an electronic benefits card. (3-20-14)

02. Applicant. A person applying for public assistance from the Department, including individuals referred to the Department from a health insurance exchange or marketplace. (3-20-14)

03. Annuity. A right to receive periodic payments, either for life, a term of years, or other interval of time, whether or not the initial payment or investment has been annuitized. It includes contracts for single payments where the single payment represents an initial payment or investment together with increases or deductions for interest or fees rather than an actuarially-based payment from an insurance pool. (3-30-07)

04. Asset. Includes all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to, but does not receive because of action by: (3-30-07)

a. The individual or such individual's spouse; (3-30-07)

b. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or (3-30-07)

c. A person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse. (3-30-07)

05. Asset Transfer for Sole Benefit. An asset transfer is considered to be for the sole benefit of a spouse, blind or disabled child, or disabled individual if the transfer is arranged in such a way that no individual or entity except the spouse, blind or disabled child, or disabled individual can benefit from the assets transferred in any way, whether at the time of transfer or at any time in the future. (5-3-03)

06. Child. Any individual from birth through the end of the month of his nineteenth birthday. (3-20-14)

07. Citizen. A person having status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. (3-20-14)

08. Department. The Department of Health and Welfare. (7-1-99)

09. Direct Deposit. The electronic deposit of a participant's AABD cash to the participant's personal account with a financial institution. (7-1-99)

10. Electronic Benefits Transfer (EBT). A method of issuing AABD cash to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments for a participant. EBT rules are in IDAPA 16.03.20, "Rules Governing Electronic Payments of Public Assistance, Food Stamps and Child Support." (7-1-99)

11. Essential Person. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person provides the services a participant needs to live at home.(5-3-03)

12. Fair Market Value. The fair market value of an asset is the price for which the asset can be reasonably expected to sell on the open market, in the geographic area involved. (5-3-03)

13. Long-Term Care. Long-term care services are services provided to an institutionalized individual as defined in 42 U.S.C. 1396p(c)(1)(C). (3-30-07)

14. Medicaid. Idaho's Medical Assistance Program administered by the Department and funded with federal and state funds according to Title XIX, Social Security Act that provides medical care for eligible individuals. (3-20-14)

15. Medical Assistance Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Medicaid Basic Plan Benefits," IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (3-20-14)

16. Medicaid for Families With Children Rules. Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (7-1-99)

17. Needy. A person is considered needy for AABD cash payments if the person meets the nonfinancial requirements of Title XVI of the Social Security Act and the criteria in Section 514 of these rules. (4-7-11)

18. Non-Citizen. Same as "alien" defined in Section 101(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(3)), and includes any individual who is not a citizen or national of the United States. (3-20-14)

19. Participant. An individual who is eligible for, and enrolled in, a Health Care Assistance Program or Medicaid. (3-20-14)

20. Partnership Policy. A partnership policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986, which meets the requirements of the long-term care

insurance model regulation and long-term care insurance model act promulgated by the National Association of Insurance Commissioners (NAIC), as incorporated in 42 USC 1396p(b)(5)(A). (4-2-08)

21. **Premium**. A regular, periodic charge or payment for health coverage. (3-20-14)

22. **Reasonable Opportunity Period**. A period of time allowed for an individual to provide requested proof of citizenship or identity. A reasonable opportunity period extends for ninety (90) days beginning on the 5th day after the notice requesting the proof has been mailed to the applicant. This period may be extended if the Department determines that the individual is making a "good faith" effort to obtain necessary documentation. (3-20-14)

23. **Pension Funds**. Pension funds are retirement funds held in individual retirement accounts (IRAs), as described by the Internal Revenue Code, or in work-related pension plans, including plans for self-employed individuals sometimes referred to as Keogh plans. (4-2-08)

24. **Sole Beneficiary**. The only beneficiary of a trust, including a beneficiary during the grantor's life, a beneficiary with a future interest, and a beneficiary by the grantor's will. (7-1-99)

25. **TAFI Rules**. Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Rules Governing Temporary Assistance for Families in Idaho." (7-1-99)

26. **Title XVI**. Title XVI of the Social Security Act, known as "Grants to States for Aid to the Aged, Blind, or Disabled," is a program for financial assistance to needy individuals who are sixty-five (65) years of age or over, are blind, or are eighteen (18) years of age or over and permanently and totally disabled. (4-7-11)

27. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. (3-20-14)

28. **Title XXI**. Title XXI of the Social Security Act, known as the Children's Health Insurance Program (CHIP), is a federal and state partnership that provides health insurance to targeted, low-income children. (3-20-14)

29. **Treasury Rate**. The five (5) year security note rate listed in the "Daily Treasury Yield Curve Rate" by the U.S. Treasury on January 1 of each year. The January 1 rate is used for the entire calendar year. (4-2-08)

30. **Working Day**. A calendar day when regular office hours are observed by the state of Idaho. Weekends and state holidays are not considered working days. (3-20-14)

006. ABBREVIATIONS.

01. **AABD**. Aid to the Aged, Blind and Disabled. (7-1-99)

02. **AB**. Aid to the Blind. (7-1-99)

03. **AFA**. Application for Assistance. (7-1-99)

04. **APTD**. Aid to the Permanently and Totally Disabled. (7-1-99)

05. **ASVI**. Alien Status Verification Index. (7-1-99)

06. **COLA**. Cost of Living Adjustment. (7-1-99)

07. **CSA**. Community Spouse Allowance. (7-1-99)

08. **CSNS**. Community Spouse Need Standard. (7-1-99)

09. **CSRA**. Community Spouse Resource Allowance. (7-1-99)

10. **DHW**. Department of Health and Welfare. (7-1-99)

11. **EBT**. Electronic Benefits Transfer. (7-1-99)

12. **EITC**. Earned Income Tax Credit. (7-1-99)

13. **FMA**. Family Member Allowance. (7-1-99)

14. **FSI**. Federal Spousal Impoverishment. (7-1-99)

15. **HCBS**. Home and Community Based Services. (7-1-99)

16. **HUD**. The U.S. Department of Housing and Urban Development. (7-1-99)

17. **IEVS**. Income and Eligibility Verification System. (7-1-99)

18. **INA**. Immigration and Nationality Act. (7-1-99)

19. **IRS**. The U.S. Internal Revenue Service. (7-1-99)

20. **MA**. Medical Assistance. (7-1-99)

21. **OAA**. Old Age Assistance. (7-1-99)

22. **PASS**. Plan for Achieving Self-Support. (7-1-99)

23. **RSDI**. Retirement, Survivors, and Disability Insurance. (7-1-99)

24. **SAVE**. Systematic Alien Verification for Entitlements. (7-1-99)

25. **SSA**. Social Security Administration. (7-1-99)

26. **SSI**. Supplemental Security Income. (7-1-99)

27. **SSN**. Social Security Number. (7-1-99)

28. **TAFI**. Temporary Assistance for Families in Idaho. (7-1-99)

29. **UIB**. Unemployment Insurance Benefits. (7-1-99)

30. **VA**. Veterans Administration. (7-1-99)

007. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- INTERNET WEBSITE.

01. **Office Hours**. Office hours are 8 a.m. to 5 p.m., Mountain Time, Monday through Friday, except holidays designated by the State of Idaho. (4-11-06)

02. **Mailing Address**. The mailing address for the business office is Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. (4-11-06)

03. **Street Address**. The business office of the Idaho Department of Health and Welfare is located at 450 West State Street, Boise, Idaho 83702. (4-11-06)

04. **Telephone**. (208) 334-5500. (4-11-06)

05. **Internet Website**. The Department Internet website http://www.healthandwelfare.idaho.gov.

(4-11-06)

008. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.

01. Confidential Records. The use or disclosure of information related to Department client records covered by these rules must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records," and federal Public Law 103-209. (4-11-06)

02. Public Records. The Department of Health and Welfare will comply with Title 74, Chapter 1, Idaho Code, when requests for examining and copying public records are made. Unless otherwise exempted, all public records in the custody of the Department of Health and Welfare are subject to disclosure. (4-11-06)

009. -- 048. (RESERVED)

049. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-29-12)

050. APPLICATION FOR ASSISTANCE.

01. Application Submitted by Participant. The participant must submit an application form to the Department. An adult participant, a legal guardian or a representative, must sign the application form. (4-7-11)

02. Application Submitted Through Social Security Administration (SSA) Low-Income Subsidy Data Transmission. For low-income subsidy applicants identified on the SSA data transmission, the protected Medicare Savings Program application date is the day they applied for the low-income subsidy (LIS). (4-7-11)

051. EFFECTIVE DATE.
The effective date for aid is the first day of the month of application. Medicaid eligibility begins as described in Subsections 051.01 through 051.04. (7-1-99)

01. AABD Cash and Participant Required to Apply for SSI. When the participant is required to apply for SSI as a condition of AABD cash, the effective date of the AABD cash is the first month the participant gets an SSI payment. If the participant is not eligible for SSI but is eligible for AABD cash, aid is effective the application date. (7-1-99)

02. Normal Medicaid Eligibility. Medicaid coverage begins on the first day of the application month. (7-1-99)

03. Retroactive (Backdated) Medicaid Eligibility. Medicaid benefits must be backdated to the first day of the calendar month, for each of the three (3) months before the month of application, if the participant was Medicaid eligible during that month. If the participant is not eligible for Medicaid when he applies, retroactive eligibility is evaluated. (7-1-99)

04. Ineligible Non-Citizen Medicaid. Ineligible legal or illegal non-citizen coverage is restricted to emergency services. Coverage begins when the emergency treatment is required. Coverage ends with the last day emergency treatment is required. (7-1-99)

052. PERSONAL INTERVIEW.
Each applicant for AABD must participate in a telephone interview unless good cause exists. Upon request, the Department may require a face-to-face interview. (3-20-04)

053. -- 069. (RESERVED)

070. TIME LIMITS.

The application must be processed within forty-five (45) days for an applicant sixty-five (65) years of age or older. The application must be processed within ninety (90) days for a disabled applicant. The time limit can be extended by events beyond the Department's control. (7-1-99)

071. DEATH OF APPLICANT.
An application may be filed for a deceased person. The application must be filed within the backdated eligibility period. Medicaid can be approved, through the date of death, if an AABD applicant dies before eligibility is determined. (7-1-99)

072. REQUIRED VERIFICATION.
Applicants must prove their eligibility for aid. The participant is allowed ten (10) calendar days to provide requested proof. The application is denied if the applicant does not provide proof in ten (10) calendar days of the written request and does not have good cause for not providing proof. The Department may also use electronic verification sources when they are available. (3-20-14)

073. -- 089. (RESERVED)

090. APPLICATIONS FOR MEDICAID.
The Department must examine the potential eligibility of the participant for all Medicaid coverage groups when a participant applies for Medicaid. (7-1-99)

091. OUT OF STATE APPLICANTS.
A participant receiving AABD cash from another state must not receive AABD cash in Idaho until he is living in Idaho and the cash benefit has ended in the other state. A participant may receive Medicaid in Idaho before AABD cash or Medicaid stops in another state. AABD cash from another state is unearned income for Medicaid. Out-of-state medical coverage is a Medicaid third party resource. Idaho residents temporarily out of the state, and not receiving aid, may apply for aid in Idaho. (7-1-99)

092. CONCURRENT BENEFIT PROHIBITION.
If a person is potentially eligible for AABD cash, TAFI, or foster care, only one (1) program may be chosen. (3-20-14)

093. -- 099. (RESERVED)

100. RESIDENCY.
The participant must be living in Idaho and have no immediate intention of leaving. For Medicaid, other persons are Idaho residents if they meet a criteria in Subsections 100.01 through 100.05 of this rule. (3-20-14)

01. Foster Child. A participant living in Idaho and receiving child foster care payments from another state. (7-1-99)

02. Incapable Participant. A participant, who is incapable of indicating his state of residency after age twenty-one (21), is considered a resident of Idaho when: (3-20-14)

a. His parent or guardian lives in Idaho; or (3-20-14)

b. He resides in an Idaho institution. (3-20-14)

03. Placed in Another State by Idaho. A participant placed by the state of Idaho in an institution in another state. (7-1-99)

04. Homeless. A participant not maintaining a permanent home or having a fixed address who intends to remain in Idaho. (7-1-99)

05. Migrant. A migrant working and living in Idaho. (7-1-99)

101. TEMPORARY ABSENCE.

A participant may be temporarily absent from his home and still receive AABD cash and Medicaid. A participant is temporarily absent if he intends to return home within one (1) month. Temporary absence may exceed one (1) month for a child attending school or vocational training or a participant in a medical institution, hospital, or nursing home. (7-1-99)

102. U.S. CITIZENSHIP VERIFICATION REQUIREMENTS.
Any individual who participates in AABD cash, Health Care Assistance, or Medicaid benefits must provide proof of U.S. citizenship unless he has otherwise met the requirements under Subsection 104.06 of these rules. (3-20-14)

01. Citizenship Verified. Citizenship must be verified by electronic means when available. If an electronic verification is not immediately obtainable, the Department may request documentation from the applicant The Department will not deny the application until the applicant has had a reasonable opportunity period to obtain and provide the necessary proof of U.S. citizenship. (3-20-14)

02. Benefits During Reasonable Opportunity Period. Benefits are provided during the reasonable opportunity period that is provided to allow the applicant time to obtain and provide documentation to verify U.S. citizenship. No overpayment will exist for the reasonable opportunity period if the applicant does not provide necessary documentation during the reasonable opportunity period so that the application results in denial. (3-20-14)

03. Electronic Verification. Electronic interfaces initiated by the Department with agencies that maintain citizenship and identity information are the primary sources of verification of U.S. Citizenship and Identity. (3-20-14)

04. Documents. When verification is not available through an electronic interface, the individual must provide the Department with the most reliable document that is available. Documents can be: (3-20-14)

a. Originals; (3-20-14)

b. Photocopies; (3-20-14)

c. Facsimiles; (3-20-14)

d. Scanned; or (3-20-14)

e. Other type of copy of a document. (3-20-14)

05. Accepted Documentation. Other forms of documentation are accepted to the same extent as an original document, unless information on the submitted document is: (3-20-14)

a. Inconsistent with other information available to the Department; or (3-20-14)

b. The Department has good cause to question the validity of the document or the information on it. (3-20-14)

06. Submission of Documents. The Department accepts documents that are submitted: (3-20-14)

a. In person; (3-20-14)

b. By mail or parcel service; (3-20-14)

c. Through an electronic submission; or (3-20-14)

d. Through a guardian or authorized representative. (3-20-14)

103. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

01. SSN Required. The applicant must provide his social security number (SSN), or proof he has

applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. (3-20-14)

a. The SSN must be verified by the Social Security Administration (SSA) electronically. An applicant with an unverified SSN is not eligible for AABD cash, Health Care Assistance, or Medicaid benefits. (3-20-14)

b. The Department must notify the applicant in writing if eligibility is denied or lost for failure to meet the SSN requirement. (3-20-14)

02. Application for SSN. To be eligible, the applicant must apply for an SSN, or a duplicate SSN when he cannot provide his SSN to the Department. If the SSN has been applied for but not issued by the SSA, the Department cannot deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-20-04)

03. Failure to Apply for SSN. The applicant may be granted a good cause exception for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: (3-20-04)

a. Is a member of a recognized religious sect or division of the sect; and (3-20-04)

b. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number. (3-20-04)

04. SSN Requirement Waived. An applicant may have the SSN requirement waived when he is: (3-20-04)

a. Only eligible for emergency medical services as described in Section 801 of these rules; or (3-20-04)

b. A newborn child deemed eligible as described in Section 800 of these rules. (4-2-08)

104. U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.
To be eligible for AABD cash and Medicaid, an individual must provide proof of U.S. citizenship and identity unless he has otherwise met the requirements under Subsection 104.06 of this rule. The individual must provide the Department with the most reliable document that is available. The Department will accept documents as described in Section 102 of these rules. (3-20-14)

01. Documents Accepted as Proof of Both U.S. Citizenship and Identity. The following documents are accepted as proof of both U.S. citizenship and identity: (3-20-14)

a. A U.S. passport, including a U.S. Passport card, without regard to expiration date as long as the passport or passport card was issued without limitation; (3-20-14)

b. A Certificate of Naturalization; or (3-20-14)

c. A Certificate of U.S. Citizenship. (3-20-14)

d. Documentary evidence issued by a federally recognized Indian tribe. Such documents include: (3-20-14)

i. A tribal enrollment card; (3-20-14)

ii. A certificate of Degree of Indian Blood; (3-20-14)

iii. A tribal census document; or (3-20-14)

iv. Documents on tribal letterhead, issued under the signature of the appropriate tribal official.

(3-20-14)

02. Documents Accepted as Evidence of U.S. Citizenship. The following documents are accepted as proof of U.S. citizenship if the proof in Subsection 104.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 104.03 and 104.04 of this rule to establish both citizenship and identity. If the applicant does not have one (1) of the documents listed below, he may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized. (3-20-14)

a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-30-07)

i. United States fifty (50) states; (3-30-07)

ii. District of Columbia; (3-30-07)

iii. Puerto Rico, on or after January 13, 1941; (3-30-07)

iv. Guam; (3-20-14)

v. U.S. Virgin Islands, on or after January 17, 1917; (3-30-07)

vi. America Samoa; (3-30-07)

vii. Swain's Island; or (3-30-07)

viii. Northern Mariana Islands, after November 4, 1986; (3-30-07)

b. A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-30-07)

c. A report of birth abroad of a U.S. Citizen, Form FS-240; (3-30-07)

d. A U.S. Citizen I.D. card, DHS Form I-197; (3-30-07)

e. A Northern Mariana Identification Card; (3-20-14)

f. A final adoption decree showing the child's name and U.S. place of birth, or if the adoption is not final, a statement from the state-approved adoption agency that shows the child's name and U.S. place of birth; (3-20-14)

g. Evidence of U.S. Civil Service employment before June 1, 1976; (4-2-08)

h. An official U.S. Military record showing a U.S. place of birth; (4-2-08)

i. A certification of birth abroad, FS-545; (4-2-08)

j. Verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; (3-20-14)

k. Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship Act of 2000; (3-20-14)

l. Medical records, including, hospital, clinic, or doctor records, or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth; (3-20-14)

m. Life, health, or other insurance record that indicates a U.S. place of birth; (3-20-14)

n. Official religious record recorded in the U.S. showing that the birth occurred in the U.S; (3-20-14)

o. School records, including pre-school, Head Start, and daycare, showing the child's name and U.S. place of birth; or (3-20-14)

p. Federal or state census record showing U.S. citizenship or a U.S. place of birth. (3-20-14)

03. Evidence of Identity. The following documents are accepted as proof of identity, provided the document has a photograph or other identifying information including: name, age, sex, race, height, weight, eye color, or address. (3-20-14)

a. A state- or territory-issued driver's license. A driver's license issued by a Canadian government authority is not a valid indicator of identity in the U. S.; (3-20-14)

b. A federal, state, or local government-issued identity card; (3-20-14)

c. School identification card; (3-20-14)

d. U.S. Military card or draft record; (3-30-07)

e. Military dependent's identification card; (3-30-07)

f. U. S. Coast guard Merchant Mariner card; (3-30-07)

g. A cross-match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system; (3-20-14)

h. A finding of identity from a federal or state governmental agency, when the agency has verified and certified the identity of the individual, including public assistance, law enforcement, internal revenue or tax bureau, or corrections agency; (3-20-14)

i. A finding of identity from another state benefits agency or program provided that it obtained verification of identity as a criterion of participation; (3-20-14)

j. Verification of citizenship by a federal agency or another state. If the Department finds that a federal agency or an agency in another state verified citizenship on or after July 1, 2006, no further documentation of citizenship or identity is required; (3-20-14)

k. Two (2) documents containing consistent information that corroborates the applicant's identity including: employer identification cards, high school or high school equivalency diplomas, college diplomas, marriage certificates, divorce decrees, property deeds or titles; or (3-20-14)

l. When the applicant does not have any documentation as specified in Subsections 104.03.a. through k. of this rule, the applicant may submit an affidavit signed by another individual under penalty of perjury, who can reasonably attest to the applicant's identity. The affidavit must contain the applicant's name and other identifying information to establish identity stated in Subsection 104.03 of this rule. The affidavit does not have to be notarized. (3-20-14)

04. Identity Rules for Children. For children under age nineteen (19), clinic, doctor, or hospital records, including pre-school or daycare records, may be used as additional sources of documentation of identity. (3-20-14)

05. Eligibility for Medicaid Applicants Who Do Not Provide U.S. Citizenship and Identity Documentation. If verification of U.S. citizenship and identity is not obtained through electronic means, or if the applicant is unable to provide documentation at the time of application, the applicant has ninety (90) days to provide proof of U.S. citizenship and identity. The ninety (90) days begins five (5) days after the date the notice is mailed

requesting the documentation of citizenship and identity. Medicaid benefits will be approved pending verification if the applicant meets all other eligibility requirements. Medicaid will be denied if the applicant refuses to obtain documentation. (3-20-14)

06. Individuals Considered as Meeting the U.S. Citizenship and Identity Documentation Requirements. The following individuals are considered to have met the U.S. citizenship and identity documentation requirements, regardless of whether documentation required in Subsections 104.01 through 104.05 of this rule is provided: (3-20-14)

a. Supplemental Security Income (SSI) recipients; (4-2-08)

b. Individuals determined by the SSA to be entitled to or enrolled in any part of Medicare; (3-20-14)

c. Social Security Disability Income (SSDI) recipients; (4-7-11)

d. Adoptive or foster care children receiving assistance under Title IV-B or Title IV-E of the Social Security Act; (4-7-11)

e. Individuals deemed eligible for Medicaid as a newborn under Section 800 of these rules; and (4-7-11)

f. Individuals whose name and social security number are validated by the Social Security Administration data match as meeting U.S. citizenship status. (4-7-11)

07. Assistance in Obtaining Documentation. The Department will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of citizenship. (3-20-14)

08. Provide Verification of U.S. Citizenship and Identity One Time. When an individual's U.S. citizenship and identity have been verified, whether through electronic data matches or provision of documentation, changes in eligibility will not require an individual to provide the verification again. If later verification provides the Department with good cause to question the validity of the individual's citizenship or identity, the individual may be requested to provide further verification. (3-20-14)

105. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.
To be eligible for AABD cash and Medicaid, an individual must be a member of one (1) of the groups listed in Subsections 105.01 through 105.16 of this rule. An individual must also provide proof of identity as provided in Section 104 of these rules. (3-20-14)

01. U.S. Citizen. A U.S. Citizen or a "national of the United States." (3-20-14)

02. Child Born Outside the U.S. A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)

a. At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-30-07)

b. The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)

c. The child is under eighteen (18) years of age; (3-30-07)

d. The child is a lawful permanent resident; and (3-30-07)

e. If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)

03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8

U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-30-07)

04. Veteran of the U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-30-07)

05. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) and remained continuously present in the U.S. until they became a qualified alien. (3-30-07)

06. Non-Citizen Entering on or After August 22, 1996. A non-citizen who entered on or after August 22, 1996, and; (3-30-07)

a. Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)

b. Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)

c. Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)

d. Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; (4-7-11)

e. Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; (4-7-11)

f. Is an Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007; or (4-7-11)

g. Is an Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (4-7-11)

07. Qualified Non-Citizen Entering on or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-30-07)

08. American Indian Born in Canada. An American Indian born in Canada under 8 U.S.C. 1359. (3-30-07)

09. American Indian Born Outside the U.S. An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-30-07)

10. Qualified Non-Citizen Child Receiving Federal Foster Care. A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-30-07)

11. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

a. Is under the age of eighteen (18) years; or (3-20-04)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-30-07)

12. Qualified Non-Citizen Receiving Supplement Security Income (SSI). A qualified non-citizen under 8 U.S.C. 1641(b) or (c), and is receiving SSI; or (3-20-04)

13. Permanent Resident Receiving AABD Cash On August 22, 1996. A permanent resident receiving AABD cash on August 22, 1996. (3-20-04)

14. Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements. An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 105.01 through 105.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-25-16)

106. (RESERVED)

107. INSTITUTIONAL STATUS.
An institution provides treatment, services, food, and shelter to four (4) or more people, not related to the owner. A participant living in an ineligible institution an entire calendar month is not eligible for AABD cash, unless he qualifies for the institution payment exception. (7-1-99)

01. Eligible Institutions. Eligible institutions for AABD and Medicaid are defined in Subsections 107.01.a. through 107.01.c. (7-1-99)

a. Medical institution. A public or private medical institution, including a hospital, nursing care facility, or an intermediate care facility for persons with intellectual disabilities is an eligible institution. A participant is not eligible for AABD cash if he is a resident of a medical institution the full month. (7-1-99)

b. Child care institution. A non-profit private child care institution is an eligible institution. A public child care institution with no more than twenty-five (25) beds is an eligible institution. A child care institution must be licensed or approved by the Department. A detention facility for delinquent children is not a child care institution. A child care institution for mental diseases (IMD) is an eligible institution if it has sixteen (16) beds or less. A participant is not eligible for AABD cash if he is a resident of a child care institution the full month. (7-1-99)

c. Community residence. A community residence is a facility providing food, shelter, and services to residents. A privately operated community residence is an eligible institution. A publicly operated community residence serving no more than sixteen (16) residents is an eligible institution. The Community Restorium in Bonners Ferry, Idaho, is an eligible institution even though more than sixteen (16) residents are served. (7-1-99)

02. Ineligible Institutions. Ineligible institutions for AABD and Medicaid are defined in Subsections 107.02.a. through 107.02.d. (7-1-99)

a. Public institution. Public institutions are ineligible institutions unless listed in Subsection 108.01. (7-1-99)

b. Institution for mental diseases. An institution for mental diseases for adults is an ineligible institution. A facility is an institution for mental diseases if it is maintained primarily for the care and treatment of persons with mental diseases. (7-1-99)

c. Institution for tuberculosis. An institution for tuberculosis is an ineligible institution. A facility is an institution for tuberculosis if it is maintained primarily for the care and treatment of persons with tuberculosis. (7-1-99)

d. Correctional institution. A correctional institution is an ineligible institution. A correctional institution is a facility for prisoners, persons detained pending disposition of charges, or held under court order as material witnesses or juveniles. (7-1-99)

03. Medicaid Exception for Inmates. An inmate of an ineligible public institution can receive Medicaid while he is an inpatient in a medical institution. He must meet all Medicaid eligibility requirements. Medicaid begins the day he is admitted and ends the day he is discharged from the medical institution. (3-15-02)

a. A person is an inmate when under age sixty-five (65) in an institution for tuberculosis, when age twenty-one (21) up to age sixty-five (65) in an institution for mental diseases, or when serving time for a criminal offense or confined involuntarily in State or Federal prisons, jails, detention facilities, or other penal facilities. (3-15-02)

b. An inmate is an inpatient when he is admitted to a hospital, nursing facility, ICF/ID, or if under age twenty-one (21), is admitted to a psychiatric facility. (3-15-02)

c. An inmate is not an inpatient when receiving care on the premises of a correctional institution. (3-15-02)

108. AABD ELIGIBILITY IN INELIGIBLE INSTITUTIONS.
A participant may get AABD cash in an ineligible institution or a medical institution if he meets one (1) of the conditions listed in Subsections 108.01 and 108.02. (7-1-99)

01. First Month in Institution. An AABD participant can get AABD cash for the month he entered the institution. Eligibility for the entry month applies to these residents: (7-1-99)

a. Resident of a public institution. The person is a resident if he or anyone pays for his food, shelter, and other services in the institution. (7-1-99)

b. Patient in a medical institution. A patient is a person receiving room, board, and professional services in a medical institution, including an institution for tuberculosis or mental diseases. (7-1-99)

02. Temporary Institution Stay. An AABD participant can get up to three (3) months' AABD payment during a temporary stay in an institution. A participant entering a public medical or psychiatric institution, a hospital, a nursing facility, or an ICF/ID may continue to get AABD payments. The Department must receive the temporary stay data no later than the ninetieth full day of confinement, or the release date, whichever is first. The payments may continue up to three (3) months if these conditions are met: (7-1-99)

a. The Department is informed of the institutional stay. (7-1-99)

b. A physician certifies the participant's stay is not likely to exceed three (3) full months. (7-1-99)

c. A signed statement from the participant or a responsible party showing the participant's need to continue to maintain and pay for the place he intends to return to live. (7-1-99)

109. CONDITIONS FOR TEMPORARY AABD IN INSTITUTIONS.
Special conditions for AABD when a participant is in an institution are listed in Subsections 109.01 through 109.05. (7-1-99)

01. Living Arrangement. AABD cash is paid based on the participant's living arrangement the month before the first month in the institution. Changes in living arrangement costs are used to determine AABD cash eligibility and benefit amount. (7-1-99)

02. Participant Becomes Ineligible. If the participant becomes ineligible for AABD during his temporary institutional stay, his AABD payment must be ended after proper notice. (7-1-99)

03. AABD Status. A participant must get AABD for the month he enters the institution to receive

continued AABD payments. (7-1-99)

04. Counting Three Full Months. A full month is a month the participant is in the institution every day of the month. If the participant enters after the first day of a month, the month of entry is not included in the three (3) full months. If the participant is discharged before the last day of the month, the month of discharge is not included in the three (3) full months. (7-1-99)

05. SSI Benefits. If SSA decides a participant's SSI benefit will continue while the participant is in the institution, AABD payments can also continue. (7-1-99)

110. -- 128. (RESERVED)

129. PARTICIPANT'S GUARDIAN FOR AABD CASH.
A court appointed guardian can manage AABD cash for a participant who is not competent to do so. The Department may petition the District Court to appoint a guardian if one is needed. (7-1-99)

130. ESTATE NOT IN PROBATE.
An administrator for public aid for a deceased participant's AABD cash can be court appointed. The administrator must spend AABD cash, accessible through EBT before the participant's death, for the estate. The AABD cash can only be spent to meet the needs of the participant, or his dependents, for the month it was paid. If a participant had no debts for himself, or his dependents, the administrator must return the AABD cash to the Department. AABD benefits paid by direct deposit or posted to the participant's EBT account, after the participant's death, are the property of the state of Idaho. (7-1-99)

131. ESTATE IN PROBATE.
AABD cash received by a participant before his death is disbursed as part of the participant's estate, if it is probated. The probate administrator spends the AABD cash under his oath of administration. (7-1-99)

132. -- 154. (RESERVED)

155. AABD FOR THE AGED.
To qualify for AABD for the aged, a person must be age sixty-five (65) or older. (7-1-99)

156. AABD FOR THE DISABLED.
To qualify for AABD for the blind or disabled, a person must meet the definition of blindness or disability used by the SSA for RSDI and SSI benefits. (7-1-99)

01. SSA Decision for Disabled. SSA's disability decision is binding on the Department unless: (7-1-99)

a. The participant states his disabling condition is different from, or in addition to, his condition considered by SSA, and the participant has not reapplied for SSI; or (7-1-99)

b. More than twelve (12) months have passed since the SSA made a final determination the participant was not disabled, and the participant states his condition has changed or become worse since that final determination, and the participant has not reapplied for SSI. (7-1-99)

02. Medicaid Pending SSA Appeal. When SSA decides a participant is no longer disabled, he meets the AABD disability requirement and can continue receiving Medicaid if he appeals SSA's decision. Medicaid ends if the SSA decision is upheld. (7-1-99)

03. Grandfathered Participant for Aid to the Permanently and Totally Disabled (APTD) or Aid to the Blind (AB). A participant is disabled if he was eligible as disabled in December 1973, and continues to meet the disability requirement in effect in December 1 1973. He must also meet the other current eligibility requirements. (7-1-99)

157. -- 165. (RESERVED)

166. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A participant is ineligible to receive AABD for any month during which he is fleeing to avoid prosecution for a felony, fleeing to avoid custody or confinement after a felony conviction, or violating a federal or state condition of probation or parole. (7-1-99)

167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.
A participant is ineligible for AABD for ten (10) years if he was convicted in a federal or state court of having fraudulently misrepresented residence to get AABD, SSI, TAFI, Food Stamps or Medicaid from two (2) or more states at the same time. (7-1-99)

168. -- 199. (RESERVED)

200. RESOURCES DEFINED.
Resources are cash, personal property, real property, and notes receivable. A participant, or spouse, must have the right, authority, or power to convert the resource to cash. The participant must have the legal right to use the resource for support and maintenance. (3-20-04)

201. RESOURCE LIMIT.
The value of countable resources must be two thousand dollars ($2,000) or less, for a single person to be AABD eligible. A married person must have countable resources of three thousand dollars ($3,000) or less to be eligible for AABD cash. Resources are counted the first moment of each calendar month and apply to the entire month. (7-1-99)

202. CHANGE IN VALUE OF RESOURCES.
A change in the value of resources is counted the first moment of the next month. (7-1-99)

203. RESOURCES AND CHANGE IN MARITAL STATUS.
A change in marital status changes the resource limit. The resource limit change is effective the month after individual participants are married, divorced, separated, or one (1) spouse dies. (7-1-99)

204. FACTORS MAKING PROPERTY A RESOURCE.
Property of any kind is a resource if the participant has an ownership interest in the property and the legal right to spend or convert the property to cash. (7-1-99)

205. COUNTING RESOURCES AND INCOME.
An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource. (7-1-99)

206. TYPES OF RESOURCES.
Liquid resources are resources in cash or resources convertible to cash within twenty (20) working days. Nonliquid resources are any resources, not in the form of cash, which cannot be converted to cash within twenty (20) workdays. (7-1-99)

207. EQUITY VALUE OF RESOURCES.
Equity value is the fair market value of a resource, minus any debts on it. (7-1-99)

208. SHARED OWNERSHIP RULE.
Except for checking and savings accounts and time deposits, each owner of shared property owns only his fractional interest in the property. The total value of the property is divided among the owners, in direct proportion to each owner's share. (7-1-99)

209. CONVERSION OR SALE OF A RESOURCE NOT INCOME.
Payment from the sale, exchange, or replacement of a resource is not income. The payment is a resource. (3-15-02)

210. RESOURCES EXCLUDED BY FEDERAL LAW.
A resource excluded by federal law is not counted in determining the resource amount available to the participant. (3-29-10)

211. -- 214. (RESERVED)

215. DEEMING RESOURCES.
Resources are deemed from a spouse to a participant, from a parent or spouse of a parent to a child participant, from an essential person to a participant, or from a sponsor to a legal non-citizen participant. Resource deeming is determined by the participant's circumstances the first moment of the month. Deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (7-1-99)

01. Spouse of Adult Participant. When a participant lives with a spouse, his resources include those of the spouse. The resource limit is for a couple, when the spouse was a member of the household as of the first moment of the benefit month. The AABD resource exclusions are subtracted. Pension funds the ineligible spouse has on deposit are excluded. (7-1-99)

02. Resources of Parent(s) of Child Under Age Eighteen. When a child participant, under age eighteen (18), is living with his parent or the spouse of his parent, their resources are deemed to the child. When there is more than one (1) child participant in the household, deemed parental resources are divided equally among the child AABD cash participants. When the child lives with one (1) parent, resources over the single person resource limit are deemed to the child. When the child lives with both parents, resources over the couple limit are deemed to the child. A stepparent's resources are not deemed to the child for Medicaid eligibility. A stepparent's resources are deemed to the child for AABD cash. Resources and exclusions of the child participant, and the parents, are computed separately. Pension funds owned by an ineligible parent or parent's spouse are excluded from resources for deeming. (4-5-00)

03. Resources of Essential Person of Participant. When a participant lives with an essential person, the resources of the essential person are deemed to the participant. The essential person's countable resources are combined with the participant's countable resources. When the essential person is not the participant's spouse, the single person resource limit is used. When the essential person is the participant's ineligible spouse, the couple resource limit is used. (7-1-99)

04. Resources of Legal Non-Citizen's Sponsor -- No INS Form I-864 Signed. A legal non-citizen's resources include those of his sponsor and of the sponsor's spouse. When the sponsor has not signed an I-864 affidavit of support, the resources deeming period is three (3) years after the legal non-citizen's admission to the U.S. A sponsor's resources are not deemed to the legal non-citizen for Medicaid eligibility. (3-15-02)

a. If the sponsor does not have a spouse living with him, the sponsor's countable resources over the single person resource limit are deemed to the legal non-citizen participant. (7-1-99)

b. If the sponsor's spouse lives with him, the sponsor couple's resources over the couple resource limit are deemed to the legal non-citizen participant. (7-1-99)

c. If a person sponsors two (2) or more legal non-citizen participants, the sponsor's deemed resources are divided and deemed equally to the legal non-citizen participants. (7-1-99)

05. Resources of Legal Non-Citizen's Sponsor -- INS Form I-864 Signed. For a legal non-citizen admitted to the U.S. on or after August 22, 1996, whose sponsor has signed an INS Form I-864 affidavit of support, all resources of the sponsor and sponsor's spouse are deemed to the legal non-citizen for AABD cash and Medicaid eligibility. Exceptions are listed in Subsections 215.05.a. and 215.05.b. of these rules. (3-15-02)

a. The legal non-citizen, or the legal non-citizen child's parent, was battered or subjected to extreme cruelty in the U.S. There is a substantial connection between the battery and the participant's need for assistance. The person subjected to the battery or cruelty no longer lives with the person responsible for the battery or cruelty. (3-15-02)

b. Alien sponsor deeming is suspended for twelve (12) months, if the legal non-citizen is not able to get food and shelter without AABD cash. (3-15-02)

216. HOUSEHOLD FOR RESOURCE COMPUTATIONS.
A participant living in an institution is not a household for resource computations. (7-1-99)

217. UNKNOWN RESOURCES.
An asset is not a resource if the participant is unaware of his ownership. The asset is a resource the month after discovery. (7-1-99)

218. -- 221. (RESERVED)

222. VEHICLES.
Vehicles are excluded as resources as described in Subsection 222.01 of these rules. If more than one (1) vehicle is owned, the exclusion applies in the best way for the participant. (4-11-06)

01. One Vehicle Excluded. One (1) vehicle is excluded, regardless of value. (4-11-06)

02. Other Vehicles Not Excluded. The equity value of a vehicle not excluded under Subsection 222.01 of these rules is a resource. (4-11-06)

223. BURIAL FUNDS EXCLUDED FROM RESOURCE LIMIT.
Burial funds up to one thousand five hundred dollars ($1,500) per person, set aside for the burial expenses of the participant or spouse, are excluded from resources. To be excluded, burial funds must be kept separate from assets not burial related. A burial contract that can be revoked or sold, without significant hardship, is a resource. Any portion of the contract for the purchase of burial spaces is excluded from resources. A burial contract that cannot be revoked, and cannot be sold without significant hardship, is not a resource. The burial fund portion of the contract counts against the one thousand five hundred dollar ($1,500) burial funds exclusion. The burial space portion of the contract does not count against the burial funds exclusion. Interest earned on excluded burial funds is also excluded. (3-15-02)

01. Life Insurance Policy as Burial Funds. The participant can designate a countable life insurance policy as a burial fund. The face value of excluded life insurance policies on the participant counts against the burial funds exclusion. (7-1-99)

02. Face Value of Burial Insurance Policies Not Counted. The face value of burial insurance policies does not count toward the one thousand five hundred dollar ($1,500) life insurance limit, when computing the total face value of life insurance policies owned by a participant. Interest on excluded burial funds does not count toward the one thousand five hundred dollar ($1,500) burial funds exclusion. (7-1-99)

03. Effective Date of Burial Funds Exclusion. The exclusion is effective the month after the month the funds were set aside. Burial funds can be designated retroactively, back to the first day of the month the participant intended the funds to be set aside. The participant must confirm the designation in writing. (7-1-99)

04. Penalty for Misusing Burial Funds. If the participant does not get SSI, burial funds used for another purpose lose the exclusion. An overpayment must be recovered. If the participant gets SSI, and is penalized by SSA because he used excluded burial funds for another purpose, his AABD payment must not be increased to compensate the SSA penalty. (7-1-99)

224. BURIAL SPACE OR PLOT EXCLUSION.
A burial space is a burial plot, grave site, crypt, mausoleum, casket, urn, niche, or other repository normally used for the deceased's remains. A burial space, or burial space purchase agreement, held for the burial of the participant, spouse, or other member of his immediate family is an excluded resource. (7-1-99)

01. Burial Space Contract. The burial space contract must list all burial spaces and include a value for each space or the total value of all the spaces. The contract must not require further payment after the contract is signed. (7-1-99)

02. Space Held by Ineligibles Excluded. A space held by an ineligible spouse or parent, for the burial

of a participant, spouse, and any member of the participant's immediate family, is excluded. A space held by a legal non-citizen sponsor, or essential person, for his own burial is excluded only if the sponsor is a member of the participant's immediate family. (7-1-99)

225. -- 231. (RESERVED)

232. HOUSEHOLD GOODS DEFINITION.
Household goods are items of personal property normally found in the home. The items must be used for maintenance, use, and occupancy of the participant's home. (7-1-99)

233. PERSONAL EFFECTS DEFINITION.
Personal effects are items worn or carried by a participant, or items having an intimate relation to the participant. (7-1-99)

234. PERSONAL PROPERTY DEFINITION.
Personal property is property that an individual acquires or holds because of its value or as an investment. Personal property is not considered household goods or personal effects. Personal property is considered a countable resource. (4-11-06)

235. EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS.
Household goods and personal effects are excluded from resources, regardless of their dollar value. (4-11-06)

236. (RESERVED)

237. REAL PROPERTY DEFINITION.
Real property is land, including buildings or immovable objects attached permanently to the land. Real property is a resource unless excluded. (7-1-99)

238. HOME AS RESOURCE.
An individual's home is property he owns, and serves as his principal place of residence. His principal place of residence is the place he considers his principal home. If the individual is absent from his home, it is still his principal place of residence if he intends to return. (3-30-07)

01. AABD Cash, and Medicaid With the Exception of Long-Term Care. For AABD Cash and Medicaid with the exception of long-term care, the value of an individual's home is an excluded resource. (3-30-07)

02. Long-Term Care Services. For long-term care services, when the value of a participant's equity in the home is seven hundred fifty thousand dollars ($750,000) or less, the home is excluded as a resource. When the equity value exceeds seven hundred fifty thousand dollars ($750,000), the individual is ineligible for long-term care services. The equity value, regardless of the amount, is an excluded resource when one (1) of the following applies: (3-30-07)

a. The spouse of the individual lives in the home; or (3-30-07)

b. The individual's child, who is under age twenty-one (21), or is blind, or meets the disability requirements for AABD cash, lives in the home. (3-30-07)

239. SALE OF EXCLUDED HOME AND REPLACEMENT.
If the participant plans to buy another excluded home, proceeds from the sale of a participant's excluded home are excluded resources. Proceeds from the sale of an excluded home must be used to replace the home within three (3) calendar months. Proceeds retained beyond three (3) calendar months are a countable resource. (7-1-99)

240. REPLACEMENT OF EXCLUDED RESOURCES.
Cash and in-kind payments for replacement or repair of lost, damaged, or stolen excluded resources, are excluded resources for nine (9) months from the date received. This exclusion can be extended for cash payments, up to an additional nine (9) months. The extension can be made if, for the first nine (9) months, circumstances beyond the participant's control prevent repair or replacement of the lost, damaged or stolen property and keep the participant

from contracting for repair or replacement. This exclusion can be extended for twelve (12) more months for a catastrophe the President declares a major disaster. Interest earned by funds excluded under this provision is excluded from resources. (7-1-99)

241. UNDUE HARDSHIP EXCLUSION FROM SALE OF JOINTLY-OWNED REAL PROPERTY.
A participant's ownership interest, in jointly-owned real property, is an excluded resource, as long as sale of the property will cause undue hardship to a co-owner. Undue hardship results if a co-owner uses the property as his principal place of residence, would have to move if the property were sold, and has no other readily available housing. (7-1-99)

242. INDIAN PROPERTY EXCLUDED.
For the purposes of determining eligibility for an individual who is an Indian, the following property is excluded: (3-29-10)

01. Property. Real property and improvements located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs. (3-29-10)

02. Natural Resources. Ownership interest in rents, leases, royalties, or usage rights related to natural resources resulting from the exercise of federally protected rights. (3-29-10)

03. Other Ownership Interests or Usage Rights. Ownership interests in or usage rights to property not covered by Subsections 242.01 or 242.02 of this rule that have a unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or traditional lifestyle according to applicable tribal law or custom. (3-29-10)

243. RESOURCES ASSOCIATED WITH PROPERTY.
Resources associated with real property are mineral rights, timber rights, easements, leaseholds, water rights, remainder interests, and sale of natural resources. These resources are counted as real property. (7-1-99)

244. RESOURCES ESSENTIAL FOR SELF-SUPPORT EXCLUDED.
Resources are excluded as essential to self-support, if they fall into one (1) of the categories described in Subsections 244.01 through 244.03. (7-1-99)

01. Essential Property in Current Use. Property in current use in the type of activity that qualifies it as essential to self-support is excluded, regardless of value or rate of return. Trade or business property, government permits, and personal property used by an employee for work are excluded regardless of value or rate of return. If the property is not in current use, for reasons beyond the participant's control, there must be a reasonable expectation the required use will resume. If the participant does not intend to resume the self-support activity, the property is a countable resource for the month after the month of last use. (7-1-99)

02. Nonbusiness Property Producing Goods or Services. Up to six thousand dollars ($6,000) of the equity value of nonbusiness property, used to produce goods or services essential to daily activities, is excluded regardless of rate of return. Equity value over six thousand dollars ($6,000) is not excluded. This exclusion is not used for income producing property. (7-1-99)

03. Nonbusiness Income Producing Property. Up to six thousand dollars ($6,000) equity in nonbusiness income producing property is excluded if it produces at least a six percent (6%) rate of return. The property must produce a net annual return equal to at least six percent (6%) of the excluded equity. If a participant owns more than one (1) piece of income producing property, the six percent (6%) return requirement applies to each. The six thousand dollars ($6,000) equity value limit applies to the total equity value of all the properties meeting the six percent (6%) return requirement. If the earnings decline is for reasons beyond the participant's control, up to twenty-four (24) months can be allowed for the property to resume producing a six percent (6%) return. If the property still is not producing a six percent (6%) return at the end of the twenty-four (24) month extension, the resource exclusion must end the month after the month the twenty-four (24) month period ends. (7-1-99)

245. RESOURCES SET ASIDE AS PART OF A PLAN FOR ACHIEVING SELF-SUPPORT (PASS) EXCLUDED.
PASS allows blind and disabled participants to set aside income and resources necessary for the achievement of its goals. Resources set aside as part of an approved PASS are excluded. The PASS disregard must not be applied to resources unless the participant would be ineligible due to excess resources. To disregard resources, the PASS must show how resources the participant has or will receive under the plan, will be used to obtain the PASS goal. The PASS must show how the disregarded resources will be identified separately from the participant's other resources. The PASS must list items or activities requiring savings or purchases and the amounts the participant anticipates saving or spending. The PASS must show a specific target date to achieve the objective. (7-1-99)

246. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.
Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from resources under the conditions in Subsections 246.01 through 246.02. (4-5-00)

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (4-5-00)

02. Cash. Cash gifts are excluded up to two thousand dollars ($2,000) for the calendar year the cash gifts are made. (4-5-00)

247. LIFE ESTATE INTEREST IN ANOTHER'S HOME.
The purchase of a life estate interest in another individual's home is a resource unless the purchaser resides in the home for a period of at least twelve (12) consecutive months after the date of purchase. (3-30-07)

248. -- 254. (RESERVED)

255. RETROACTIVE SSI AND RSDI BENEFITS.
Retroactive SSI and RSDI benefits are issued after the calendar month for which they are paid. Retroactive SSI and RSDI benefits are excluded from resources for nine (9) calendar months after the month they are received. Interest earned by excluded funds is counted as income. (4-7-11)

256. GERMAN REPARATIONS PAYMENTS.
German reparations payments are excluded from resources. Interest earned by German reparations payments is counted as income. (7-1-99)

257. DISASTER ASSISTANCE.
Assistance received because of a major disaster, declared by the President, is excluded from resources. Interest earned on excluded funds is excluded from income and resources. (7-1-99)

258. CASH TO PURCHASE MEDICAL OR SOCIAL SERVICES.
Cash paid by a recognized medical or social services program, for the participant to purchase medical or social services, is not a resource for one (1) calendar month after receipt. The cash must not be repayment for a bill already paid. (7-1-99)

259. AGENT ORANGE SETTLEMENT PAYMENTS.
Agent Orange settlement payments are excluded from resources. Interest earned by unspent Agent Orange settlement payments is excluded from resources, but counts as income. (7-1-99)

260. ALASKA NATIVE CLAIMS SETTLEMENT ACT.
Payments to Alaska Natives and their descendants from the Alaska Native Claims Settlement Act, under public Law 100-241, are excluded from resources. (7-1-99)

261. STOCK IN ALASKA REGIONAL OR VILLAGE CORPORATIONS.
Stock held by Alaska natives in regional or village corporations is inalienable for a twenty (20) year period under Sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act. (7-1-99)

262. VICTIMS' COMPENSATION PAYMENTS.
Payments, from a fund set up by a State to aid victims of crime, are excluded from resources for nine (9) months.

Interest earned on unspent victims' compensation payments is counted for income and resources. (7-1-99)

263. AUSTRIAN SOCIAL INSURANCE PAYMENTS.
Austrian General Social Insurance Act payments based, in whole or part, on wage credits granted under paragraphs 500 through 506 of the act, are excluded from resources. (7-1-99)

264. RADIATION EXPOSURE COMPENSATION ACT PAYMENTS.
Payments made under the Radiation Exposure Compensation Act (P.L. 101-426) are excluded from resources. (7-1-99)

265. TAX ADVANCES AND REFUNDS RELATED TO EARNED INCOME TAX CREDITS.
A Federal tax refund or payment made by an employer, related to Earned Income Tax Credits (EITC), is excluded from resources, for the month after the month the refund or payment is received. Interest earned on unspent tax refunds related to EITC is counted for income and resources. (7-1-99)

266. IDENTIFYING EXCLUDED FUNDS COMMINGLED WITH FUNDS NOT EXCLUDED.
Excluded funds must be separately identifiable to remain excluded. (7-1-99)

267. DEDICATED ACCOUNT FOR SSI PARTICIPANT.
A dedicated account for past-due SSI benefits, set up in a financial institution for an SSI participant under age eighteen (18) is an excluded resource. The account must be set up by the child's SSI representative payee, and excluded by SSA. (7-1-99)

268. SUPPORT AND MAINTENANCE ASSISTANCE (HOME ENERGY ASSISTANCE).
Support and Maintenance Assistance (SMA) is in-kind support and maintenance, or cash paid for food or shelter needs. It includes Home Energy Assistance. SMA Home Energy Assistance is aid to meet the costs of heating or cooling a home. SMA and Home Energy Assistance are excluded resources. (4-11-06)

269. NETHERLANDS WUV PAYMENTS.
Payments from the Dutch government under the Netherlands Act on Benefits for Victims of Persecution 1940-1945 (WUV) are excluded resources. Interest earned on unspent WUV payments is not excluded. (7-1-99)

270. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS.
Payments by the U.S. Government to Japanese-Americans or their spouse or parent (or if deceased to their survivors) interned or relocated during World War II are excluded resources. Payments by the U.S. Government to Aleuts interned or relocated during World War II are excluded resources. Payments by the Canadian government to Japanese-Canadians interned or relocated during World War II are excluded resources. (7-1-99)

271. VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA.
VA monetary allowances to a child born with spina bifida, who is the child of a Vietnam veteran, are excluded resources. (7-1-99)

272. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded from resources for Medicaid by Public Law 105-33. These payments are not excluded for AABD cash. (7-1-99)

273. -- 275. (RESERVED)

276. EXCLUDED REAL ESTATE CONTRACT.
The principal balance of a real estate contract is excluded from resources of a participant in long-term care when the Department determines it is in the Department's best interest to exclude the contract. The determination by the Department of its best interest is final. (3-20-04)

277. FEES PAID TO A CONTINUING CARE RETIREMENT COMMUNITY (CCRC) OR LIFE CARE COMMUNITY.
An entrance fee to a CCRC or a life care community is a resource if the participant or applicant for long-term care has discretion to spend the fee or if the fee may be used to pay for care in a contingency. A CCRC or life care community

is a type of long-term care facility that offers varying levels of care and in which a resident contracts with the facility to obtain care that is intended to endure for the remainder of the resident's life in exchange for valuable consideration. (3-30-07)

278. TRUSTS.
A trust is a resource to a participant with the legal right to revoke the trust, and use the principal for his own support and maintenance. See Sections 838 through 873 in these rules for treatment of trusts for Medicaid. (7-1-99)

279. RETIREMENT FUNDS.
Retirement funds are annuities or work-related plans for providing income or pensions when employment ends. A retirement fund, owned by a participant, is a resource if he has the option of withdrawing a lump sum, even though he is not yet eligible for periodic retirement payments. If the participant is eligible for periodic retirement payments, the fund is not a countable resource. The value of a retirement fund is the amount of money a participant can currently withdraw from the fund. (7-1-99)

280. INHERITANCE.
An inheritance is cash, a right, including probate allowances, trust payments and annuities, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. Participants are required to make claims and take all reasonable action necessary to obtain any inheritance to which they may be entitled. Failure to make such claims or take reasonable steps to obtain an inheritance is an asset transfer. A contested inheritance is not counted as a resource until the contest is settled and money is distributed. (3-30-07)

281. LIFE INSURANCE.
A life insurance policy is an excluded resource if its face value, plus the face value of all other life insurance policies the participant owns on the same insured person, totals one thousand five hundred dollars ($1,500) or less. If the face values exceed one thousand five hundred dollars ($1,500) the policies are a resource in the amount of the cash surrender value. (7-1-99)

282. CONSERVATORSHIP.
Funds required to be made available for the care and maintenance of a participant, under a court order, are the participant's resource. This is true even if the participant or his agent is required to petition the court to withdraw funds for the participant's care. (7-1-99)

283. CONDITIONAL BENEFITS.
A participant ineligible due solely to excess nonliquid resources, can receive AABD cash and related Medicaid. The participant must meet two (2) conditions. First, his countable liquid resources must not exceed three (3) times the participant's AABD cash budgeted needs. Second, the participant agrees, in writing, to sell excess nonliquid resources at their fair market value, within three (3) months. The value of excess real property is not counted as a resource, as long as the participant makes reasonable efforts to sell the property at its fair market value, and his reasonable efforts to sell are not successful. This exclusion is also used to compute deemed resources. (7-1-99)

01. Conditional Benefits Payments Disposal/Exclusion Period. The disposal period and exclusion period for excess nonliquid resources begins on the date the participant signs the Agreement to Sell Property. The disposal and exclusion periods can begin earlier for a participant who met all requirements to receive conditional benefits before his first opportunity to sign the Agreement to Sell Property. The participant must sign the Agreement to Sell Property before his application is approved. (7-1-99)

02. Time Period for Disposal of Excess Resources. The disposal period for excess nonliquid personal property is three (3) months. One (1) three (3) month extension, for sale of personal property, is allowed when good cause exists. (7-1-99)

03. Good Cause for Not Making Efforts to Sell Excess Property. The participant has good cause exists for not making efforts to sell property, when circumstances beyond his control prevent his taking the required actions. Without good cause, the participants's countable resources include the value of the excess property, retroactive to the beginning of the conditional benefits period. (7-1-99)

284. RESOURCE TRANSFER FOR LESS THAN FAIR MARKET VALUE.
Starting November 1, 2000, AABD cash participants are subject to a period of ineligibility if they transfer resources for less than fair market value. The participant is not subject to a period of ineligibility if his total countable resources in the transfer month were under two thousand dollars ($2,000), even if he had kept the transferred resources. Excluded resources, except for the excluded home and associated property, are not subject to the resource transfer period of ineligibility. The exceptions to the period of ineligibility for transfer of resources are listed in Section 292. (3-15-02)

01. Transfer of Resources. Transfer of resources includes reducing or eliminating the participant's ownership or control of the resource. Transfer of resources includes giving away cash resources without receiving fair market value. (3-15-02)

02. Transfer of Resources by a Spouse. A transfer by the participant's spouse of either spouse's resources subjects the participant to the resource transfer period of ineligibility. (3-15-02)

03. Transfer of Resources by a Co-Owner. Transfer of the participant's resources by a co-owner subjects the participant to a period of ineligibility based on his share of the co-owed resources. (3-15-02)

04. Transfer of Resources by a Legal Representative. Transfer of the participant's resources by a legal representative such as a legal guardian or parent of a minor child subjects the participant to a period of ineligibility. (3-15-02)

285. AABD PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.
The resource transfer period of ineligibility is a period of AABD ineligibility for up to sixty (60) months. The period of ineligibility begins the first day of the month after the transfer month. The participant must be notified, in writing, at least ten (10) days before a resource transfer period of ineligibility is imposed. (3-30-07)

286. RESOURCE TRANSFER LOOK-BACK PERIOD.
The resource transfer penalty applies to any transfer for less than fair market value made during a period preceding a request for cash assistance. The look-back period is determined as follows: (3-30-07)

01. Transfers Prior to February 8, 2006. For any resource transferred prior to February 8, 2006, the look-back period is thirty-six (36) months. The look-back period is counted from the month prior to the month the application was submitted. (3-30-07)

02. Transfers On or After February 8, 2006. Any resource transferred on or after February 8, 2006, regardless of type, is subject to a look-back period of sixty (60) months. The look-back period is counted from the date of the application for cash, or the date of the transfer, whichever is later in time. (3-30-07)

287. CALCULATING THE PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.
The period of ineligibility is the number of months computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the participant's living arrangement. For an applicant, use the full AABD allowance for the application month. For a participant, use the full AABD allowances for the transfer month. For an AABD couple, the period of ineligibility is computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement. The number of months of ineligibility is computed to two (2) decimal places and rounded down to the nearest whole number. If the amount transferred is less than the participant's AABD allowances for one (1) month, the participant is not subject to a period of ineligibility. (3-15-02)

288. LENGTH OF PERIOD OF INELIGIBILITY.
The period of ineligibility begins with the month after the month the transfer took place. The period of ineligibility continues whether or not the participant receives AABD. Ineligibility continues until all the resources are returned to the participant or spouse, adequate consideration for all the resources is received, sixty (60) months passes, or the penalty period ends. (3-30-07)

289. SPOUSE APPLIES AFTER PERIOD OF INELIGIBILITY IS COMPUTED.

If the spouse applies after the period of ineligibility is computed, compute the spouse's period of ineligibility by multiplying the number of months in the period of ineligibility already expired by the full AABD allowances for the couple's living arrangement. Subtract the total from the original difference between the fair market value of the resource and the amount the participant received for the resource. Divide the remaining difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement for the first month of ineligibility. (3-15-02)

290. MULTIPLE RESOURCE TRANSFERS.
If the participant makes more than one (1) resource transfer, the difference between the fair market value of all the transferred resource's and the amount the participant received for all the transferred resources is used to determine the length of the period of ineligibility. The period of ineligibility begins with the month after the month of the first transfer. (3-15-02)

291. TRANSFERS TO TRUSTS.
A trust established from the participant's resources is a resource transfer for less than fair market value, unless it meets an exception in Section 292 of these rules. If the trust includes resources of another person, the resource transfer period of ineligibility applies to the participant's share of the trust. (3-15-02)

01. Payment from Trust Not for Participant. If a payment is made to another individual from a trust counted as a resource, and the payment is not for the benefit of the participant, the payment is a resource transfer for less than fair market value. (3-15-02)

02. Payment from Trust Restricted. If the participant takes action so no payment from a trust counted as a resource can be made for any reason, the trust is a resource transfer for less than fair market value. By taking the action, the participant causes the trust to be no longer counted as a resource and the participant is subject to the period of ineligibility. The date of the action restricting payment is the date of the transfer. (3-15-02)

292. PERIOD OF INELIGIBILITY EXCEPTIONS.
A participant or spouse is not subject to the resource transfer period of ineligibility if one (1) of the following conditions is satisfied. (3-15-02)

01. Home to Spouse. Title to the home is transferred solely to the spouse. (3-15-02)

02. Home to Minor Child or Disabled Adult Child. Title to the home is transferred to the child of the participant or spouse. The child must be under age twenty-one (21), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (3-15-02)

03. Home to Brother or Sister. Title to the home is transferred to a brother or sister of the participant or spouse who must have had an equity interest or life estate in the transferred home and was residing in that home for at least one (1) year immediately before the month the home was transferred. (3-15-02)

04. Home to Adult Child. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must have resided in that home for at least two (2) years immediately before the month the participant entered a medical facility or long-term care. The son or daughter must have provided care to the participant, which permitted him to live at home rather than enter a medical facility or long-term care. (3-15-02)

05. Benefit of Spouse. Resources, other than the home, were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (3-15-02)

06. Transfer from Spouse. The resources were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (3-15-02)

07. Transfer to Child. The resources were transferred to the participant's child or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (3-15-02)

08. Transfer to Trust for Person Under Sixty-Five. The resources were transferred to a trust for the sole benefit of a person under age sixty-five (65), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (3-15-02)

09. Transfer to a Trust That Is a Countable Resource. The resources were transferred to a trust and the trust is a countable resource for AABD in the amount of the transfer. (3-15-02)

10. Intent to Receive Fair Market Value. The participant or spouse proves he intended to dispose of the resources at fair market value or for other adequate consideration, but can prove good cause for not doing so. (3-15-02)

11. Resources Returned. All resources transferred for less than fair market value have been returned to the participant. (3-15-02)

12. No AABD Purpose. The participant or spouse proves the resources were transferred exclusively for a purpose other than qualifying for AABD. Purposes other than qualifying for AABD include: (3-15-02)

a. After the resource transfer the participant has a traumatic onset of disability. (3-15-02)

b. After the resource transfer a previously unknown disabling condition is diagnosed. (3-15-02)

c. After the resource transfer the participant has an unexpected loss of income or resources resulting in eligibility for AABD. (3-15-02)

d. The resource was excludable in the transfer month. (3-15-02)

e. The transfer of resources was court-ordered, provided the participant did not petition the court to order the transfer. (3-15-02)

f. The participant took a vow of poverty and gave the resources to a religious order. (3-15-02)

13. Undue Hardship. The participant proves failure to receive AABD would deprive him of food or shelter and his total available funds, including income and liquid resources, are less than his AABD allowances for the month he claims undue hardship. Undue hardship must be proven for each month of the period of ineligibility. When determining total available funds for a child, count any income and resources deemed from his parents. (3-15-02)

14. Exception to Fair Market Value. The amount received is reasonable, even if less than fair market value if a forced sale was done under reasonable circumstances, and little or no market demand exists for the type of resource transferred, or the resource was transferred to settle a legal debt approximately equal to the fair market value of the transferred resource. (3-15-02)

15. No Benefit to Participant. The participant received no benefit from the resource because he or the spouse held title to the property only as a trustee for another person, or the transfer was done to clear title to property and the participant or spouse had no interest in the property that would benefit him. (3-15-02)

16. Fraud Victim. The resource was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the resources or property or its equivalent in damages. The participant must assign recovery rights to the state of Idaho. (3-15-02)

293. EFFECT ON MEDICAID ELIGIBILITY.
Ineligibility for AABD cash because of property transfer does not make the participant ineligible for Medicaid. (3-15-02)

294. -- 299. (RESERVED)

300. INCOME DEFINITION.
Income is anything that can be used to meet needs for food, or shelter. Income is cash, wages, pensions, in-kind payments, inheritances, gifts, awards, rent, dividends, interest, or royalties the participant receives during a month. (4-11-06)

01. Cash Income. Cash income is currency, checks, money orders, or electronic funds transfers. Cash income includes Social Security checks, unemployment checks, and payroll checks. (7-1-99)

02. In-Kind Income. In-kind income is not cash. In-kind income is food or shelter. Wages paid as in-kind earnings, such as food or shelter, are counted as unearned income. Other in-kind income is not counted. (4-11-06)

03. Inheritances. An inheritance is cash, a right, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. A contested inheritance is not counted as income until the contest is settled and money is distributed. (7-1-99)

301. APPLICATION FOR POTENTIAL BENEFITS.
The participant must apply for benefits, including RSDI, VA, pensions, Workman's Compensation, or Unemployment Insurance, when there is potential eligibility. The participant must apply when he reaches the earliest age to qualify for the benefit. (7-1-99)

01. SSI. To get AABD cash, the participant must apply for SSI benefits, if he is potentially eligible. To get AABD-Medicaid, the participant does not have to apply for SSI benefits. (7-1-99)

02. VAIP. Participants entitled to a VA pension as of December 31, 1978 are not required to file for Veterans Administration Improved Pension Plan (VAIP), to get AABD cash or AABD-related Medicaid. (7-1-99)

03. Other Benefits. EITC, TAFI, BIA General Assistance and victim's compensation benefits are exempt from the filing requirement. (7-1-99)

302. RELATIONSHIP OF INCOME TO RESOURCES.
Income is counted as income in the current month. If the participant keeps countable income after the month received, it is counted as a resource. (7-1-99)

303. WHEN INCOME IS COUNTED.
Income is counted the earliest of when received, when credited to a participant's account, or when set aside for the participant's use. Income from SSA, SSI or VA is counted for the month it is intended to cover. (7-1-99)

304. PROSPECTIVE ELIGIBILITY.
Eligibility for AABD cash and Medicaid is prospective. Expected income for the month is compared to the participant's income limit that month. (4-11-15)

305. PROJECTING MONTHLY INCOME.
Income is projected for each month to determine AABD cash amount. Past income may be used to project future income. Expected changes must be considered. Income received less often than monthly is not prorated or converted. Patient liability income is not prorated or converted. (7-1-99)

306. CRITERIA FOR PROJECTING MONTHLY INCOME.
Monthly income is projected as described in this Subsections 306.01 through 306.08. (7-1-99)

01. Converting Income to a Monthly Amount. If a full month's income is expected, but is received on other than a monthly basis, convert the income to a monthly amount using one (1) of the formulas in Subsections 306.01.a. through 306.01.d.

TABLE 306.01 MONTHLY CONVERSION OF INCOME	
Conversion	**Procedure**

a.	Weekly to Monthly	Multiply weekly amounts by 4.3.
b.	Biweekly to Monthly	Multiplying bi-weekly amounts by 2.15.
c.	Semimonthly to Monthly	Multiplying semi-monthly amounts by 2.
d.	Exact Amount	Use the exact monthly income if it is expected for each month.

(7-1-99)

02. Income Already Received. Count income already received during the month. Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received as described in Subsections 306.02.a. and 306.02.b. (7-1-99)

a. Actual income. If the actual amount of income from any pay period a month is known, use the actual pay period amounts to determine the total month's income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (7-1-99)

b. Projecting income. If no pay changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (7-1-99)

03. Expected Income. Count income the participant and the Department believe the participant will get. Convert expected income to a monthly amount as described in Subsections 306.03.a. through 306.03.d. (7-1-99)

a. Exact income unknown. If the exact income amount is uncertain or unknown, the uncertain or unknown portion must not be counted. The certain or known amount is counted. (7-1-99)

b. Income not changed. If the income has not changed and no changes are expected, past income can be used to project future income. (7-1-99)

c. Income changes. If income changes, and income received in the past thirty (30) days does not reflect expected income, income received over a longer period is used to project future income. (7-1-99)

d. Seasonal income changes. If income changes seasonally, income from the last comparable season is used to project future income. (7-1-99)

04. Ongoing Income. Ongoing income comes from an ongoing source. It was received in the past and is expected to be received in the future. Convert ongoing income to a monthly amount as described in Subsections 306.04.a. through 306.04.d. (7-1-99)

a. Full month's income not expected from ongoing source. If a full month's income is not expected from an ongoing source, count the amount of income expected for the month. If actual income is known, use actual income. If actual income is unknown, project expected income. Convert income to a monthly amount. Use zero (0) income for any pay period in which income was not received that month. (7-1-99)

b. Income from new source. If a full month's income from a new source is not expected, count the actual income expected for the month. Do not convert the income to a monthly amount. (7-1-99)

c. Income stops. If income stops and no additional income is expected from the terminated source, count the actual income received during the month. Do not convert the terminated source of income. (7-1-99)

d. Full month's income not expected from new or stopped source. If a full month's income is not expected from a new or terminated source, count the income expected for the month. If the actual income is known, use the known income. If the actual income is unknown, project the income. Do not convert the income to a monthly amount if a full month's income from a new or terminated source is not expected. (7-1-99)

05. Income Paid on Salary. Income paid on salary, rather than an hourly wage, is counted at the

expected monthly salary rate. (7-1-99)

06. Income Paid at Hourly Rate. Compute expected income paid on an hourly basis by multiplying the hourly pay by the expected number of hours the participant will work in the pay period. Convert the pay period amount to a monthly basis. (7-1-99)

07. Monthly Income Varies. When monthly income varies each pay period and the rate of pay remains the same, average the income from the past thirty (30) days to determine the average pay period amount. Convert the average pay period amount to a monthly amount. When income changes and income from the past thirty (30) days is not a valid indicator of future income, a longer period of income history is used to project income. (7-1-99)

08. Income Received Less Often Than Monthly. Recurring income, such as quarterly payments or annual income, is counted in the month received, even if the payment is for multiple months. The income is not prorated or converted. If the amount is known, use the actual. If the amount is unknown, use the best information available to project income. (7-1-99)

307. COUNTING RESOURCES AND INCOME.
An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource. (3-15-02)

308. -- 309. (RESERVED)

310. ADOPTION ASSISTANCE UNDER TITLE IV-B OR TITLE XX.
Adoption assistance payments, provided under Title IV-B or Title XX of the Social Security Act, are excluded. Adoption assistance payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

311. AGENT ORANGE SETTLEMENT FUND PAYMENTS.
Effective January 1, 1989, payments made from the Agent Orange settlement fund or awards from Agent Orange product liability judgement are excluded. (7-1-99)

312. ALASKA NATIVE CLAIMS SETTLEMENT ACT.
Payments to Alaska Natives and their descendants from the Alaska Native Claims Settlement Act, under public Law 100-241, are excluded. (7-1-99)

313. ASSISTANCE BASED ON NEED (ABON).
ABON is aid paid under a program using income as a factor of eligibility. ABON is funded wholly by a State, or a political subdivision of a State, or an Indian tribe, or a combination of these sources. Federal funds are not used. ABON is excluded. (7-1-99)

314. AUSTRIAN SOCIAL INSURANCE PAYMENTS.
Austrian Social Insurance payments based on wage credits under Paragraphs 500-506 of the Austrian Social Insurance Act are excluded. (7-1-99)

315. BUREAU OF INDIAN AFFAIRS (BIA) FOSTER CARE.
BIA foster care payments are social services. They are excluded for the foster child and foster family. (7-1-99)

316. BLIND OR DISABLED STUDENT EARNED INCOME.
To qualify for this exclusion, the student must be blind or disabled. The student must be under age twenty-two (22). The student must be regularly attending high school, college, university or course of vocational or technical training designed to prepare him for gainful employment. The maximum monthly and annual exclusions cannot exceed the limits set by SSI for the current year. (4-11-06)

317. "BUY-IN" REIMBURSEMENT.
The SSA reimbursement for self-paid Medicare Part B "Buy-In" premiums is excluded. (7-1-99)

318. COMMODITIES, FOOD STAMPS, AND FOOD PROGRAMS.
Food, under the Federal Food Stamp Program, Donated Commodities Program, School Lunch Program, and Child Nutrition Program, is excluded. This includes free or reduced price food for women and children under the National School Lunch Act and the Child Nutrition Act of 1966. (7-1-99)

319. CONTRIBUTIONS FOR RESIDENTIAL AND ASSISTED LIVING FACILITY RESIDENTS.
Contributions from a third party, for a participant residing in a Residential and Assisted Living Facility, are excluded. The contribution must be paid directly to the facility. The contribution must pay for items or services provided to the participant by the facility. The items or services must not be included in the participant's State Plan Personal Care Services or his Personal Care Supplement or must be charges for rent, utilities, or food exceeding the Personal Care Supplement Allowance. The participant must not be charged a higher rate than other residents of the facility. The person making the contribution must provide a signed statement identifying the item or service the payment covers, the reason the item or service is needed by the participant, and the monthly amount of the payment. (5-3-03)

320. CONVERSION OR SALE OF A RESOURCE NOT INCOME.
Payment from the sale, exchange, or replacement of a resource is excluded. The payment is a resource that changed form. (7-1-99)

321. CREDIT LIFE OR DISABILITY INSURANCE PAYMENTS.
Credit life or credit disability insurance covers payments on loans and mortgages, in case of death or disability. Insurance payments are made directly to loan or mortgage companies, and are not available to the participant. These payments are excluded. (7-1-99)

322. DEPARTMENT OF EDUCATION SCHOLARSHIPS.
Any grant, scholarship, or loan, to an undergraduate for educational purposes, made or insured under any program administered by the Commissioner of Education, is excluded. (7-1-99)

323. GIFTS OF DOMESTIC TRAVEL TICKETS.
A ticket for domestic travel received as a gift by a participant or spouse is excluded. (7-1-99)

324. GRANTS, SCHOLARSHIPS, AND FELLOWSHIPS.
Any grant, scholarship, or fellowship, not administered by the Commissioner of Education, and used for paying tuition, fees, or required educational expenses is excluded. This exclusion does not apply to any portion set aside or actually used for food or shelter. (4-11-06)

325. DISASTER ASSISTANCE.
Payments received because of a major disaster, declared by the President, are excluded. This includes payments to repair or replace the person's own home or other property, and disaster unemployment aid. (7-1-99)

326. DOMESTIC VOLUNTEER SERVICE ACT PAYMENTS.
Compensation, other than wages, provided to volunteers in the Foster Grandparents Program, RSVP, and similar National Senior Volunteer Corps programs under Sections 404(g) and 418 of the Domestic Volunteer Service Act is excluded. (7-1-99)

327. EARNED INCOME TAX CREDITS.
Earned Income Tax Credits advance payments and refunds are excluded. (7-1-99)

328. FEDERAL HOUSING ASSISTANCE.
Federal housing assistance listed in Subsections 328.01 through 328.05 is excluded. (7-1-99)

01. United States Housing Act of 1937. United States Housing Act of 1937, Section 1437 et seq. of 42 U.S. Code. (7-1-99)

02. The National Housing Act. The National Housing Act, Section 1701 et seq. of 12 U.S. Code. (7-1-99)

03. Housing and Urban Development Act of 1965. Section 101 of the Housing and Urban

Development Act of 1965, Section 1701s of 12 U.S. Code, and Section 1451 of 42 U.S. Code. (7-1-99)

04. **Housing Act of 1949**. Title V of the Housing Act of 1949, Section 1471 et seq. of 42 U.S. Code. (7-1-99)

05. **Housing Act of 1959**. Section 202(h) of the Housing Act of 1959. (7-1-99)

329. FOSTER CARE PAYMENTS.
Foster care payments using funds provided under Title IV-B or Title XX of the Social Security Act are excluded. Payments for foster care of a non SSI-child placed by a public or private non-profit child placement or child care agency are excluded. Foster care payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

330. EXPENSE OF OBTAINING INCOME.
Essential expenses of obtaining unearned income are subtracted from the income. An expense is essential if the participant would not receive the income unless he paid the expense. Expenses of receiving income, such as withheld taxes, are not subtracted. (7-1-99)

331. GARNISHMENTS.
Garnishments of unearned income are counted as unearned income. Garnishments of earned income are counted as earned income. (7-1-99)

332. GERMAN REPARATIONS.
Reparations payments from the Federal Republic of Germany received on or after November 1, 1984 are excluded. (7-1-99)

333. GOVERNMENT MEDICAL OR SOCIAL SERVICES.
Governmental payments authorized by Federal, State, or local law, for medical or social services, are excluded. Any cash provided by a nongovernmental medical or social services organization (including medical and liability insurers) for medical or social services already received is excluded. (4-11-06)

01. **Medical Services**. Medical services are diagnostic, preventive, therapeutic, or palliative treatment. Treatment must be performed, directed, or supervised by a State licensed health professional. Medical services include room and board provided during a medical confinement. Medical services include in-kind medical items such as prescription drugs, eye glasses, prosthetics, and their maintenance. In-kind medical items include devices intended to bring the physical abilities of a handicapped person to a par with an unaided person who is not handicapped. Electric wheelchairs, modified scooters, and service animals and their food are in-kind medical items. (4-11-06)

02. **Social Service**. A social service is any service, other than medical. A social service helps a handicapped or socially disadvantaged person to function in society on a level comparable to a person not handicapped or disadvantaged. Housebound and Aid and Attendance Allowances, including Unusual Medical Expense Allowances, received from the Veterans Administration are excluded. (7-1-99)

334. HOME ENERGY ASSISTANCE (HEA) AND SUPPORT AND MAINTENANCE ASSISTANCE (SMA).
SMA is in-kind support and maintenance, or cash paid for food or shelter needs. SMA includes HEA. HEA is aid to meet the costs of heating or cooling a home. SMA must be provided in-kind by a nonprofit organization. HEA must be provided in cash or in-kind by suppliers of home heating gas or oil or a municipal utility providing home energy. SMA and HEA are excluded. (4-11-06)

335. HOME PRODUCE FOR PERSONAL USE.
Home produce is excluded if it is consumed by the participant or his household. Home produce includes livestock grown for personal consumption. (7-1-99)

336. IN-HOME SUPPORTIVE SERVICES.
Payments made by Title XX or other governmental programs to pay an ineligible spouse or ineligible parent for in-home supportive services provided to a participant are excluded. In-home supportive services include attendant care,

chore services and homemaker services. (7-1-99)

337. INCOME EXCLUDED BY LAW.
Any income excluded by Federal statute, is excluded. (7-1-99)

338. INFREQUENT OR IRREGULAR INCOME.
The first thirty dollars ($30) of earned income and the first sixty dollars ($60) of unearned income per calendar quarter are excluded, when they are infrequent or irregular payments. Income is infrequent if the participant receives it once in a calendar quarter from a single source. Income is irregular if the participant could not reasonably expect to receive it. (4-11-06)

339. JAPANESE-AMERICAN AND ALEUTIAN RESTITUTION PAYMENTS.
U.S. Government payments to Japanese-Americans, interned or relocated during World War II, are excluded. Payments to their spouses or parents (or if deceased to their survivors) are also excluded. U.S. Government payments to Aleuts interned or relocated during World War II are excluded. (7-1-99)

340. LOANS.
Loans are excluded, if the participant has signed a written repayment agreement. The signed agreement must state how the loan will be repaid. The signed written agreement can be obtained after the loan is received. Items bought on credit are paid with a loan and are not income. Money repaid to a participant on the principal of a loan is not income, it is a resource. Interest received by a participant on money loaned by him is countable income. (7-1-99)

341. MANPOWER DEVELOPMENT AND TRAINING ACT PAYMENTS.
Payments made under the Manpower Development and Training Act of 1962, as amended by the Manpower Act of 1965 are excluded. (7-1-99)

342. NATIVE AMERICAN PAYMENTS.
Payments authorized by law made to people of Native American ancestry are excluded. (7-1-99)

343. NETHERLANDS WUV PAYMENTS.
Payments from the Dutch government under the Netherlands Act on Benefits for Victims of Persecution 1940-1945 (WUV) are excluded. (7-1-99)

344. NUTRITION PROGRAMS FOR OLDER AMERICANS.
Payments, other than a wage or salary, made under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, are excluded. (7-1-99)

345. PERSONAL SERVICES.
A personal service performed for a participant is excluded. Personal services include lawn mowing, house cleaning, grocery shopping, and baby sitting. (7-1-99)

346. RADIATION EXPOSURE COMPENSATION ACT PAYMENTS.
Payments made to persons under the Radiation Exposure Compensation Act are excluded. (7-1-99)

347. REBATES, REFUNDS, AABD UNDERPAYMENTS AND REPLACEMENT CHECKS.
Rebates, refunds, AABD underpayments and returns of money already paid are excluded. A replacement check is excluded. (7-1-99)

348. RELOCATION ASSISTANCE.
Relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, Subchapter II, Chapter 61, Title 42 of the U.S. Code are excluded. Relocation payments, paid to civilians of World War II per Public Law 100-383, are excluded. (7-1-99)

349. REPLACEMENT OF INCOME ALREADY RECEIVED.
Replacement of a participant's lost, stolen, or destroyed income is excluded. (7-1-99)

350. RETURN OF MISTAKEN PAYMENTS.

A returned mistaken payment is excluded. If the participant keeps the mistaken payment, it is income. (7-1-99)

351. TAX REFUNDS.
Refunds of Federal, State or local taxes paid on income, real property, or food bought by the participant and his family, are excluded. (7-1-99)

352. UTILITY PAYMENTS.
Payments for utility costs made to low-income housing tenants by a local housing authority are excluded when paid directly to the tenant or jointly to the tenant and the utility company. (7-1-99)

353. VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA.
VA monetary allowances to a child born with spina bifida, who is the child of a Vietnam veteran, are excluded. (7-1-99)

354. VICTIMS' COMPENSATION PAYMENTS.
Any payment made from a State-sponsored fund to aid victims of crime is excluded. (7-1-99)

355. VOCATIONAL REHABILITATION SERVICES PAYMENTS.
Payments other than wages made to an eligible handicapped individual employed in a Vocational Rehabilitation Services project under Title VI of the Rehabilitation Act of 1973 are excluded. (7-1-99)

356. VOLUNTEER SERVICES INCOME.
Payments to volunteers under Chapter 66 of Title 42 of the U.S. Code Domestic Volunteer Services (ACTION programs) are excluded. Payments are not excluded, if the Director of the ACTION agency determines the value, adjusted for hours served, is equal to or greater than the Federal or State minimum wage. (7-1-99)

357. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded for Medicaid but not for AABD cash. (7-1-99)

358. WEATHERIZATION ASSISTANCE.
Weatherization assistance is excluded. (7-1-99)

359. TEMPORARY CENSUS INCOME.
For Medicaid only, all wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded. (5-8-09)

360. -- 399. (RESERVED)

400. EARNED INCOME.
Earned income remaining after disregards and exclusions are subtracted is counted in computing AABD cash. Wages are counted the month they become available to the participant. (7-1-99)

401. COMPUTING SELF-EMPLOYMENT INCOME.
Countable self-employment income is the difference between the gross receipts and the allowable costs of producing the income, if the amount is expected to continue. Self-employment income is computed using one (1) of the methods listed in Subsections 401.01 through 401.03. (7-1-99)

01. Self-Employed at Least One Year. For individuals who are self-employed for at least one (1) year, income and expenses are averaged over the past twelve (12) months. (7-1-99)

02. Self-Employed Less Than One Year. For individuals who are self-employed for less than one (1) year, income and expenses are averaged over the months the business has been in operation. (7-1-99)

03. Monthly Increase or Decrease. If a monthly average does not reflect actual monthly income, because of an increase or decrease in business, the self-employment income is counted monthly. This method is not used for businesses with seasonal or unusual income peaks at certain times of the year. (7-1-99)

04. Net Self-Employment Income Seven and Sixty-Five Hundredths Percent Deduction. If net self-employment income is over four hundred dollars ($400) per year, seven and sixty-five hundredths percent (7.65%) is deducted. This deduction compensates for Social Security taxes paid. If self-employment Social Security tax is not paid, this deduction is not allowed. (7-1-99)

402. SELF-EMPLOYMENT ALLOWABLE EXPENSES.
Allowable operating expenses subtracted from self-employment income are listed in Subsections 402.01 through 402.16 of this rule. (3-25-16)

01. Labor. Labor paid to individuals not in the family. (7-1-99)

02. Materials. Materials such as stock, seed and fertilizer. (7-1-99)

03. Rent. Rent on business property. (7-1-99)

04. Interest. Interest paid to purchase income producing property. (7-1-99)

05. Insurance. Insurance paid for business property. (7-1-99)

06. Taxes. Taxes on income producing property. (7-1-99)

07. Business Transportation. Business transportation as defined by the IRS. (7-1-99)

08. Maintenance. Landscape and grounds maintenance. (7-1-99)

09. Lodging. Lodging for business related travel. (7-1-99)

10. Meals. Meals for business related travel. (7-1-99)

11. Use of Home. Costs of partial use of home for business. (7-1-99)

12. Legal. Business related legal fees. (7-1-99)

13. Shipping. Business related shipping costs. (7-1-99)

14. Uniforms. Business related uniforms. (7-1-99)

15. Utilities. Utilities for business property. (7-1-99)

16. Advertising. Business related advertising. (7-1-99)

403. SELF-EMPLOYMENT EXPENSES NOT ALLOWED.
Self-employment expenses not allowed are listed in Subsections 403.01 through 403.09. (7-1-99)

01. Payments on the Principal of Real Estate. Payments on the principal of real estate mortgages on income-producing property. (7-1-99)

02. Purchase of Capital Assets or Durable Goods. Purchases of capital assets, equipment, machinery, and other durable goods. Payments on the principal of loans for these items. (7-1-99)

03. Taxes. Federal, state, and local income taxes. (7-1-99)

04. Savings. Monies set aside for future use such as retirement or work related expenses. (7-1-99)

05. Depreciation. Depreciation for equipment, machinery, or other capital investments. (7-1-99)

06. **Labor Paid to Family Member**. Labor paid to any family member. (7-1-99)

07. **Loss of Farm Income**. Loss of farm income subtracted from other income. (7-1-99)

08. **Personal Transportation**. Personal transportation. (7-1-99)

09. **Net Losses**. Net losses from previous periods. (7-1-99)

404. ROYALTIES.
Royalties received as part of a trade or business, or for publication of the participant's work are earned income. Other royalties are unearned income. (7-1-99)

405. HONORARIA.
An honorarium for services rendered is earned income. An honorarium for travel expenses and lodging for a guest speaker is unearned income in the amount it exceeds the expenses. The portion that equals the expenses is excluded as an expense of obtaining the income. (7-1-99)

406. SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER PAYMENTS.
Payments for services performed in a sheltered workshop or work activities center are earned income. (7-1-99)

407. JOB TRAINING PARTNERSHIP ACT (JTPA).
JTPA payments are earned income. JTPA payments for child care, transportation, medical care, meals, and other reasonable expenses, provided in cash or in-kind, are not income. (7-1-99)

408. PROGRAMS FOR OLDER AMERICANS.
Wages or salary paid under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, is earned income. (7-1-99)

409. UNIFORMED SERVICES PAY AND ALLOWANCES.
Basic pay is earned income. All other pay and allowances are unearned income. (7-1-99)

410. RENTAL INCOME.
Net rental income is unearned income, unless from the business of renting real property. Net unearned rental income is gross rent less the expenses on the rental property listed in Subsections 410.01 through 410.06. Net rental income from the business of renting properties is self-employment earned income. (7-1-99)

01. **Interest**. Interest and escrow portions of a mortgage payment. (7-1-99)

02. **Insurance**. Real estate insurance. (7-1-99)

03. **Repairs**. Minor repairs to an existing rental structure. (7-1-99)

04. **Taxes**. Property taxes. (7-1-99)

05. **Yard Care**. Lawn care, including tree and shrub care and snow removal. (7-1-99)

06. **Advertising**. Advertising costs for tenants. (7-1-99)

411. OVERPAYMENT WITHHOLDING OF UNEARNED INCOME.
Money withheld by any benefit program to recover an overpayment is counted as income. Money withheld is not income if the overpaid benefit amount was used to compute AABD cash. (7-1-99)

412. RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI).
RSDI monthly benefits are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. (7-1-99)

413. SSI PAYMENTS.

SSI monthly payments are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. An advance SSI payment, to an applicant appearing SSI eligible with a financial emergency, is not income the month received. When SSA reduces ongoing SSI to recover the advance, the SSI payment before the reduction continues to be counted as income. (7-1-99)

414. BLACK LUNG BENEFITS.
Black Lung payments are unearned income. (7-1-99)

415. RAILROAD RETIREMENT PAYMENTS.
Railroad Retirement Board payments are unearned income. (7-1-99)

416. UNEMPLOYMENT INSURANCE BENEFITS.
Unemployment insurance benefits received under State and Federal unemployment laws are unearned income. (7-1-99)

417. UNIFORM GIFTS TO MINORS ACT (UGMA).
UGMA payments from the custodian to the minor are income to the minor. UGMA property, including earnings or additions, are not income to the minor until the month the minor becomes eighteen (18) years of age. (7-1-99)

418. WORKERS' COMPENSATION.
Workers' compensation, less expenses required to get the payment, is unearned income. (7-1-99)

419. MILITARY PENSIONS.
Military pensions are unearned income. (7-1-99)

420. VA PENSION PAYMENTS.
VA pension payments are unearned income. The twenty dollar ($20) standard disregard is not subtracted, except by a special act of Congress. (7-1-99)

421. VA COMPENSATION PAYMENTS.
VA compensation payments to a veteran, spouse, child, or widow(er) are unearned income. (7-1-99)

422. VA EDUCATIONAL BENEFITS.
VA educational payments funded by the government are excluded. (3-29-12)

423. ALIMONY, SPOUSAL, AND ADULT SUPPORT.
Alimony, spousal, and other adult support payments are unearned income. (7-1-99)

424. CHILD SUPPORT PAYMENTS.
Child support payments are unearned income. One-third (1/3) of a child support payment is excluded for the child receiving support. Child support collected by a State and retained for TAFI payments is not income. (7-1-99)

425. DIVIDENDS AND INTEREST.
Dividends and interest are unearned income. (7-1-99)

426. AWARDS.
Awards are unearned income. (7-1-99)

427. GIFTS.
Gifts are unearned income. (7-1-99)

428. PRIZES.
Prizes are unearned income. (7-1-99)

429. WORK-RELATED UNEARNED INCOME.
Work-related payments that are not salary or wages are unearned income. (7-1-99)

430. COMMUNITY SERVICE BLOCK GRANTS.
Community service block grant distributions are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (7-1-99)

431. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAMS.
FEMA funds are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (7-1-99)

432. BUREAU OF INDIAN AFFAIRS GENERAL ASSISTANCE (BIA GA).
BIA GA payments are unearned income. BIA GA payments are Federally-funded income based on need. They are paid in cash or in-kind. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

433. BIA ADULT CUSTODIAL CARE (ACC) AND CHILD WELFARE ASSISTANCE (CWA) PAYMENTS.
BIA ACC and CWA payments, other than foster care, made to participants out of an institution, are unearned income. (7-1-99)

434. INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS.
Deposits to an unrestricted IIM account are income in the month deposited. (7-1-99)

435. ACCELERATED LIFE INSURANCE INCOME.
Accelerated life insurance payments are unearned income in the month received. (7-1-99)

436. REAL ESTATE CONTRACT INCOME.
Payments received on the interest of a negotiable real estate contract are unearned income for Medicaid eligibility. Payments received on the principal of a negotiable real estate contract are a resource for Medicaid eligibility. Payments received on a nonnegotiable real estate contract are unearned income. Principal and interest payments received on an excluded real estate contract of a long-term care participant are unearned income for patient liability. (3-20-04)

437. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.
Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from income under the conditions in Subsections 437.01 through 437.02. (4-5-00)

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (4-5-00)

02. Cash. Cash gifts are excluded up to two thousand dollars ($2,000) for the calendar year the cash gifts are made. (4-5-00)

438. -- 450. (RESERVED)

451. DEEMING INCOME.
Income deeming counts the income of another person as available to an AABD participant, for eligibility and the amount of AABD cash. Income is deemed to the participant from his ineligible spouse. Income is deemed to the child participant from his ineligible parent. Income deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (7-1-99)

01. Ineligible Parent. A natural or adoptive father or mother, or a stepparent, who does not receive AABD and lives in the same household as a child. (7-1-99)

02. Ineligible Spouse. A participant's husband or wife, living with the participant, not receiving AABD is an ineligible spouse. The ineligible husband or wife, of the parent of a child participant, living with the child participant and his parent, is an ineligible spouse. (7-1-99)

03. Ineligible Child. A child under age twenty-one (21) who does not receive AABD, and lives with

the AABD participant. (7-1-99)

04. Income Deeming Exclusions. Income excluded from deeming is listed in Table 451.04.

TABLE 451.04 - INCOME DEEMING EXCLUSIONS			
Type of Income	**Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen**	**Essential Person**	**Sponsor of Legal Non-citizen**
Income excluded by Federal laws other than the Social Security Act.	Excluded	Excluded	Excluded
Public Income Maintenance Payments (PIM). Public income maintenance payments include TAFI, AABD, SSI, refugee cash assistance, BIA-GA, VA payments based on need, local, county and state payments based on need, and payments under the 1974 Disaster Relief Act.	Excluded	Not Excluded	Not Excluded
Income used by a PIM program for amount of payment to someone other than an SSI recipient.	Excluded	Not Excluded	Not Excluded
Grants, scholarships, fellowships.	Excluded	Not Excluded (unless excluded by Federal laws)	Not Excluded (unless excluded by Federal laws)
Foster care payments.	Excluded	Not Excluded	Not Excluded
Food Stamps and Dept. of Agriculture donated foods.	Excluded	Not Excluded	Not Excluded
Home grown produce.	Excluded	Not Excluded	Not Excluded
Tax refunds on real property or food.	Excluded	Not Excluded	Not Excluded
Income used in an approved plan for achieving self support (PASS).	Excluded	Not Excluded	Not Excluded
Income used to pay court ordered or Title IV-D support payments.	Excluded	Not Excluded	Not Excluded
Payments based to Alaskans based on age and residence.	Excluded (not applicable to children)	Not Excluded	Not Excluded
Disaster Assistance.	Excluded	Excluded	Excluded
Infrequent or irregular income.	Excluded	Not Excluded	Not Excluded
Blind Work Expenses (BWE).	Excluded	Not Excluded	Not Excluded
Payments to provide in-home support.	Excluded	Not Excluded	Not Excluded
Home energy assistance and support and maintenance assistance.	Excluded	Excluded	Excluded

TABLE 451.04 - INCOME DEEMING EXCLUSIONS			
Type of Income	**Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen**	**Essential Person**	**Sponsor of Legal Non-citizen**
Child's earned income, up to one thousand two hundred and ninety dollars ($1,290) per month and five thousand two hundred dollars ($5,200) per year.	Excluded (not applicable to spouses or parents)	Does Not Apply	Does Not Apply
Impairment-related work expenses (IRWE).	Excluded	Not Excluded	Not Excluded
Interest on burial funds, appreciation in the value of burial space purchase agreements excluded from resources and interest on the value of burial space purchase agreements.	Excluded	Not Excluded	Not Excluded

(5-3-03)

452. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT.
Income is deemed from an ineligible spouse to the participant, if they live together. Income is deemed as described in Subsections 452.01 through 452.08.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
Step		**Procedure**
01.	Compute Child's Living Allowance.	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining.
02.	Adjust Spouse Income with Child's Living Allowance	Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible spouse's gross unearned income, then from gross earned income.
03.	Add Adjusted Earned and Unearned Incomes	Add adjusted earned and unearned income. This is the deemed income of the ineligible spouse.
04.	Compute Participant's Needs as a Single Person	Compute the participant's budgeted AABD needs as if he was a single person, living alone.
05.	Deemed Income Equal to or Less Than One-Half of Participant's Needs	If the deemed income is equal to, or less than, one-half of the participant's budgeted needs, computed as if he was a single person living alone, no income is deemed from the ineligible spouse.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
	Step	**Procedure**
06.	Deemed Income More Than One-Half Participant's Needs	If the deemed income is more than one-half of the participant's budgeted needs, computed as if he was a single person living alone, continue the deeming process.
07.	Compute Participant's Income	Add the remaining earned and unearned ineligible spouse deemed income (after the ineligible child deduction) to the gross earned and unearned incomes of the participant. This is the total earned and unearned income. Subtract the standard disregard of twenty dollars ($20) from the total unearned income. If the total unearned income is less than twenty dollars ($20), subtract the remainder from the total earned income. Subtract the earned income disregard of sixty-five dollars ($65) from the earned income. Subtract one-half of the remaining earned income. Combine the remaining unearned income and the remaining earned income to compute the participant's total countable income. Determine the couple's budgeted needs as if they were an eligible couple. If the participant's countable income, including deemed income, is more than the couple's budgeted needs, the participant is ineligible. If the participant's countable income, including deemed income, is less than the couple's budgeted needs compute the participant's AABD cash.
08.	Determine AABD Cash	Subtract the participant's countable and deemed incomes from the couple's budgeted needs, to compute the budget deficit. Compute a second budget deficit, using the participant's income, and the single person budgeted needs. AABD cash is the smaller of the two (2) budget deficits.

(7-1-99)

453. DEEMING INCOME FROM INELIGIBLE PARENT TO AABD CHILD.
Income is deemed from an ineligible parent, or his ineligible spouse, to a child participant under age eighteen (18) living in the same household. A stepparent's income is deemed to the child for AABD cash, but not Medicaid. The income is deemed as described in Subsections 453.01 through 453.11.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
Step		**Procedure**
01.	Compute Child's Living Allowance	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining. Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible parents unearned income. If any living allowance remains subtract it from the parent's earned income.
02.	Remaining Parental Income	The parent may have remaining income. Go to Subsection 453.03.
03.	Subtract Income Disregard	Subtract one (1) standard twenty dollar ($20) disregard from the unearned income of the parents. If unearned income is less than twenty dollars ($20) subtract the balance of the twenty dollars ($20) from the earned income of the parents.
04.	Subtract Earned Income Disregard	Subtract one (1) sixty-five dollar ($65) earned income disregard from the earned income of the parents. Subtract one-half (1/2) of the remaining balance of the earned income of the parents.
05.	Combine Income	Combine any remaining parental earned income with any remaining parental unearned income.
06.	Compute Living Allowance for Parent	Compute a living allowance for the ineligible parent. For one (1) parent, the living allowance is the basic allowance for a person living alone. For two (2) parents, the living allowance is the basic allowance for a couple. A parent receiving public income maintenance payments does not get a living allowance.
07.	Subtract Living Allowance	Subtract the parent living allowance from the remaining balance of the parent's income. This is the deemed parental income.
08.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
Step		**Procedure**
09.	Subtract Disregard	Subtract the standard twenty dollar ($20) disregard from each child participant's unearned income, including deemed income. If a child's total unearned income is less than twenty dollars ($20), subtract the balance of the standard disregard from the child's earned income.
10.	Subtract Disregard	Subtract the sixty-five dollar ($65) earned income disregard and one-half of the balance from each child's own earned income.
11.	Combine Income	Combine each child's unearned income with his earned income. If the child's remaining countable income is less than his actual budgeted needs, the child has a budget deficit. If the child is otherwise eligible, his AABD cash is the budget deficit.

(7-1-99)

454. DEEMING INCOME FROM ESSENTIAL PERSON TO PARTICIPANT.
If a participant and an essential person live in the same household, the essential person's income is deemed to the participant. If essential person deeming makes the participant ineligible, do not use essential person deeming. The income is deemed as described in Subsections 454.01 through 454.06.

TABLE 454 - DEEMING FROM ESSENTIAL PERSON TO PARTICIPANTS		
Step		**Procedure**
01.	Compute Income	Compute the total earned and unearned income of the essential person. Subtract income exclusions.
02.	Subtract Disregard	Subtract income exclusions and disregards from the participant's income.
03.	Add Unearned Income	Add the income from Subsection 454.01 to the participant's unearned income.
04.	Add Earned Income	Add the participant's remaining earned income from Subsection 454.02 to the income in Subsection 454.03. This is the participant's countable income.
05.	Compute Needs	Compute the participant's budgeted needs, as though the participant and the essential person were an AABD couple.
06.	Subtract Income	Subtract participant's income in Subsection 454.04 from his budgeted needs. The difference is the participant's AABD cash.

(7-1-99)

455. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT.
If a participant, his ineligible spouse and their child participant live in the same household, income is deemed from the participant to the child participant. The income is deemed as described in Subsections 455.01 through 455.03.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
Step		**Procedure**
01.	Compute AABD cash	Use the procedures in Table 452, to determine if the participant is eligible for AABD cash. If the participant is eligible, no income is deemed to the child participant.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
	Step	**Procedure**
02.	Participant Not Eligible	If the participant has too much income, including deemed income, to be eligible for AABD cash, all income over the amount needed to reduce the participant's AABD cash to zero is deemed to the child participant.
03.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

(7-1-99)

456. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN PARTICIPANT -- NO I-864 AFFIDAVIT OF SUPPORT.
Deem income as described in this Section, if the legal non-citizen's sponsor signed an affidavit of support other than the I-864. The deemed income is counted, even if the participant does not live in the sponsor's household. The sponsor's income is not deemed to the participant for Medicaid. (7-1-99)

01. Three Year Limit. Effective October 1, 1996 the deeming period, regardless of admission date, is three (3) years after the date the legal non-citizen is lawfully admitted. Deeming stops the end of the month, three (3) years from the date the sponsored participant lawfully entered the U.S. for permanent residence. (7-1-99)

02. Sponsored Legal Non-Citizen Exempt from Deeming. A lawfully admitted legal non-citizen participant is exempt from sponsor deeming if one (1) or more of the conditions in Subsections 456.02.a. through 456.02.m. applies. (7-1-99)

a. Refugee. The legal non-citizen was admitted to the U.S. as a refugee, asylee, or parolee. (7-1-99)

b. Applied before October 1, 1980. The legal non-citizen first applied for AABD before October 1, 1980. (7-1-99)

c. Permanent resident. The legal non-citizen is a permanent resident under color of law. (7-1-99)

d. Sponsored with job. The legal non-citizen's entry into the U.S. was sponsored by a church, other social service organization, or an employer who has offered him a job. (7-1-99)

e. Blind or disabled. The legal non-citizen becomes blind or disabled after he is admitted to the U.S. (7-1-99)

f. Legal non-citizen lives with spouse. The legal non-citizen was sponsored by and resides in the same household with his ineligible spouse or ineligible parent. Use ineligible spouse and ineligible parent deeming, not sponsor deeming. (7-1-99)

g. Sponsor dies. The legal non-citizen's sponsor dies. (7-1-99)

h. Legalized legal non-citizen. The legal non-citizen was legalized under the Immigration Reform and Control Act of 1986. (7-1-99)

i. Resided for thirty-six (36) months. The legal non-citizen has lived in the U.S. for thirty-six (36)

months beginning with the month he was admitted for permanent residence or granted permanent residence status. (7-1-99)

j. Registry legal non-citizen. The legal non-citizen was admitted under Section 249 of the INA as a registry legal non-citizen. (7-1-99)

k. Amerasian legal non-citizen. The legal non-citizen is an applicant for permanent residence who is an Amerasian or a specified relative of an Amerasian. The Amerasian must be born in Vietnam between January 1, 1962 and January 1, 1976. A specified relative is a spouse, child, parent or stepparent of the Amerasian, or someone who has acted in the place of a parent of an Amerasian and/or his spouse or child. (7-1-99)

l. Cuban/Haitian. The legal non-citizen is an applicant for adjustment under the Cuban/Haitian provisions of Section 202 of the Immigration Reform and Control Act of 1986. (7-1-99)

03. Sponsor/Legal Non-Citizen Relationships. Sponsor/legal non-citizen relationships and deeming rules are listed in Subsections 456.03.a. through 456.03.f.

TABLE 456.03 - SPONSOR/LEGAL NON-CITIZEN RELATIONSHIPS AND DEEMING

	Step	Procedure
a.	Sponsor is Spouse	If the legal non-citizen's sponsor is his ineligible spouse, and the couple does not live together, sponsor to legal non-citizen deeming is used.
b.	Legal Non-Citizen is a Child	If the legal non-citizen is a child, and does not live with his sponsor parent(s), sponsor to legal non-citizen deeming is used.
c.	Child With Ineligible Parent	If the participant is a child whose ineligible parent(s) and sponsor both have income available for deeming to him, the income of the ineligible parent(s) is deemed as in Section 376.
d.	Child Eligible After Parent Deeming	If the child remains eligible after income is deemed from his ineligible parent(s), the sponsor's income is deemed to him under the sponsor to legal non-citizen deeming procedures.
e.	Participant Couple With Sponsors	If each member of a participant couple has his own sponsor, separate deeming computations are used. The couple's countable income includes the combined deemed incomes.
f.	Member of Couple Not Eligible	If one (1) member of a couple with separate sponsors is not eligible, the ineligible spouse's income is deemed to the participant as in Section 379. This is in addition to income deemed from the sponsor.

(7-1-99)

04. Sponsor to Legal Non-Citizen Deeming Procedures. Budget the legal non-citizen's actual needs, as if he is a single person living alone. Subtract the legal non-citizen's own income, less exclusions and disregards. Subtract the couple's income, less exclusions, from their needs. If there is no budget deficit, the participant is not eligible. If there is a budget deficit, follow the procedures in Subsections 456.04.a. through 456.04.d. to compute sponsor deemed income.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES

	Step	Procedure
a.	Compute Income	Compute the gross monthly earned and unearned income of the sponsor, and the sponsor's spouse, if living with him.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES		
Step		**Procedure**
b.	Subtract Living Allowance	Subtract a living allowance for the sponsor the sponsor's spouse, if living with him. The sponsor's living allowance is the basic allowance for a single person living alone. The living allowance for the sponsor's spouse is one-half the basic allowance for a single person living alone. Round up cents to the next dollar.
c.	Subtract Dependent Living Allowance	Subtract a living allowance for each dependent claimed by the sponsor on his most recent Federal tax return. Do not subtract an allowance for the sponsor's spouse in this step. The living allowance is one-half the basic allowance for a single person living alone. Round up cents to the next dollar. Do not reduce the living allowance by the dependent's income.
d.	Deem Income	Income remaining is deemed to the participant from the sponsor.

(7-1-99)

457. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN -- SPONSOR SIGNED INS FORM I-864 AFFIDAVIT OF SUPPORT.
If the legal non-citizen's sponsor has signed an INS form I-864 affidavit of support, all income of the sponsor and the sponsor's spouse is deemed to the legal non-citizen for AABD cash and Medicaid eligibility. Deeming continues until the legal non-citizen becomes a naturalized citizen or has forty (40) quarters of work. Exceptions are listed in Subsections 457.01 and 457.02. (3-15-02)

01. Battery Exception. The legal non-citizen, or the legal non-citizen child's parent, was battered or subjected to extreme cruelty in the U.S. There is a substantial connection between the battery and the participant's need for assistance. The person subjected to the battery or cruelty no longer lives with the person responsible for the battery or cruelty. (3-15-02)

02. Indigence. Alien sponsor deeming is suspended for twelve (12) months, if the legal non-citizen is not able to get food and shelter without AABD cash. (3-15-02)

458. -- 499. (RESERVED)

500. FINANCIAL NEED.
The participant has financial need if his allowances, as described in Sections 501 through 513 of these rules, are more than his income. (4-7-11)

501. BASIC ALLOWANCE.
Each participant receives a basic allowance unless he lives in a nursing facility. The basic allowance for each living arrangement is listed in Subsections 501.01 through 501.03 of this rule. The Semi-Independent Group Residential Facility, Room and Board, Residential and Assisted Living Facility and Certified Family Home basic allowances are those in effect January 1, 2001. They do not change with the annual cost-of-living increase in the federal SSI benefit amount. (4-7-11)

01. Single Participant. Through December 31, 2000, a participant is budgeted five hundred forty-five dollars ($545) monthly as a basic allowance when living in a situation described in Subsections 501.01.a. through 501.01.e. of these rules. Beginning January 1, 2001, the basic allowance increase for a single participant is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. (3-30-07)

a. Living alone. (7-1-99)

b. Living with his ineligible spouse. (7-1-99)

c. Living with another participant who is not his spouse. (7-1-99)

d. Living in another's household. This includes a living arrangement where the participant purchases lodging (room) and meals (board) from his parent, child or sibling. (3-30-01)

e. Living with his TAFI child. (7-1-99)

02. Couple or Participant Living with Essential Person. Through December 31, 2000, a participant living with his participant spouse or his essential person is budgeted seven hundred sixty-eight dollars ($768) monthly as a basic allowance. Beginning January 1, 2001, the basic allowance increase for a couple is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a couple. The increase may be rounded up. (3-30-01)

03. SIGRIF. A participant living in a semi-independent group residential facility (SIGRIF) is budgeted three hundred forty-nine dollars ($349) monthly as a basic allowance. (7-1-99)

502. SPECIAL NEEDS ALLOWANCES.
Special needs allowances are a restaurant meals allowance and a service animal food allowance. (4-11-06)

01. Restaurant Meals. The restaurant meals allowance is fifty dollars ($50) monthly. A physician must state the participant is physically unable to prepare food in his home. A participant able to prepare his food, but living in a place where cooking is not permitted, may be budgeted the restaurant meals allowance for up to three (3) months. (7-1-99)

02. Service Animal Food. The service animal food allowance is seventeen dollars ($17) monthly. The allowance is budgeted for a blind or disabled participant, using a trained service animal. (3-20-14)

503. -- 510. (RESERVED)

511. SEMI-INDEPENDENT GROUP RESIDENTIAL FACILITY (SIGRIF) ALLOWANCE.
The Adult Residential Care Committee (ARCC) must certify need for care, before the SIGRIF allowance can be budgeted. Through December 31, 2000, a participant's SIGRIF allowance is three hundred forty-one dollars ($341) monthly. Beginning January 1, 2001, the SIGRIF allowance increase is the dollar amount of the annual cost-of-living increase in the federal SSI benefit rate for a single person. (3-30-01)

512. ROOM AND BOARD HOME ALLOWANCE.
Room and board is a living arrangement where the participant purchases lodging (room) and meals (board) from a person he lives with who is not his parent, child or sibling. (3-30-07)

01. Budgeted Room and Board Allowance. Beginning January 1, 2006, a participant living in a room and board home is budgeted six hundred ninety-three dollars ($693). Beginning July 1, 2013, the Room and Board allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The room and board allowance increase will be rounded to the next dollar. (7-1-13)

02. Basic Allowance for Participant in Room and Board Home. A participant living in a room and board home is budgeted seventy-seven dollars ($77) monthly as a basic allowance. Beginning July 1, 2013, this basic allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded to the nearest dollar. (7-1-13)

513. RESIDENTIAL CARE OR ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.
A participant living in a Residential Care or Assisted Living Facility (RALF), in accordance with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho," or a Certified Family Home (CFH), in accordance with IDAPA 16.03.19, "Rules Governing Certified Family Homes," is budgeted a basic allowance of seventy-seven

dollars ($77) monthly. Beginning July 1, 2013, this basic allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded to the nearest dollar. (7-1-13)

01. Budgeted Monthly Allowance Based On Level of Care. A participant is budgeted a monthly allowance for care based on the level of care received as described in Section 515 of these rules. If the participant does not require State Plan Personal Care Services (PCS), his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (4-7-11)

02. Care Levels and Monthly Allowances. Beginning January 1, 2006, care levels and monthly allowances are those listed in Table 513.02 of these rules. Beginning July 1, 2013, the RALF and CFH allowances for participants living in a RALF or CFH on State Plan PCS will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. This increase will be rounded to the next dollar.

TABLE 513.02 - STATE PLAN PCS CARE LEVELS AND ALLOWANCES AS OF 1-1-06

	Level of Care	Monthly Allowance
a.	Level I	Eight hundred and thirty-five dollars ($835)
b.	Level II	Nine hundred and two dollars ($902)
c.	Level III	Nine hundred and sixty-nine dollars ($969)

(7-1-13)

03. CFH Operated by Relative. A participant living in a Certified Family Home (CFH) operated by his parent, child or sibling is not entitled to the CFH State Plan PCS allowances. He may receive the allowance for a person living with a relative as described in Section 501 of these rules. A relative for this purpose is the participant's parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent or grandchild by birth, marriage, or adoption. (3-30-07)

514. AABD CASH PAYMENTS.

Only a participant who receives an SSI payment for the month is eligible for an AABD cash payment in the same month. The AABD cash payment amount is based on the participant's living arrangement described in Subsections 514.01 through 514.04 of this rule. An AABD cash payment is the difference between a participant's financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. AABD cash is paid electronically as provided in IDAPA 16.03.20, "Electronic Payments of Public Assistance, Food Stamps, and Child Support." (4-7-11)

01. Single Participant Maximum Payment. For a single participant described in Section 501.01 of these rules, the maximum monthly AABD cash payment amount is fifty-three dollars ($53). (4-7-11)

02. Couple or Participant Living with Essential Person Maximum Amount. For participants described in Subsection 501.02 of these rules, the maximum monthly AABD cash payment amounts are: (4-7-11)

a. A couple receives twenty dollars ($20); or (4-7-11)

b. A participant living with essential person receives eighteen dollars ($18). (4-7-11)

03. Semi-Independent Group Maximum Payment. For a participant described in Subsection 501.03 and Section 511 of these rules, the maximum monthly AABD cash payment amount is one hundred sixty-nine dollars ($169). (4-7-11)

04. Room and Board Maximum Payment. For a participant described in Section 512 of these rules, the maximum monthly AABD cash payment is one hundred ninety-eight dollars ($198). (4-7-11)

05. RALF and CFH. A participant residing in a RALF or CFH is not eligible for an AABD cash payment. (4-7-11)

515. RESIDENTIAL AND ASSISTED LIVING FACILITY CARE AND CERTIFIED FAMILY HOME ASSESSMENT AND LEVEL OF CARE.
The participant's need for care, level of care, plan of care, and the licensed facility's ability to provide care is assessed by the Bureau of Long-Term Care Services (BLTCS) when a participant is admitted. The BLTCS must approve the placement before Medicaid can be approved. (3-20-14)

516. CHANGE IN LEVEL OF CARE.
A change in the participant's level of care affects eligibility as described in Subsections 516.01 and 516.02 of this rule. (4-7-11)

01. Increase in Level of Care. An increase in level of care is effective the month the BLTCS reassesses the level of care. (3-20-14)

02. Decrease in Level of Care. When the BLTCS verifies the participant has a decrease in his level of care, and his income exceeds his new level of care, his Medicaid must be stopped after timely notice. When the BLTCS determines the participant no longer meets any level of care, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (3-20-14)

517. -- 520. (RESERVED)

521. MOVE FROM RESIDENTIAL CARE AND ASSISTED LIVING FACILITY OR CERTIFIED FAMILY HOME TO LIVING SITUATION OTHER THAN A NURSING HOME OR HOSPITAL.
A participant may move from a licensed facility to a living situation, other than a nursing home or hospital. No change to his Medicaid income limit is made, based on the move, until the next month. (5-3-03)

522. -- 523. (RESERVED)

524. MOVE FROM NURSING HOME OR HOSPITAL.
If a participant moves from a nursing home or hospital to a different living situation, other than a residential and assisted living facility or certified family home, his AABD cash for the month is determined as if he lived in his new situation the entire month. His AABD cash is his AABD allowances less his countable income. (4-5-00)

525. -- 530. (RESERVED)

531. COUPLE BUDGETING.
Income of an AABD participant and his participant spouse living in the same household is combined. The twenty dollar ($20) standard income disregard and the sixty-five dollar ($65) earned income disregard are subtracted once a month, per couple. Each member of a couple living in an institution must have income budgeted as a single person. A couple living together as of the first day of a month, is counted as living together throughout that month. Budgeting as a couple continues through the month the couple stops living together. For couple budgeting, a household is a home, a rental, another's household, or room and board. (7-1-99)

532. -- 539. (RESERVED)

540. STANDARD DISREGARD.
The standard disregard is twenty dollars ($20). The standard disregard is first subtracted from unearned income. If the unearned income is less than the standard disregard, the remainder of the standard disregard is subtracted from earned income. The participant retains the standard disregard for his personal use. (3-15-02)

01. Standard Disregard and a Couple. Subtract the standard disregard only once a month from the combined income of a couple in the same household. (7-1-99)

02. Standard Disregard Exception. The standard disregard must not be subtracted from nonservice-

connected VA payments, Title IV-E foster care payments, or BIA General Assistance. (7-1-99)

541. SUBTRACTION OF EARNED INCOME DISREGARDS.
Earned income disregards are subtracted from AABD earned income in the order listed in Sections 542 through 547. They are subtracted the month the income is paid. (7-1-99)

542. SIXTY-FIVE DOLLAR EARNED INCOME DISREGARD.
Sixty-five dollars ($65) of earned income in a month are not counted. Subtract the sixty-five dollar ($65) disregard only once a month from the combined income of a couple in the same household. The sixty-five dollar ($65) disregard is a work incentive. The participant retains the sixty-five dollar ($65) disregard for his personal use. (3-15-02)

543. IMPAIRMENT-RELATED WORK EXPENSE (IRWE) DISREGARD.
Impairment-related work expenses are items and services needed and used by a disabled AABD participant to work. The items must be needed because of the participant's impairment. The items may be bought or rented. The cost for impairment-related work expenses is subtracted from the participant's earned income, for eligibility and AABD cash amount. An item disregarded as a blindness work expense, or as part of a PASS, cannot be disregarded as an impairment-related work expense. (7-1-99)

544. ONE-HALF REMAINING EARNED INCOME DISREGARD.
One-half (1/2) of remaining earned income, after the IRWE is subtracted, is not counted. The one-half (1/2) of remaining earned income is a work incentive. The participant retains the one-half (1/2) of remaining earned income for his personal use. (3-15-02)

545. BLINDNESS WORK EXPENSE DISREGARD.
The cost of earning income is subtracted from the earned income of a blind person. The blind person must be under age sixty-five (65). If the blind person is age sixty-five (65) or older, he must receive SSI for blindness, or have received AABD the month before he became sixty-five (65). (7-1-99)

01. Blind Work Expense Limit. Blindness work expenses are subtracted from earned income. The amount subtracted must not exceed the participant's monthly earnings. (7-1-99)

02. No Duplication for Blind Work Expenses. Expenses, subtracted under the impairment-related work expense disregard, cannot be subtracted again under this disregard. (7-1-99)

546. PLAN TO ACHIEVE SELF-SUPPORT (PASS).
A blind or disabled participant, with an approved plan to achieve self-support (PASS), must have income and resources disregarded. Conditions for this disregard are listed in Subsections 546.01 through 546.03. (7-1-99)

01. Under Age Sixty-Five. The participant must be under sixty-five (65), or receive AABD for the blind or disabled during the month of his sixty-fifth birthday. (7-1-99)

02. Approved PASS. A participant receiving SSI must have a PASS approved by SSA. A participant not receiving SSI must have a PASS approved by the Department. (7-1-99)

03. Income Necessary for Self-Support. The income and resources disregarded under the PASS must be necessary for the participant to achieve self-support. (7-1-99)

547. PASS APPROVED BY DEPARTMENT.
A PASS approved by the Department must be in writing. The PASS must contain all the items in Subsections 547.01 through 547.06. (7-1-99)

01. Occupational Objective. The PASS must have a specific occupational objective. (7-1-99)

02. Specific Goals. The PASS must have specific goals for using the disregarded income and resources to achieve self-support. (7-1-99)

03. **Time Limit**. The PASS must show a specific target date to achieve the goal. An approved PASS is limited to an initial period of eighteen (18) months. Extensions may be granted if needed. (7-1-99)

a. The first extension period lasts up to eighteen (18) months. (7-1-99)

b. A second eighteen (18) month extension period can be granted. (7-1-99)

c. A final extension, up to twelve (12) months can be granted. The PASS can be extended a total of forty-eight (48) months, when the original PASS goal required extensive education or vocational training. (7-1-99)

04. **No Duplication of Disregards**. An item disregarded as an impairment-related work expense or under the blindness exception cannot be disregarded under the PASS. (7-1-99)

05. **Resource Limitation**. The PASS disregard must not be used for resources, unless the resources cause the participant to be ineligible without the PASS disregard. (7-1-99)

06. **Disregard of Resources**. The PASS must list the participant's resources. The PASS must list any resources the participant will receive under the plan. The PASS must show how the resources will be used toward the occupational goal. The PASS must list goal-related items or activities requiring savings or purchases and the amounts the participant plans to save or spend. The PASS must list resources disregarded under the plan. The PASS must show resources disregarded under the plan can be identified separate from the participant's other resources. (7-1-99)

548. -- 599. (RESERVED)

600. DEPARTMENT NOTICE RESPONSIBILITY.
The participant must be notified of changes in eligibility or AABD cash amount. The notice must give the effective date, the reason for the action, the rule that supports the action, and appeal rights. (7-1-99)

601. ADVANCE NOTICE RESPONSIBILITY.
When a reported change results in closure or decrease, the participant must be notified at least ten (10) calendar days before the effective date of the action. (7-1-99)

602. ADVANCE NOTICE NOT REQUIRED.
Advance notice is not required when a condition listed in Subsections 602.01 through 602.12 exists. The participant must be notified by the date of the action. (7-1-99)

01. **Death of Participant**. The Department has proof of the participant's death. (7-1-99)

02. **Participant Request**. The participant requests closure in writing. (7-1-99)

03. **Participant in Institution**. The participant is admitted or committed to an institution. Further payments to the participant do not qualify for federal financial participation under the state plan. (7-1-99)

04. **Nursing Care**. The participant is placed in a nursing facility, or Intermediate Care for Persons with Intellectual Disabilities. (7-1-99)

05. **Participant Address Unknown**. The participant's whereabouts are unknown. Department mail is returned with no forwarding address. (7-1-99)

06. **Aid in Another State**. A participant is approved for aid in another state. (7-1-99)

07. **Eligible One Month**. The participant is eligible for aid only during the calendar month of his application for aid. (7-1-99)

08. **Non-Citizen With Emergency**. The participant is an illegal or legal non-citizen whose Medicaid eligibility ends the day his emergency medical condition stops. (7-1-99)

09. **Retroactive Medicaid**. The participant's Medicaid eligibility is for a prior period. (7-1-99)

10. **Special Allowance**. A special allowance granted for a specific period is stopped. (7-1-99)

11. **Patient Liability**. Patient liability or client participation changes. (7-1-99)

12. **Level of Care**. The participant's level of care changes. (7-1-99)

603. (RESERVED)

604. PARTICIPANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
If the SSA finds a participant is blind or disabled, based on an appeal of an SSA decision, the participant meets the disability requirements for AABD cash and related Medicaid on the effective date determined by SSA. AABD cash payments are effective no earlier than the month SSA issues the favorable decision for SSI payments. (4-7-11)

605. REPORTING REQUIREMENTS.
The participant must report changes in circumstances verbally or in writing, by the tenth of the month following the month in which the change occurred. The participant must show good cause for not reporting changes. If failure to report a change results in an overpayment, the overpayment must be recovered. (4-2-08)

606. REQUIRED PROOF.
The participant must prove continuing eligibility for aid when a change could affect eligibility. The participant is allowed ten (10) calendar days to provide requested proof. The case is closed if the participant does not provide proof within ten (10) days and does not have good cause for not providing proof. (7-1-99)

607. CHANGES AFFECTING ELIGIBILITY OR AABD CASH AMOUNT.
If a participant reports a change that results in an increase, AABD cash is increased effective the month of report. If a participant reports a change that results in a decrease, AABD cash is decreased or ended effective the first month after proper notice. (7-1-99)

608. AABD CASH UNDERPAYMENT.
If the Department is at fault for issuing a payment less than the participant should have received, the Department issues a supplemental payment for the difference. (7-1-99)

609. AABD CASH OVERPAYMENT.
If the participant is paid more AABD cash than he is eligible for, the Department must collect the overpayment. The Department must notify the participant of the right to a hearing, the method for repayment and the need for a repayment interview. (7-1-99)

610. OFFSET OF OVERPAYMENT AND UNDERPAYMENT.
When an underpayment is computed, any overpayment for that month is subtracted from the underpayment. When an overpayment is computed, any underpayment for the month is subtracted. (7-1-99)

611. -- 616. (RESERVED)

617. HEARING REQUEST.
A participant may request a hearing to contest a Department decision. The participant must make the request within thirty (30) days of the date the Department mailed the notice of decision. Hearings will be conducted according to IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-15-02)

618. CONTINUED BENEFITS PENDING A HEARING DECISION.
The participant may continue to receive benefits upon request, pending the hearing decision. The Department must receive the participant's request for continued benefits before the effective date of the Department's action stated in the notice of decision. An applicant cannot receive continued benefits when appealing a denial for failure to provide citizenship and identity verification after the expiration of a reasonable opportunity period. (3-20-14)

01. **Amount of Assistance**. The Department will continue the participant's assistance at the current

month's level while the hearing decision is pending, unless another change affecting assistance occurs. (3-15-02)

02. Continued Eligibility. The participant must continue to meet all eligibility requirements not related to the hearing issue. (3-15-02)

03. Overpayment. When the hearing decision is in the Department's favor, the participant must repay assistance received while the hearing decision was pending. (3-15-02)

619. (RESERVED)

620. MEDICAID OVERPAYMENT.
If the participant receives Medicaid services during a month he is not eligible, the Department must collect the overpayment. If too little patient liability or client participation is computed, the Department must collect the overpayment. The participant must be notified of the overpayment. (7-1-99)

621. CHANGES IN PATIENT LIABILITY.

01. Increase in Patient Liability. If the patient liability is increased for the current or a past month, the Department will collect the patient liability directly from the client. (3-20-14)

02. Decrease in Patient Liability. If the patient liability is decreased for a current or past month, the funds will be paid to the provider and the provider must reimburse the client for the portion of the costs the client paid in excess of their patient liability. (3-20-14)

622. (RESERVED)

623. ELIGIBILITY REDETERMINATION.
An eligibility redetermination is completed at least once every year and when a change affecting eligibility occurs. (7-1-99)

624. -- 649. (RESERVED)

650. COOPERATION WITH THE QUALITY CONTROL PROCESS.
When the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case. Benefits must be stopped, following advance notice, when a participant is unwilling to take part in the quality control process. If the participant reapplies for benefits he must fully cooperate with the quality control process before the application can be approved. (7-1-99)

651. -- 699. (RESERVED)

700. MEDICAID ELIGIBILITY.
A participant must meet the eligibility requirements for at least one (1) Medicaid coverage group to be eligible for Medicaid benefits. Income and circumstances in the current month are used for eligibility for the current month. Resources are counted as of the first moment of the month. (7-1-99)

701. MEDICAID APPLICATION.
An adult participant, a legal guardian or a representative of the participant must sign the application. The participant must submit the application to the Department. A Medicaid application may be made for a deceased person. (3-20-14)

702. MEDICAL SUPPORT COOPERATION.
Medical support rights are assigned to the Department by signature on the application. The participant must cooperate with the Department to secure medical support and payments, to be eligible for Medicaid. The participant must cooperate on behalf of himself and any participant for whom he can legally assign rights. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (7-1-99)

703. CHILD SUPPORT COOPERATION.
The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child medical support order, to be eligible for Medicaid. This includes support payments received directly from the noncustodial parent. The cooperation requirement is waived for poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support from, or derived from, the father of a child born out of wedlock. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (3-20-14)

704. COOPERATION DEFINED.
Cooperation includes, but is not limited to, providing all information to identify and locate the noncustodial parent. Cooperation for Medicaid includes identifying other liable third party payers. (7-1-99)

01. Name of Noncustodial Parent. The participant must provide the first and last name of the noncustodial parent. (7-1-99)

02. Information About Noncustodial Parent. The participant must also provide at least two (2) pieces of information, about the noncustodial parent, listed in Subsections 703.02.a. through 703.02.g. (7-1-99)

a. Birth Date. (7-1-99)

b. Social Security Number. (7-1-99)

c. Current address. (7-1-99)

d. Current phone number. (7-1-99)

e. Current employer. (7-1-99)

f. Make, model, and license number of any motor vehicle owned by the noncustodial parent. (7-1-99)

g. Names, phone numbers and addresses of the parents of the noncustodial parent. (7-1-99)

705. GOOD CAUSE FOR NOT COOPERATING IN SECURING MEDICAL AND CHILD SUPPORT.
The participant may claim good cause for failure to cooperate in securing medical and child support for himself or a minor child. Good cause is limited to the reasons listed in Subsections 705.01 through 705.03. (7-1-99)

01. Rape or Incest. There is proof the child was conceived as a result of incest or rape. (7-1-99)

02. Physical or Emotional Harm. There is proof the child's non-custodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent or the caretaker relative. There is proof another person may inflict physical or emotional harm to an AABD-related participant if the participant cooperates in securing medical and child support. (7-1-99)

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. (7-1-99)

706. CLOSURE AFTER REVIEW OF GOOD CAUSE REQUEST.
If the participant claims good cause for not cooperating, but the Department determines there is not good cause, the participant must be given the opportunity to withdraw the application or have his Medicaid closed. (7-1-99)

707. APPLICATION REQUIREMENTS FOR POTENTIAL MEDICAL COVERAGE.

01. Group Health Plan Enrollment Requirement. Each participant must apply for and enroll in a cost-effective employer group health plan as a condition of eligibility for Medicaid. Medicaid coverage must not be denied, delayed, or stopped pending the start of a participant's group health insurance coverage. A child entitled to enroll in a group health plan must not be denied Medicaid coverage solely because his caretaker fails to apply for the child's enrollment. (3-30-07)

02. Medicare Enrollment Requirement. Each participant who may be eligible for Medicare must apply for all parts of Medicare parts A, B, and D for which he is likely to be eligible, as a condition of eligibility for Medicaid. (3-30-07)

708. MEDICAID QUALIFYING TRUST PAYMENTS.
For Medicaid Qualifying Trusts established before August 11, 1993, the maximum payment permitted to be made to a participant from the trust must be counted for Medicaid eligibility. The maximum is counted whether or not the trustee actually distributes payments. (7-1-99)

709. MEDICAID ELIGIBILITY FOR AABD PARTICIPANT.
A participant eligible for AABD cash is eligible for Medicaid, unless he is in an ineligible institution, receives excess payment from a Medicaid Qualifying Trust, or has an irrevocable trust that is not exempt. (7-1-99)

710. -- 719. (RESERVED)

720. LONG-TERM CARE RESIDENT AND MEDICAID.
A resident of a long-term care facility must meet the AABD eligibility criteria to be eligible for Medicaid. A long-term care facility is a nursing facility or an intermediate care facility for persons with intellectual disabilities. The need for long-term care is determined using IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

01. Resources of Resident. The resident's resource limit is two thousand dollars ($2,000). Resources of a married person in long-term care are computed using Federal Spousal Impoverishment rules. Under the SSI method, spouses can use the three thousand dollar ($3,000) couple resource limit if more advantageous. The couple must have lived in the nursing home, in the same room, for six (6) months. (3-20-04)

02. Medicaid Income Limit of Long-Term Care Resident Thirty Days or More. The monthly income limit for a long-term care facility resident is three (3) times the Federal SSI benefit for a single person. To qualify for this income limit the participant must be, or be likely to remain, in long-term care at least thirty (30) consecutive days. (3-20-04)

03. Medicaid Income Limit of Long-Term Care Resident Less Than Thirty Days. The monthly income limit, for the resident of a long-term care facility for less than thirty (30) consecutive days, is the AABD income limit for the participant's living situation before long-term care. Living situations before long-term care do not include hospital stays. (7-1-99)

04. Income Not Counted. The income listed in Subsections 720.04.a. through 720.04.e. of these rules is not counted to compute Medicaid eligibility for a long-term care facility resident. This income is counted in determining participation in the cost of long-term care. (4-2-08)

a. Income excluded or disregarded, in determining eligibility for AABD cash, is not counted. (3-20-04)

b. The September 1972 RSDI increase is not counted. (3-20-04)

c. Any VA Aid and Attendance allowance, including any increment which is the result of a VA Unusual Medical Expense allowance, is not counted. These allowances are not counted for patient liability, unless the veteran lives in a state operated veterans' home. (3-20-04)

d. RSDI benefit increases, from cost-of-living adjustments (COLA) after April 1977, are not counted if they made the participant lose SSI or AABD cash. The COLA increases after SSI or AABD cash stopped are not counted. (3-20-04)

e. Income paid into an income trust exempt from counting for Medicaid eligibility under Subsection 872.02 of these rules is used for patient liability. Income paid to the trust and not used for patient liability, is subject to the asset transfer penalty. (3-20-04)

721. QUALIFIED LONG-TERM CARE PARTNERSHIP POLICY.
Participants who have received, or are entitled to receive, benefits under a Qualified Long-Term Care Partnership policy issued in Idaho after November 1, 2006, will have certain resources disregarded as described in Subsections 721.01 and 721.02 of these rules. (4-2-08)

01. Value of the Participant's Resources. The total dollar amount of the insurance benefits paid out for a policy holder of a Qualified Long-Term Care Partnership policy is disregarded in calculating the value of the participant's resources for long-term care Medicaid eligibility. The amount that is disregarded is determined on the effective date of an initial application approval for long-term care Medicaid benefits. (4-2-08)

02. Resource Disregard Excluded From Estate Recovery. The amount of the resources disregarded from a Qualified Long-Term Care Partnership policy under Subsection 721.01 of this rule, is deducted from the assets of the estate for Medicaid estate recovery. (4-2-08)

722. PATIENT LIABILITY.
Patient liability is the participant's income counted toward the cost of long-term care. Patient liability begins the month after the first full calendar month the patient is receiving benefits in a long-term care facility. (4-11-15)

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.
For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03 of this rule. (5-3-03)

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03 of this rule. (5-3-03)

02. Community Property Income of Long-Term Care Participant with Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (7-1-99)

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03 subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (3-15-02)

a. AABD Income Exclusions. Subtract income excluded in determining eligibility for AABD cash. (7-1-99)

b. Aid and Attendance and UME Allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home. (3-30-01)

c. SSI Payment Two (2) Months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (7-1-99)

d. AABD Payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (7-1-99)

e. First Ninety ($90) Dollars of VA Pension. Subtract the first ninety ($90) dollars of a VA pension for a veteran in a private long-term care facility or a State Veterans Nursing Home. (5-3-03)

f. Personal Needs. Subtract forty dollars ($40) for the participant's personal needs. For a veteran or surviving spouse in a private long-term care facility or a State Veterans Nursing Home the first ninety ($90) dollars of VA pension substitutes for the forty dollar ($40) personal needs deduction. (5-3-03)

g. Employed and Sheltered Workshop Activity Personal Needs. For an employed participant or participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of two hundred dollars ($200) or his gross earned income. The participant's total personal needs allowance must not exceed two hundred and thirty dollars ($230). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed two hundred dollars ($200). This is a deduction only. No actual payment can be made to provide for personal needs. (3-30-01)

h. Home Maintenance. Subtract two hundred and twelve dollars ($212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (7-1-99)

i. Maintenance Need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (7-1-99)

j. Medicare and Health Insurance Premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (7-1-99)

k. Mandatory Income Taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (7-1-99)

l. Guardian Fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee is the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly. (3-20-14)

m. Trust Fees. Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust. (7-1-99)

n. Impairment Related Work Expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services that are purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (3-20-14)

o. Income Garnished for Child Support. Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the maintenance need standard. (3-30-01)

p. Incurred Medical Expenses. Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount. (4-11-15)

q. Pre-existing Medical Expenses. Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero. (3-25-16)

724. INCOME OWNERSHIP OF PARTICIPANT WITH COMMUNITY SPOUSE.
Income ownership of a long-term care participant with a community spouse is determined before patient liability is computed. The participant's income ownership is counted as shown in Subsections 724.01 through 724.04. (7-1-99)

01. Income Paid in the Name of Spouse. Income paid solely in the name of a spouse, and not paid from a trust, is the separate income of the spouse. (7-1-99)

02. Payment in Name of Both Spouses. Income paid in the names of both the long-term care participant and the community spouse is divided evenly between each spouse. (7-1-99)

03. Payment in Name of Spouse or Spouses and Another Person. Income paid in the names of the participant and/or the community spouse and another person is counted as available to each spouse, in proportion to the spouse's ownership. If payment is made to both spouses, and no proportion of ownership is specified, one-half of the income is counted to each spouse. (7-1-99)

04. Payment of Aid and Attendance. In the case of VA Aid and Attendance Allowance paid in the veteran's name, with an increment for the veteran's spouse, the increment is counted to the veteran. (7-1-99)

725. PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE.
After income ownership is decided, patient liability is determined using steps in Table 725.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY

	Step	Procedure
01.	AABD Income Exclusions	Subtract income excluded in determining eligibility for AABD cash.
02.	Aid and Attendance and UME Allowances	Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home.
03.	SSI Payment Two (2) Months	Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility.
04.	AABD Cash	Subtract the AABD cash payment and income used to compute AABD cash, for a participant eligible to have his AABD cash continued up to three (3) months, while he is in long-term care.
05.	VA Pension	Subtract the first ninety (90$) of the VA pension for a veteran.
06.	Personal Needs	Subtract forty dollars ($40) for the participant's personal needs. Do not allow this deduction for a veteran.
07.	Employed and Sheltered Workshop Activity Needs	For an employed participant or participant engaged in sheltered workshop or work activity center activities subtract the lower of two hundred dollars ($200) or his earned income.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
	Step	**Procedure**
08.	Community Spouse Allowance: Step a.	Compute the Community Spouse Allowance (CSA) using Step a. through Step c. Compute the Shelter Adjustment. Add the current Food Stamp Program Standard Utility Allowance to the community spouse's shelter costs. Shelter costs include rent, mortgage principal and interest, homeowner's taxes, insurance, and condominium or cooperative maintenance charges. The Standard Utility Allowance must be reduced by the value of any utilities included in maintenance charges for a condominium or cooperative. Subtract the Shelter Standard from the shelter and utilities. The Shelter Standard is thirty percent (30%) of one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the Federal Office of Management and Budget (OMB) for a family of two (2) persons. The Shelter Adjustment is the positive balance remaining.
09.	Community Spouse Allowance: Step b.	Compute the Community Spouse Need Standard (CSNS). Add the Shelter Adjustment to the minimum CSNS. The minimum CSNS equals one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the OMB for a family unit of two (2) members. The minimum CSNS is revised annually in July. The total CSNS may not exceed the maximum CSNS. The maximum CSNS is computed by multiplying one thousand five hundred dollars ($1,500) by the percentage increase in the consumer price index for all urban Consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The maximum CSNS is revised annually in January.
10.	Community Spouse Allowance: Step c.	Compute the Community Spouse Allowance. Subtract the community spouse's gross income from the CSNS. The community spouse’s income includes income produced by his resources. Round any remaining cents to the next higher dollar. Any positive balance remaining is the CSA. The CSA is subtracted as actually paid to the community spouse, up to the computed maximum. A larger spouse support amount must be used as the CSA, if court-ordered. The CSA ordered by a court is not subject to the CSA limit.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		**Procedure**
11.	Family Member Allowance (FMA)	Compute the family member's gross income. Subtract the family member's gross income from the minimum CSNS. Divide the difference by three (3). Round cents to the next higher dollar. Any remainder is the FMA for that family member. The FMA is allowed, whether or not it is actually paid by the participant. A family member is, or could be claimed, as a dependent on the Federal income tax return of either spouse. The family member must be a minor or dependent child, dependent parent or dependent sibling of either spouse. The family member must live in the community spouse's home.
12.	Medicare and Health Insurance Premiums	Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Do not subtract the Medicare Part B premiums if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed.
13.	Mandatory Income Taxes	Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income.
14.	Guardian Fees	Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly.
15.	Trust Fees	Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust.
16.	Impairment Related Work Expenses	Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged.
17.	Income Garnisheed for Child Support	Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the Family Member Allowance.
18.	Incurred Medical Expenses	Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		**Procedure**
19.	Pre-existing Medical Expenses	Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero.

(3-25-16)

726. PERSONAL NEEDS SUPPLEMENT (PNS).
A nursing home participant may receive a PNS to bring his gross income up to forty dollars ($40). Gross income is income after exclusions and before disregards. Gross income includes money withheld to recover an AABD overpayment. The PNS is the difference between the participant's gross income and forty dollars ($40). If not in an even dollar amount, the PNS is rounded up to the next dollar. The participant's income including the PNS must not exceed forty dollars ($40). (3-15-02)

727. FAIR HEARING ON CSA DECISION.
Either spouse may ask for a fair hearing, to show the community spouse needs a higher CSA. The hearing officer must consider if, due to unusual conditions, using the computed CSA causes significant financial hardship for the community spouse. If the fair hearing decision finds the community spouse needs more income than the CSA, the CSA must include the additional income. (7-1-99)

728. -- 730. (RESERVED)

731. MEDICAID ELIGIBILITY OF MARRIED PERSONS.
There are three (3) methods for Medicaid eligibility of an aged, blind, or disabled married person: The SSI method, the Community Property (CP) method, and the Federal Spousal Impoverishment (FSI) method. The FSI method takes precedence. If the participant is not subject to the FSI method, the CP or SSI methods can be used. (7-1-99)

732. CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD.
Table 732 is used determine the resource counting method for a married person. If an HCBS participant with a spouse at home is not eligible using the FSI method, resources are computed using the SSI/CP method.

TABLE 732 - CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP

TABLE 732 - CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD					
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	SSI/CP	FSI	SSI/CP	SSI/CP	FSI
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

733. CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD.
Table 733 is used determine the income counting method for a married person. If a participant subject to the FSI method is not eligible using FSI, income is computed using the SSI/CP method.

TABLE 733 - CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	FSI	FSI	SSI/CP	FSI	FSI

TABLE 733 - CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD					
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

734. CHOOSING FSI, SSI, OR CP PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD. Table 734 is used determine the patient liability or client participation method for a married participant in long term care or receiving HCBS.

TABLE 734 - PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD					
	SPOUSE ONE IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE AT HOME NO HCBS	SPOUSE ONE AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO AT HOME NO HCBS	FSI	FSI	N/A	FSI	FSI
SPOUSE TWO AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

735. FEDERAL SPOUSAL IMPOVERISHMENT (FSI) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The FSI method must be used to compute income and resources of a married participant, who requires long-term care as defined in Section 005 of these rules, and who has a community spouse. The participant must have entered long-term care on or after September 30, 1989. Terms used in the FSI method are listed in Subsections 735.01 through 735.05 of this rule. (4-2-08)

01. Long-Term Care Spouse. The long-term care spouse must be in a medical institution or nursing facility, or be an HCBS participant, for thirty (30) consecutive days, or appear likely to meet the thirty (30) days requirement. (7-1-99)

02. Community Spouse. The community spouse is the husband or wife of the long-term care participant. A community spouse is not in long-term care and is not an HCBS participant. (7-1-99)

03. Continuous Period of Long-Term Care. A continuous period of long-term care is a period of residence either in a medical institution with nursing facility services, or at home with HCBS. A continuous period of long-term care is also a combination of institution and personal care services likely to last at least thirty (30) consecutive days. Absence from the institution, or a lapse in HCBS eligibility, of thirty (30) consecutive days breaks continuity. The thirty (30) consecutive days of long-term care must not begin on a day the participant is hospitalized. If the participant is hospitalized after the first day of the thirty (30) consecutive days, the hospital stay does not interrupt the thirty (30) consecutive days. (7-1-99)

04. Start of Continuous Period. The start of a continuous period of long-term care is the first month of long-term care or HCBS. (7-1-99)

05. Nursing Facility Services. Nursing facility services are services at the nursing facility level or the intermediate care for persons with intellectual disabilities level provided in a medical institution. (7-1-99)

736. ASSESSMENT DATE AND COUNTING FSI RESOURCES.
The assessment date is the start date of the first continuous period of long-term care. The Department does a one-time assessment to determine the value of the couple's community and separate resources as of the date of the first continuous period of long-term care. The resource assessment is done at the request of either spouse, after one spouse is in long-term care or meets the level of care for HCBS, whether or not the couple has applied for Medicaid. State laws relating to community property or the division of marital property are not applied in determining the FSI total combined resources of the couple. (4-2-08)

737. TREATMENT OF RESOURCES FOR ASSESSMENT.
The resource rules used in determining eligibility for AABD cash and Medicaid are also used in determining the couple's total combined resources for the FSI resource assessment with the following exceptions: (4-2-08)

01. Resources For Sale. Excess resources offered for sale, are not excluded from the couple's total combined resources for the FSI resource assessment. (3-30-07)

02. Jointly Owned Real Property. Jointly owned real property that is not the principal residence of the participant, is not excluded, if the community spouse is the joint owner. (3-30-07)

03. Long-term Care Partnership Policy. Resources excluded because of a participant's qualified long-term care policy are not excluded for the FSI resource assessment. (4-2-08)

04. Excluded Home. As defined in 42 U.S.C. 1396r-5(c)(5), an excluded home placed in trust retains its exclusion for purposes of the resource assessment. (3-30-07)

738. ONE-HALF SPOUSAL SHARE.
The spousal share is one-half (1/2) of the couple's total combined resources on the assessment date. The spousal share does not change, even if the participant leaves long-term care and then enters long-term care again. The Department must inform the couple of the resources counted in the assessment and the value assigned. The couple must sign the assessment form under penalty of perjury. The signature requirement may be waived for the long-term care spouse if

he or his representative says he is unable to sign the resources assessment. A copy of the assessment form must be provided to each spouse when eligibility is determined or when either spouse requests a assessment prior to application. (7-1-99)

739. -- 741. (RESERVED)

742. COMMUNITY SPOUSE RESOURCE ALLOWANCE.
The CSRA protects resources for the community spouse. The CSRA is determined by subtracting the greater of the minimum resource allowance, or the spousal share from the couple's total combined resources as of the first day of the application month. The deduction must not be more than the maximum resource allowance at the time eligibility is determined. (4-11-06)

743. RESOURCE ALLOWANCE LIMITS.
The maximum resource allowance is computed by multiplying sixty thousand dollars ($60,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The minimum resource allowance is computed by multiplying twelve thousand dollars ($12,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. If the result is not an even one hundred dollar ($100) amount, round up to the next one hundred dollars ($100). The couple's resources exceeding the CSRA are counted for the long-term care spouse. (7-1-99)

744. INCOME COUNTED FIRST FOR CSRA REVISION.
Income is determined prior to determining resources. If the couple's income is more than the minimum CSNS, the CSRA cannot be increased. If the community spouse has less income than the minimum CSNS, the CSRA may be increased as provided in Section 745 of these rules. Couple income is the community spouse's gross income plus the long-term care spouse's income. The long-term care spouse's income is his gross income less the AABD cash income exclusions and his patient liability income deductions, but not the CSA deduction. (4-2-08)

745. UPWARD REVISION OF CSRA.
If the community spouse's income, including income from his CSA and income-producing resources in his CSRA, is less than the minimum CSNS, the CSRA may be increased. The CSRA is increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSNS Resources included in the transfer are presumed to produce income at the treasury rate, whether or not the resources produce income. If the community spouse shows he is making reasonable use of his income and resources, to generate income, the Department may waive the treasury rate requirement. Actual income produced by the resources transferred to the community spouse is used to compute the CSA. A higher CSA can be requested under Section 727 of these rules. If the transferred resources produce more than the treasury rate, the actual income produced is used to determine the additional resources that can be transferred to the community spouse in the CSRA. The long-term care spouse must transfer the resources to the community spouse, or the CSRA is not revised. (4-2-08)

746. RESOURCE TRANSFER ALLOWANCE (RTA).
The resource transfer allowance (RTA) is computed by subtracting the community spouse's resources, at the time of application, from the CSRA. The community spouse must own less than the CSRA to get an RTA. The long term care spouse may transfer the RTA to the community spouse without an asset transfer penalty. If the institutional spouse transfers more than the RTA, the amount of the couple's resources over the CSRA counts as the institutional spouse's resources. After the month a long-term care spouse is determined Medicaid eligible under FSI, resources of the community spouse are not considered available to the him while he remains in long-term care. (7-1-99)

747. PROTECTED PERIOD FOR RTA TRANSFER.
The long-term care spouse has sixty (60) days, from the date his application is approved, to transfer his ownership of the RTA resources to the community spouse. The long-term care spouse must state, in writing, his intent to transfer the RTA resources to the community spouse, within the protected period, before he can be Medicaid eligible. Resources not transferred within the sixty (60) day protected period are available to the long-term care spouse, effective the day he entered the facility. (7-1-99)

748. EXTENSION FOR RTA TRANSFER.
The protected period can be extended beyond sixty (60) days if necessary because of the participant's circumstances.

(7-1-99)

749. RESOURCE ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's resources are counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. For the month the couple stopped living together, resources of the community spouse available for his Medicaid eligibility are the resources owned by the couple. (7-1-99)

750. INCOME ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's income is counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. The community spouse may choose between the SSI and CP methods for determining income for Medicaid eligibility. (7-1-99)

751. CHANGE IN CIRCUMSTANCES.
The FSI method of calculating income and resources stops the first full calendar month after a change in circumstances resulting in a couple no longer having a community spouse and a long-term care spouse. (7-1-99)

752. NOTICE AND HEARING.
The Department must tell the participant the CSA, the family member allowance, the CSRA and how it was computed, and RTA. Any hearing requested about the CSRA or the RTA must be held within thirty (30) days of the date of the request for hearing. (7-1-99)

753. -- 760. (RESERVED)

761. CHOICE OF SSI OR CP METHODS.
A married participant, not using FSI, must be furnished a written explanation of SSI and CP income and resource counting methods. The couple chooses the most useful method, based on their circumstances. The same method must be used for both spouses. (7-1-99)

762. SSI METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The SSI method is the same method used to count income and resources for AABD cash. Income and resources of the participant and spouse are counted as mutually available. This method must be used for months either spouse gets SSI or AABD cash, or an SSI and/or AABD application is filed and approved. This method must be used for Medicaid eligibility, and liability for the cost of long-term care, whether one (1) or both spouses apply for Medicaid. For long-term care, the couple's income and resources are mutually available when one (1) or both spouses apply during the month they separated, because one (1) or both left their mutual home to enter a long-term care facility. (7-1-99)

763. COMMUNITY PROPERTY (CP) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
A married participant in long-term care, whose spouse is not in the community, can use the CP method. A married participant using the FSI method, but not income eligible using FSI, may choose the CP method for income eligibility. The CP method must not be used for the FSI participant's resource eligibility or patient liability. (7-1-99)

764. CP METHOD.
The CP method gives each spouse has an equal one-half (1/2) share of the couple's community income and resources. Each spouse also has his or her own separate income and resources. Whether the spouses live together or, if not living together, the length of time they have lived apart, does not change the way income and resources are counted. A spouse's property includes income, personal property and real property. The income and resources of a married couple acquired during the marriage are presumed to be community property of the couple. The couple can give evidence to rebut the presumption that property acquired during the marriage is community property. (7-1-99)

765. TRANSFER OF RIGHTS TO FUTURE INCOME NOT VALID.
An agreement between spouses, transferring or assigning rights to future income from one (1) spouse to the other, is not valid for eligibility for Medicaid. (7-1-99)

766. CP METHOD NEED STANDARD.
The participant is budgeted as a single person if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. The participant and spouse are budgeted as a couple if they both

apply, and live together, or if they were living together on the first day of the month. (7-1-99)

767. CP METHOD RESOURCE LIMIT.
The participant's resource limit is two thousand dollars ($2,000) if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. The participant and spouse have a resource limit of three thousand dollars ($3,000) if they both apply, and live together, or if they were living together on the first day of the month. (7-1-99)

768. CP METHOD INCOME DISREGARDS.
The participant gets the twenty dollar ($20) standard disregard if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. If the participant has earned income, he gets the sixty-five dollar plus one-half ($65 + 1/2) of the remainder earned income disregard. The participant and spouse get the standard disregard on their combined unearned income if they both apply, and live together, or if they were living together on the first day of the month. If either spouse has earned income, they get the earned income disregard from their combined earned income. (7-1-99)

769. -- 775. (RESERVED)

776. 1972 RSDI RECIPIENT.
A participant remains eligible if he meets any of the conditions in Subsections 776.01 through 776.03 and all other Medicaid eligibility requirements. (7-1-99)

01. Money Payment in August 1972. In August 1972, the participant was eligible for, or received, a state money payment of OAA, AB, APTD or Aid to Families with Dependent Children (AFDC). (7-1-99)

02. Eligible If Not in Institution. The participant would have been eligible for OAA, AB, APTD or Aid to Families with Dependent Children (AFDC) if he were not in a medical institution or intermediate care facility in August 1972. (7-1-99)

03. Getting RSDI in August 1972. The participant received RSDI benefits in August 1972, and became ineligible for a state money payment due to the RSDI benefit increase effective in September 1972. (7-1-99)

777. ELIGIBLE SSI RECIPIENT.
An SSI recipient, or an individual who would be SSI eligible if he applied, is eligible for Medicaid if he meets any of the conditions in Subsections 777.01 through 777.03. (7-1-99)

01. Receives SSI. Gets SSI payments, even if eligibility is based on presumptive disability or presumptive blindness. (7-1-99)

02. Conditionally Eligible. Is conditionally eligible for SSI, based on an agreement to dispose of excess resources. (7-1-99)

03. Eligible Spouse. Has his SSI payments combined with his spouse's SSI payments. (7-1-99)

778. INELIGIBLE SSI RECIPIENT.
An SSI recipient is not eligible for Medicaid if he meets any of the conditions in Subsections 778.01 through 778.04. (7-1-99)

01. Medicaid Qualifying Trust. Has excess income from a Medicaid Qualifying Trust, created and funded before August 11, 1993. (7-1-99)

02. Noncooperation. Fails to cooperate in establishing paternity or securing support. (7-1-99)

03. Institution. Is in an ineligible institution. (7-1-99)

04. Trust. Has a trust that makes him ineligible for Medicaid. (7-1-99)

779. PSYCHIATRIC FACILITY RESIDENT.
A resident of a long-term care psychiatric medical facility, is eligible for Medicaid if he is age sixty-five (65) or older. He must meet all the requirements of a long-term-care resident. (7-1-99)

780. GRANDFATHERED SSI RECIPIENT.
A grandfathered SSI recipient is eligible for Medicaid. A grandfathered SSI recipient received, or was eligible to receive, APTD, APTD-MA, AB or AB-MA or APTD-MA in long-term care on December 31, 1973, or had an application for this assistance on file December 31, 1973. (7-1-99)

01. Disability and Blindness Criteria. The grandfathered SSI recipient must have been eligible under the disability criteria for APTD or the blindness criteria for AB in effect on December 31, 1973. For each consecutive month after December 1973, the grandfathered SSI recipient must continue to meet the criteria for disability or blindness. (7-1-99)

02. Eligibility Requirements. The grandfathered SSI recipient must meet all current Medicaid rules, except the criteria for blindness or disability. A long-term care participant must also remain in long-term care, and continue to need long-term care. (7-1-99)

781. RSDI RECIPIENT ENTITLED TO COLA DISREGARD.
A participant receiving RSDI is eligible for Medicaid if he became and remains ineligible for AABD cash or SSI payments after April, 1977. The participant must still be entitled to AABD cash or SSI, except for a cost-of-living adjustment (COLA) in RSDI benefits. All RSDI COLAs received by the participant, and any person whose income and resources are counted in determining the participant's eligibility, are disregarded for Medicaid. (7-1-99)

782. MEDICAID BENEFITS UNDER SECTION 1619(B) OF THE SOCIAL SECURITY ACT.
A participant may be eligible for Medicaid under Section 1619(b) of the Social Security Act either under federal or state criteria, depending on his circumstances. (4-11-06)

01. Federally Qualified Under SSA Section 1619(b). An SSI recipient with a disability, previously eligible for SSI cash, who, because of earnings from employment, no longer meets the financial eligibility requirements for SSI cash, is eligible for Medicaid. SSA determines the qualification for eligibility under Section 1619(b). (4-11-06)

02. State-Only Qualified Under SSA Section 1619(b). An AABD cash participant with a disability, who, because of earnings from employment, no longer meets the financial eligibility requirements for AABD cash, may be eligible for Medicaid. The Department determines eligibility for State-only Section 1619(b) Medicaid. State-only Section 1619(b) Medicaid is authorized under Section 1905(q) of the Social Security Act. (4-11-06)

a. Eligibility Requirements. A participant must meet all of the following requirements to be eligible for State-only 1619(b) Medicaid: (4-11-06)

i. The participant received AABD cash in the month prior to the first month of his eligibility under this Section of rule. (4-11-06)

ii. The participant is under age sixty-five (65). (4-11-06)

iii. The participant continues to have a disability. (4-11-06)

iv. The participant must depend on Medicaid coverage to continue working. An individual depends on Medicaid coverage if he: (4-11-06)

(1) Used Medicaid coverage within the past twelve (12) months; or (4-11-06)

(2) Expects to use Medicaid coverage in the next twelve (12) months; or (4-11-06)

(3) Would be unable to pay unexpected medical bills in the next twelve (12) months without Medicaid coverage. (4-11-06)

v. The participant is not able to afford medical insurance equivalent to Medicaid, including attendant care. The participant meets this requirement if his earnings are under the limit referred to in Subsection 782.02.a.vii. of this rule. (4-11-06)

vi. The participant continues to meet all of the non-disability eligibility requirements in these rules. (4-11-06)

vii. The participant's annual gross earned income is less than the current calendar year's charted threshold for Idaho as developed by SSA for federal qualification for Section 1619(b) Medicaid. The charted threshold for Idaho is online at http://policy.ssa.gov/poms.nsf/lnx/0502302200. (4-11-06)

b. Ending State-Only 1619(b) Medicaid. State-only Section 1619(b) Medicaid ends when the participant meets one (1) of the following criteria: (4-11-06)

i. The participant is no longer eligible for AABD cash for a reason other than excess earned income; (4-11-06)

ii. The participant's gross earned income is equal to or more than the current calendar year's annual earnings threshold for Idaho developed by the Social Security Administration for Federal Section 1619(b) Medicaid; (4-11-06)

iii. The participant is age sixty-five (65) or older; or (4-11-06)

iv. The participant regains eligibility for AABD cash. (4-11-06)

783. APPEAL OF SSA DECISION - APPLICANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
An applicant denied Medicaid, because he does not meet SSI eligibility or RSDI disability requirements, can appeal the SSA denial with SSA. He can get Medicaid, if found eligible for SSI or Social Security disability as a result of his appeal. The effective date for Medicaid is the first day of the month of the Medicaid application that was denied, because of the SSA denial. The participant's eligibility for backdated Medicaid coverage must be determined. (7-1-99)

784. APPEAL OF SSA DECISION AND CONTINUED MEDICAID.
A Medicaid participant, denied RSDI or SSI because he is not disabled, can continue to get Medicaid if he appeals the SSA decision. The appeal must be filed within sixty (60) days of the SSA decision. If the final administrative decision rules against the participant's appeal, Medicaid benefits must end. Medicaid benefits paid during the appeal are not an overpayment. (7-1-99)

785. CERTAIN DISABLED CHILDREN.
A disabled child, not eligible for Medicaid outside a medical institution, is eligible for Medicaid if he meets the conditions in Subsections 785.01 through 785.08 of these rules. (3-29-10)

01. **Age**. Is under nineteen (19) years old. (7-1-99)

02. **AABD Criteria**. Meets the AABD blindness or disability criteria. (7-1-99)

03. **AABD Resource Limit**. Meets the AABD single person resource limit. (7-1-99)

04. **Income Limit**. Has monthly income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (7-1-99)

05. **Eligible for Long Term Care**. Meets the medical conditions for long-term care in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

06. **Appropriate Care**. Is appropriately cared for outside a medical institution, under a physician's plan of care. (7-1-99)

07. Cost of Care. Can be cared for cost effectively outside a medical institution. The estimated cost of caring for the child must not exceed the cost of the child's care in a hospital, nursing facility, or ICF/ID. (3-15-02)

08. Share of Cost. The financially responsible adult of a certain disabled child, who has family income above one hundred fifty percent (150%) of the federal poverty guidelines, is required to share in the cost of the child's Medicaid benefits under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-29-10)

786. EXTENDED (POSTPARTUM) MEDICAID FOR PREGNANT WOMEN.
A woman receiving Medicaid while pregnant continues to be eligible through the last day of the month in which the sixty (60) day post partum period ends. (7-1-99)

787. HOME AND COMMUNITY BASED SERVICES (HCBS).
An aged, blind, or disabled participant, who is not income eligible for SSI or AABD cash, in his own home or community setting, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.07 of these rules, and meets all requirements in one (1) of the waiver Sections 788 through 789 of these rules. (3-30-07)

01. Resource Limit. Meets the AABD single person resource limit. (3-20-04)

02. Income Limit. Income of the participant must not exceed three (3) times the Federal SSI monthly benefit for a single person. A married participant living at home with his spouse who is not an HCBS participant, may choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple may choose between the SSI and CP methods. (3-20-04)

03. Maintained in the Community. The applicant must be able to be maintained safely and effectively in his own home or in the community with the waiver services. (3-20-04)

04. Cost of Care. The cost of the participant's care must be determined to be cost effective as provided in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

05. Waiver Services Needed. The participant must need and receive, or be likely to need and receive, waiver services for thirty (30) consecutive days. The participant is ineligible when there is a break in need for, or receipt of, waiver services for thirty (30) consecutive days. (3-20-04)

06. Effective Date. Waiver services are effective the first day the participant is likely to need and receive waiver services. Medicaid begins the first day of the month in which the first day of approved waiver services are received. (3-20-04)

07. Annual Limit. The Department limits the number of participants approved for waiver services each year. A participant who applies for waiver services after the annual limit is reached, must be denied waiver services. (3-20-04)

788. AGED AND DISABLED (A&D) WAIVER.
In order to be eligible for the Aged and Disabled (A&D) Waiver, the participant must: (3-30-07)

01. Age Eighteen Through Sixty-Four. Be eighteen (18) through sixty-four (64) years old and meet both the disability criteria, as provided in Section 156 of these rules, and need nursing facility level of care as provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits"; or (3-30-07)

02. Age Sixty-Five or Older. Be age sixty-five (65) or older and need nursing facility level of care as provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits." (3-30-07)

789. DEVELOPMENTALLY DISABLED (DD) WAIVER.
To be eligible, the participant must be at least eighteen (18) years of age and need the level of care provided by an intermediate care facility for persons with intellectual disabilities (ICF/ID) under IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits." (3-30-07)

790. -- 798. (RESERVED)

799. MEDICAID FOR WORKERS WITH DISABILITIES.
An individual is eligible to participate in the Medicaid for Workers with Disabilities coverage group if the individual meets the requirements in Subsections 799.01 through 799.07 of this rule. (3-30-07)

01. Non-Financial Requirements. An individual must: (3-30-07)

a. Be at least sixteen (16) but less than sixty-five (65) years of age; (3-30-07)

b. Meet the Medicaid residency requirement as described in Section 100 of these rules; (3-30-07)

c. Meet the citizenship requirements as described in Sections 105 and 106 of these rules; (3-30-07)

d. Meet the SSN requirements as described in Section 104 of these rules; and (3-30-07)

e. Meet the child support cooperation requirements as described in Sections 703 through 706 of these rules. (3-30-07)

02. Disability. An individual must meet the medical definition for having a disability or blindness used by the Social Security Administration for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits. (3-30-07)

03. Employment. An individual must be employed which may include self-employment. Proof of employment must be provided to the Department. Hourly wage or hours worked will not be used to determine employment. (3-30-07)

04. Resources. Countable resources cannot exceed ten thousand dollars ($10,000) for an individual or fifteen thousand dollars ($15,000) for a couple. When calculating resources the following items will be excluded: (3-30-07)

a. Any resources excluded under Section 210 and Sections 222 through 299 of these rules; (3-30-07)

b. A second vehicle as described in Sections 222 of these rules; (3-30-07)

c. Life insurance policies; (3-30-07)

d. Retirement accounts; and (3-30-07)

e. Exempt trusts as described in Section 872 of these rules. (3-30-07)

05. Countable Income. Countable income is calculated using exclusions and disregards as described in Sections 300 through 547 of these rules. (4-2-08)

a. An individual's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of one (1). (3-30-07)

b. A couple's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of two (2). (3-30-07)

06. Earned Income Test. Gross income is the total of earned and unearned income before exclusions or disregards. Each individual's gross earned income must be at least fifteen percent (15%) of his total gross income to qualify. (3-30-07)

07. Cost-Sharing. A participant in the Medicaid for Workers with Disabilities coverage group may be required to cost-share. If a participant is required to cost-share for Medicaid, the costs are determined under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-30-07)

800. NEWBORN CHILD OF MEDICAID MOTHER.
A child is deemed eligible for Medicaid without an application if born to a woman receiving Medicaid on the date of the child's birth, including during a period of retroactive eligibility for the mother. The child remains eligible for Medicaid for up to one (1) year without an application. An application for Medicaid must be filed on behalf of the child no later than his first birthday. He must qualify for Medicaid in his own right after the month of his first birthday. (3-20-14)

801. INELIGIBLE NON-CITIZEN WITH EMERGENCY MEDICAL CONDITION.
A non-citizen, who is otherwise ineligible only because of his status as a non-citizen, is eligible only for medical services necessary to treat an emergency medical condition. (4-11-06)

01. Emergency Medical Condition. An emergency medical condition can reasonably be expected to seriously harm the patient's health, cause serious impairment to bodily functions, or cause serious dysfunction of any bodily organ or part, without immediate medical attention. The Division of Medicaid determines if the condition is an emergency and the services necessary to treat it. (7-1-99)

02. Effective Date of Eligibility. Medicaid eligibility begins no earlier than the date the participant experienced the medical emergency and ends the date the emergency condition stops. The Division of Medicaid determines the beginning and ending dates. (7-1-99)

802. WOMAN DIAGNOSED WITH BREAST OR CERVICAL CANCER.
A woman not otherwise eligible for Medicaid and meeting the conditions in Subsections 802.01 through 802.06 of this rule is eligible for Medicaid for the duration of her cancer treatment. Medicaid income and resource limits do not apply to this coverage group. (5-3-03)

01. Diagnosis. The participant is diagnosed with breast or cervical cancer through the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early detection Program. (3-15-02)

02. Age. The participant is under age sixty-five (65). (3-15-02)

03. Creditable Health Insurance. The participant is uninsured or, if insured, the plan does not cover her type of cancer. (3-15-02)

04. Non-Financial Eligibility. The participant meets the Medicaid non-financial eligibility requirements in Sections 100 through 108 and Sections 166 and 167 of these rules. (3-15-02)

05. Medical Support Cooperation. The participant meets the medical support cooperation requirement in Sections 702 through 706 of these rules. (3-15-02)

06. Group Health Plan Enrollment. The participant meets the requirement to enroll in available cost-effective employer group health insurance. (3-15-02)

07. Presumptive Eligibility. The Department can presume the participant is eligible for Medicaid, before a formal Medicaid eligibility determination is made. A clinic authorized to screen for breast or cervical cancer by the National Breast and Cervical Cancer Early Detection Program makes the presumptive eligibility determination. The clinic tells the participant how to complete the formal Medicaid determination process. The Medicaid notice and hearing rights do not apply to presumptive eligibility. No overpayment occurs if the formal Medicaid determination finds the participant is not eligible. (5-3-03)

08. End of Treatment. The Division of Medicaid determines the end of treatment date according to IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

803. -- 805. (RESERVED)

806. DISABLED ADULT CHILD.
A participant age eighteen (18) or older is eligible for Medicaid if he received SSI or AABD cash based on blindness

or a disability which began before he reached age twenty-two (22), and becomes ineligible for and remains ineligible for AABD cash or SSI because his disabled child RSDI benefit started or increased July 1, 1987, or later. (7-1-99)

01. RSDI Benefits Disregarded for Disabled Adult Child. If the participant became ineligible because he began receiving a disabled child benefit on or after July 1, 1987, the benefit amount and any later increases are disregarded. (7-1-99)

02. RSDI Increase Disregarded for Disabled Adult Child. If the participant became ineligible because his disabled child benefit increased on or after July 1, 1987, the increase and any later increases are disregarded. (7-1-99)

807. (RESERVED)

808. EARLY WIDOWS AND WIDOWERS BEGINNING JANUARY 1, 1991.
A participant who meets the conditions in Subsections 808.01 through 808.06 is considered an SSI recipient for Medicaid. (7-1-99)

01. Age. The participant, age fifty (50) to age sixty four and one-half (64-1/2), began receiving early widows or widowers Social Security benefits. (7-1-99)

02. Lost SSI or AABD. The participant lost SSI or AABD cash because he began receiving early widows or widowers Social Security benefits. (7-1-99)

03. Received SSI or AABD. The participant received SSI or AABD cash in the month, before the month, he became ineligible because he began receiving early widows or widowers Social Security benefits.(7-1-99)

04. Widows or Widowers Benefits. The participant would still be eligible for SSI or AABD cash if his Social Security early widows or widowers benefits were not counted as income. (7-1-99)

05. No "Part A" Insurance. The participant is not entitled to Medicare Part A hospital insurance. (7-1-99)

06. Applied On or After January 1, 1991. The participant's Medicaid application was filed, or pending, on or after January 1, 1991. (7-1-99)

809. CERTAIN DISABLED WIDOWS AND WIDOWERS THROUGH JUNE 30, 1988.
A participant who meets the conditions in Subsections 809.01 through 809.04 is considered an SSI recipient for Medicaid. (7-1-99)

01. Age. The participant was under age sixty (60) when his disabled widows and widowers benefits began. (3-30-01)

02. Lost SSI. The participant is ineligible for SSI because of an increase in SSA disability benefits starting January, 1984. (7-1-99)

03. Continuously Entitled. The participant is continuously entitled to Social Security benefits for disabled widows and widowers starting January, 1984 or earlier. (7-1-99)

04. Applied Before July 1, 1988. The participant applied for Medicaid before July 1, 1988. (7-1-99)

810. QUALIFIED MEDICARE BENEFICIARY (QMB).
A person meeting all requirements in Subsections 810.01 through 810.07 is eligible for QMB. QMB Medicaid pays Medicare premiums, coinsurance, and deductibles. (3-15-02)

01. Medicare Part A. The participant must be entitled to hospital insurance under Part A of Medicare at the time of his application. (7-1-99)

02. Nonfinancial Requirements. The participant must meet the Medicaid residence, citizenship, support cooperation, and SSN requirements. (7-1-99)

03. Income. Monthly income must not exceed one hundred percent (100%) of the Federal Poverty Guidelines (FPG). The single person income limit is the poverty line for a family of one (1) person. The couple income limit is the poverty line for a family of two (2) persons. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. AABD cash is not counted as income. The income exclusions and disregards used for AABD are used for QMB. (4-7-11)

04. Dependent Income. Income of the dependent child, parent, or sibling is not counted. (7-1-99)

05. QMB Dependent Family Member Disregard. A dependent family member is a minor child, adult child meeting SSA disability criteria, parent or sibling of the participant or spouse living with the participant. The family member is or could be claimed on the Federal tax return of the participant or spouse. A participant with a dependent family member has an income disregard based on family size. The spouse is included in family size, whether or not the spouse is also participant. The disregard is based on the official poverty line income as defined by the OMB. The disregard is the difference between the poverty line for one (1) person, or two (2) persons if the participant has a spouse, and the poverty line for the family size including the participant, spouse, and dependent. (7-1-99)

06. Resource Limit. The resource limit is equal to the amount defined under 42 U.S.C. 1396d(p)(1)(C). The resource exclusions used for AABD are used for QMB. (4-7-11)

07. Effective Dates. The effective date of QMB coverage is no earlier than the first day of the month after the approval month. A QMB participant is not entitled to backdated Medicaid. (7-1-99)

811. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).
A person meeting all requirements in Subsections 811.01 through 811.06 is eligible for SLMB. Medicaid pays the Medicare Part B premiums for a SLMB. The income and resource exclusions and disregards used for AABD are used for SLMB. (4-7-11)

01. Other Medicaid. The SLMB may be eligible for other Medicaid. (4-7-11)

02. Medicare Part A. The SLMB must be entitled to hospital insurance under Part A of Medicare at the time of his application. (7-1-99)

03. Nonfinancial Requirements. The SLMB must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation, and SSN. (7-1-99)

04. Income. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit is up to one hundred twenty percent (120%) of the FPG. (4-7-11)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(p)(1)(C). The resource exclusions used for AABD are used for SLMB. (4-7-11)

06. Effective Dates. SLMB coverage begins on the first day of the application month. SLMB coverage may be backdated up to three (3) calendar months before the application month. (7-1-99)

812. QUALIFIED INDIVIDUAL (QI).
A person meeting all requirements in Subsections 812.01 through 812.07 is eligible for QI. Medicaid pays the Medicare Part B premiums for a QI. The income and resource exclusions and disregards used for AABD are used for QI. (4-7-11)

01. Other Medicaid. The QI cannot be eligible for any other type of Medicaid. (4-7-11)

02. Medicare Part A. The QI must be entitled to hospital insurance under Part A of Medicare at the time of his application. (4-7-11)

03. Nonfinancial Requirements. The QI must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation, and SSN. (4-7-11)

04. Income. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit is up to one hundred thirty-five percent (135%) of the FPG. (4-7-11)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(p)(1)(C). The resource exclusions used for AABD are used for SLMB. (4-7-11)

06. Coverage Limits. There is an annual limit on participants served, based on availability of federal funds. New applications are denied when the annual limit is reached. (4-7-11)

07. Effective Dates. QI coverage begins on the first day of the application month. QI coverage may be backdated up to three (3) calendar months before the application month. (4-7-11)

813. QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI).
A person meeting all requirements in Subsections 812.01 through 812.05 of these rules is eligible for QDWI. The person must not be eligible for any other type of Medicaid. A QDWI is eligible only for Medicaid payment of his Medicare Part A premium. (3-15-02)

01. Age and Disability. The participant must be a disabled worker under age sixty-five (65). (7-1-99)

02. Nonfinancial Requirements. The participant must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation and SSN. (7-1-99)

03. Section 1818A Medicare. SSA determined the participant meets the conditions of Section 1818A of the Social Security Act. (7-1-99)

04. Income. Monthly income must not exceed two hundred percent (200%) of the one (1) person official poverty line defined by the OMB. (7-1-99)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(s). The resource exclusions used for AABD are used for QDWI. (4-7-11)

814. SPONSORED LEGAL NON-CITIZEN.
All income and resources of a legal non-citizen's sponsor are deemed for Medicaid eligibility if the sponsor has signed an I-864 affidavit of support. (7-1-99)

815. CHILD SUBJECT TO DEEMING.
Income and resources of a child's stepparent are not deemed to the child in determining his Medicaid eligibility. (7-1-99)

816. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A person denied SSI or AABD cash because of the prohibition against payment to fugitive felons and probation and parole violators is not disqualified from Medicaid. (7-1-99)

817. -- 830. (RESERVED)

831. ASSET TRANSFER RESULTING IN PENALTY.
Starting August 11, 1993, the participant is subject to a penalty if he transfers his income or resources for less than fair market value. The asset transfer penalty applies to Medicaid services received October 1, 1993 and later. Excluded resources, other than the home and associated property, are not subject to the asset transfer penalty. Asset

transfers subject to penalty under these rules may be voided and set aside by court action as provided in Section 56-218, Idaho Code. The asset transfer penalty applies to a Medicaid participant in long-term care or HCBS. A participant in long-term care is a patient in a nursing facility or a patient in a medical institution, requiring and receiving the level of care provided in a nursing facility. (3-30-07)

01. Rebuttable Presumption. Unless a transfer meets the requirements of Section 841 of these rules, it is presumed that the transfer was made for the purpose of qualifying for Medicaid. The asset transfer penalty is applied unless the participant shows that the asset transfer would not have affected his eligibility for Medicaid or the transfer was made for another purpose than qualifying for Medicaid. (4-11-06)

02. Contract for Services Provided by a Relative. A contract for personal services to be furnished to the participant by a relative is presumed to be made for the purpose of qualifying for Medicaid. The asset transfer penalty applies unless the participant shows that: (3-15-02)

a. A written contract for personal services was signed before services were delivered. The contract must require that payment be made after services are rendered. The contract must be dated and the signatures notarized. Either party must be able to terminate the contract; and (3-15-02)

b. The contract must be signed by the participant or a legally authorized representative through a power of attorney, legal guardianship or conservatorship. A representative who signs the contract must not be the provider of the personal care services under the contract; and (3-15-02)

c. Compensation for services rendered must be comparable to rates paid in the open market. (3-15-02)

03. Transfer of Income or Resources. Transfer of income or resources includes reducing or eliminating the participant's ownership or control of the asset. (4-5-00)

04. Transfer of Income or Resources by a Spouse. A transfer by the participant's spouse of either spouse's income or resources, before eligibility is established, subjects the participant to the asset transfer penalty. After the participant's eligibility is established, a transfer by the spouse of the spouse's own income or resources does not subject the participant to the asset transfer penalty. (4-5-00)

05. Transfer of Certain Notes and Loans. Funds used to purchase a promissory note, loan, or mortgage are considered a transferred asset which subjects the participant to a period of ineligibility. The amount of the asset transfer of such note, loan or mortgage is the outstanding balance due on the date of the Medicaid application, unless the note, loan or mortgage meets the following: (3-30-07)

a. Has a repayment term that is actuarially sound; (3-30-07)

b. Provides for payments to be made in equal amounts during the term of the loan with no deferral and no balloon payments; and (3-30-07)

c. Prohibits the cancellation of the balance upon the death of the lender. (3-30-07)

832. MEDICAID PENALTY FOR ASSET TRANSFERS.
The asset transfer penalty is restricted Medicaid coverage. (7-1-99)

01. Restricted Coverage. Restricted coverage means Medicaid will not participate in the cost of nursing facility services. Medicaid will not participate in a level of care in a medical institution equal to nursing facility services. The penalty for a person receiving PCS or community services under the HCBS waiver is ineligibility. (7-1-99)

02. Notice and Exemption. The participant must be notified, in writing, at least ten (10) days before an asset transfer penalty is imposed. (7-1-99)

833. ASSET TRANSFER LOOK-BACK PERIOD.

The asset transfer penalty applies to any transfer for less than fair market value made during a period preceding or following a request for long-term care services. The look-back period is determined as follows: (3-30-07)

01. Transfers Prior to February 8, 2006. For any asset transferred prior to February 8, 2006, the look-back period is thirty-six (36) months, unless the transfer is to or from a trust. If the transfer is to or from a trust, the look-back period is sixty (60) months. If the person is entitled to Medicaid or HCBS services, the look-back period is counted from the month long-term care or HCBS services began, or would have begun, were it not for a penalty. If the person is not entitled to Medicaid, the look-back period is counted from the month prior to the month the application was submitted. (3-30-07)

02. Transfers On or After February 8, 2006. Any asset transferred on or after February 8, 2006, regardless of type, is subject to a look-back period of sixty (60) months. The look-back period is counted from the date of the application for long-term care or HCBS services or the date of the transfer, whichever is later in time. (3-30-07)

834. PERIOD OF RESTRICTED COVERAGE FOR ASSET TRANSFERS.
The period of restricted coverage is the number of months computed by dividing the net uncompensated value of the transferred asset by the statewide average cost of nursing facility services to private patients. The cost is computed for the time of the participant's most recent request for Medicaid. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and spouse. (4-2-08)

835. APPLYING THE PENALTY PERIOD OF RESTRICTED COVERAGE.
Restricted coverage continues until the participant or spouse recovers all the assets, receives fair market value at the time of the transfer for all of the assets, or the period of restricted coverage ends. The penalty continues whether or not the participant is in long-term care. The penalty period for asset transfers is applied as follows: (3-30-07)

01. Penalty Period for Transfer Prior to February 8, 2006. For assets transferred prior to February 8, 2006, there is no penalty if the amount transferred is less than the cost of one (1) month's care. The penalty period begins running the month the transfer took place. The month the transfer took place is counted as one (1) of the penalty months. A penalty period is computed for each transfer. A penalty period must expire before the next begins. Each partial month before the end of consecutive penalty periods is a penalty month. A partial month at the end of consecutive penalty periods is dropped. (3-30-07)

02. Penalty Period for Transfers On or After February 8, 2006. For assets transferred on or after February 8, 2006, the penalty period begins running the first day of the month after the month the transfer took place or was discovered to have taken place, or the date the individual would have been eligible for long-term care services or HCBS, if not for the transfer, whichever date is later in time. The value of all asset transfers made during the look-back period is accumulated for the purpose of calculating the penalty. If an additional transfer is discovered after the penalty has been served, a new penalty period begins the month following timely notice of closure of benefits. When a penalty period ends after the first day of the month, eligibility for long-term care services begins the day after the penalty period ends. (4-4-13)

836. MULTIPLE PENALTY PERIODS APPLIED CONSECUTIVELY.
A penalty period is computed for each transfer. One (1) penalty period must expire before the next begins. (3-30-07)

837. LIFE ESTATE AS ASSET TRANSFER.

01. Transfer of a Remainder Interest. When a life estate in real property is retained by an individual, and a remainder interest in the property is transferred during the look-back period for less than the fair market value of the remainder interest transferred, the value of the uncompensated remainder is subject to the asset transfer penalty as described in Sections 831 through 835 of these rules. To compute the value of the life estate remainder, multiply the fair market value of the real property at the time of transfer by the remainder factor for the participant's age at the time of transfer listed in the following table:

TABLE 837.01 - REMAINDER TABLE

Age	Remainder	Age	Remainder	Age	Remainder	Age	Remainder
0	.02812	**28**	.03938	**56**	.20994	**84**	.63002
1	.01012	**29**	.04187	**57**	.22069	**85**	.64641
2	.00983	**30**	.04457	**58**	.23178	**86**	.66236
3	.00992	**31**	.04746	**59**	.24325	**87**	.67738
4	.01019	**32**	.05058	**60**	.25509	**88**	.69141
5	.01062	**33**	.05392	**61**	.26733	**89**	.70474
6	.01116	**34**	.05750	**62**	.27998	**90**	.71779
7	.01178	**35**	.06132	**63**	.29304	**91**	.73045
8	.01252	**36**	.06540	**64**	.30648	**92**	.74229
9	.01337	**37**	.06974	**65**	.32030	**93**	.75308
10	.01435	**38**	.07433	**66**	.33449	**94**	.76272
11	.01547	**39**	.07917	**67**	.34902	**95**	.77113
12	.01671	**40**	.08429	**68**	.36390	**96**	.77819
13	.01802	**41**	.08970	**69**	.37914	**97**	.78450
14	.01934	**42**	.09543	**70**	.39478	**98**	.79000
15	.02063	**43**	.10145	**71**	.41086	**99**	.79514
16	.02185	**44**	.10779	**72**	.42739	**100**	.80025
17	.02300	**45**	.11442	**73**	.44429	**101**	.80468
18	.02410	**46**	.12137	**74**	.46138	**102**	.80946
19	.02520	**47**	.12863	**75**	.47851	**103**	.81563
20	.02635	**48**	.13626	**76**	.49559	**104**	.82144
21	.02755	**49**	.14422	**77**	.51258	**105**	.83038
22	.02880	**50**	.15257	**78**	.52951	**106**	.84512
23	.03014	**51**	.16126	**79**	.54643	**107**	.86591
24	.03159	**52**	.17031	**80**	.56341	**108**	.89932
25	.03322	**53**	.17972	**81**	.58033	**109**	.95455
26	.03505	**54**	.18946	**82**	.59705		
27	.03710	**55**	.19954	**83**	.61358		

(4-2-08)

02. Transfer of a Life Estate. When a life estate in real property is transferred by an individual during the look-back period for less than fair market value, the value of the life estate is subject to the asset transfer penalty as described in Sections 831 and 835 of these rules. To compute the value of the life estate, multiply the fair market value of the real property at the time of transfer by the life estate factor for the participant's age at the time of transfer listed in the following table:

TABLE 837.02 - LIFE ESTATE TABLE

Age	Life Estate	Age	Life Estate	Age	Life Estate	Age	Life Estate
0	.97188	**28**	.96062	**56**	.79006	**84**	.36998
1	.98988	**29**	.95813	**57**	.77391	**85**	.35359
2	.99017	**30**	.95543	**58**	.76822	**86**	.33764
3	.99008	**31**	.95254	**59**	.75675	**87**	.32262
4	.98981	**32**	.94942	**60**	.74491	**88**	.30859
5	.98938	**33**	.94608	**61**	.73267	**89**	.29526
6	.98884	**34**	.94250	**62**	.72002	**90**	.28221
7	.98822	**35**	.93868	**63**	.70696	**91**	.26955
8	.98748	**36**	.93460	**64**	.69352	**92**	.25771
9	.98663	**37**	.93026	**65**	67970	**93**	.24692
10	.98565	**38**	.92567	**66**	.66551	**94**	.23728
11	.98453	**39**	.92083	**67**	.65098	**95**	.22887
12	.98359	**40**	.91571	**68**	.63610	**96**	.22181
13	.98198	**41**	.91030	**69**	.62086	**97**	.21550
14	.98066	**42**	.90457	**70**	.60522	**98**	.21000
15	.97937	**43**	.89855	**71**	.58914	**99**	.20486
16	.97815	**44**	.89221	**72**	.57261	**100**	.19975
17	.97700	**45**	.88558	**73**	.55571	**101**	.19532
18	.97590	**46**	.87863	**74**	.53862	**102**	.19054
19	.97480	**47**	.87137	**75**	.52149	**103**	.18437
20	.97365	**48**	.86374	**76**	.50441	**104**	.17856
21	.97425	**49**	.85578	**77**	.48742	**105**	.16962
22	.97120	**50**	.83743	**78**	.47049	**106**	.15488
23	.96986	**51**	.83674	**79**	.45357	**107**	.13409
24	.96841	**52**	.82969	**80**	.43659	**108**	.10068
25	.96678	**53**	.82028	**81**	.41967	**109**	.04545
26	.96495	**54**	.81054	**82**	.40295		
27	.96290	**55**	.80046	**83**	.38642		

(4-2-08)

838. ANNUITY AS ASSET TRANSFER.

Except as provided in this rule, when assets are used to purchase an annuity during the look-back period, it is an asset transfer presumed to be made for the purpose of qualifying for Medicaid. To rebut this presumption, the participant must provide proof that clearly establishes the annuity was not purchased to make the participant eligible for

Medicaid or avoid recovery from the estate following death. Proof is met if the participant shows the annuity meets the requirements described in Subsections 838.02 through 838.05 of this rule. (4-2-08)

01. Revocable Annuity. A revocable annuity is an annuity that can be assigned. The surrender amount of a revocable annuity is a countable resource. (4-2-08)

02. Irrevocable Annuity. The purchase price of an irrevocable, non-assignable annuity is treated as an asset transfer, unless the requirements of Subsections 838.02.a, 838.02.b., 838.03 and 838.04 of this rule are met. (4-2-08)

a. Irrevocable Annuity Life Expectancy Test. The participant's life expectancy, as shown in the following table, must equal or exceed the term of the annuity. Using Table 838.02.a. compare the face value of the annuity to the participant's life expectancy at the purchase time. The annuity meets the life expectancy test if the participant's life expectancy equals or exceeds the term of the annuity. If the exact age is not in the Table, use the next lower age.

TABLE 838.02.a. - LIFE EXPECTANCY TABLE

Age	Years of Life Remaining Male	Years of Life Remaining Female	Age	Years of Life Remaining Male	Years of Life Remaining Female
0	73.26	79.26	**74**	10.12	12.74
10	64.03	69.93	**75**	9.58	12.09
20	54.41	60.13	**76**	9.06	11.46
30	45.14	50.43	**77**	8.56	10.85
40	35.94	40.86	**78**	8.07	10.25
50	27.13	31.61	**79**	7.61	9.67
60	19.07	22.99	**80**	7.16	9.11
61	18.33	22.18	**81**	6.72	8.57
62	17.60	21.38	**82**	6.31	8.04
63	16.89	20.60	**83**	5.92	7.54
64	16.19	19.82	**84**	5.55	7.05
65	15.52	19.06	**85**	5.20	6.59
66	14.86	18.31	**86**	4.86	6.15
67	14.23	17.58	**87**	4.55	5.74
68	13.61	16.85	**88**	4.26	5.34
69	13.00	16.14	**89**	3.98	4.97
70	12.41	15.44	**90**	3.73	4.63
71	11.82	14.75	**95**	2.71	3.26
72	11.24	14.06	**100**	2.05	2.39
73	10.67	13.40	**110**	1.14	1.22

(3-30-07)

b. **Annual Interest Test**. Any annuity is presumed to produce interest, at minimum, that is equal to the treasury rate. (4-2-08)

03. **State Named as Beneficiary**. The purchase of an annuity is treated as an asset transfer unless the State of Idaho, Medicaid Estate Recovery is named as: (3-30-07)

a. The remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the institutionalized individual under this title; or (4-2-08)

b. The remainder beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if the community spouse or a representative of the minor or disabled child disposes of any remainder for less than fair market value. (3-30-07)

04. Equal Payment Test. The annuity must provide for payments in equal amounts during the term of the annuity with no deferral and no balloon payments made. (3-30-07)

05. **Permitted Annuity**. The purchase of an annuity is not treated as an asset transfer if the annuity meets any of the descriptions in Sections 408(b), or 408(q), Internal Revenue Code; or is purchased with proceeds from an account or trust described in Sections 408(a), 408(c), or 408(p), Internal Revenue Code, or is a simplified employee pension as described in Section 408(k), Internal Revenue Code, or is a Roth IRA described in Section 408A, Internal Revenue Code. (3-30-07)

839. TRUSTS AS ASSET TRANSFERS.
A trust established wholly or partly from the participant's assets is an asset transfer. Assets transferred to a trust on or after August 11, 1993 are subject to the asset transfer penalty, regardless of when the trust was established. If the trust includes assets of another person, the asset transfer penalty applies to the participant's share of the trust. (7-1-99)

840. TRANSFER OF JOINTLY-OWNED ASSET.
Transfer of an asset owned jointly by the participant and another person is considered a transfer by the participant. The participant's share of the asset is used to compute the penalty. If the participant and his spouse are joint owners of the transferred asset, the couple's combined ownership is used to compute the penalty. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and spouse. (7-1-99)

841. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.
A participant is not subject to the asset transfer penalty for taking any action described in Subsections 841.01 through 841.14 of this rule. (4-2-08)

01. **Home to Spouse**. The asset transferred was a home. Title to the home was transferred to the spouse. (7-1-99)

02. **Home to Minor Child or Disabled Adult Child**. The asset transferred was a home. Title to the home was transferred to the child of the participant or spouse. The child must be under age twenty-one (21) or blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

03. **Home to Brother or Sister**. The asset transferred was a home. Title to the home was transferred to a brother or sister of the participant or spouse. The brother or sister must have an equity interest in the transferred home. The brother or sister must reside in that home for at least one (1) year immediately before the month the participant starts long-term care. (7-1-99)

04. **Home to Adult Child**. The asset transferred was a home. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must reside in that home for at least two (2) years immediately before the month the participant started long-term care. The adult child must prove he provided nursing facility level medical care to the participant which permitted him to live at home rather than enter long-term care. The son or daughter must not have received payment from Medicaid for home and community based services provided to the participant. (4-2-08)

05. **Benefit of Spouse**. The assets were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (7-1-99)

06. **Transfer From Spouse**. The assets were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (7-1-99)

07. **Transfer to Child**. The assets were transferred to the participant's child, or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (7-1-99)

08. **Intent to Get Fair Market Value**. The participant or spouse proves he intended to dispose of the assets at fair market value or for other adequate consideration. (7-1-99)

09. **Assets Returned**. All assets transferred for less than fair market value have been returned to the participant. (7-1-99)

10. **Medicaid Qualification Not the Intent**. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid or to avoid recovery. (3-20-04)

11. **Undue Hardship**. The participant, his representative, or the facility in which he resides may request the hardship waiver. The hardship waiver must be requested in writing within ten (10) days of the date of the asset transfer penalty notice. Undue hardship exists if any of the conditions in Subsections 841.11.a. through 841.11.d. of this rule apply. (4-2-08)

a. The participant proves he is not able to pay for his nursing facility services or his wavier services by any means. (3-30-07)

b. The participant proves that he has made reasonable efforts, consistent with his physical and financial ability, to recover the transferred asset. The participant must fully cooperate with the state of Idaho in efforts to recover the transferred asset and, upon request, must assign his rights to recover the asset to the State of Idaho. (3-30-07)

c. The participant proves he did not knowingly transfer the asset. (3-30-07)

d. The participant proves he would be deprived of food, clothing, shelter or other necessities of life if the asset transfer penalty is imposed and he assigns his rights to recover the asset to the State of Idaho. (3-30-07)

12. **Exception to Fair Market Value**. The amount received is adequate, even if not fair market value. This exception must meet one (1) of the conditions in Subsections 841.12.a. through 841.12.c. of this rule. (4-2-08)

a. A forced sale was done under reasonable circumstances. (7-1-99)

b. Little or no market demand exists for the type of asset transferred and the lack of market demand was not created by a voluntary act of the participant to qualify for assistance or to avoid recovery. (4-2-08)

c. The asset was transferred to settle a legal debt approximately equal to the fair market value of the transferred asset. (7-1-99)

13. **No Benefit to Participant**. The participant received no benefit from the asset. This exception must meet one (1) of the conditions in Subsections 841.13.a. and 841.13.b. of this rule. (4-2-08)

a. The participant or spouse held title to the property only as a trustee for another person. The participant or spouse had no beneficial interest in the property. (7-1-99)

b. The transfer was done to clear title to property. The participant or spouse had no beneficial interest in the property. The defect in the title was not created in an attempt to transfer assets to qualify for assistance or avoid recovery. (3-30-07)

14. **Fraud Victim**. The asset was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the assets or property, or its equivalent in damages and must assign recovery rights to the state of Idaho. (3-20-04)

842. -- 870. (RESERVED)

871. TREATMENT OF TRUSTS.
These trust treatment rules apply to all Medicaid participants. These rules apply to trusts established with the participant's assets on August 11, 1993 or later, and to amounts placed in trusts on or after August 11, 1993. Section 871 of these rules does not apply to an irrevocable trust if the participant meets the undue hardship exemption in Subsection 841.11 of these rules. Assets transferred to a trust are subject to the asset transfer penalty. Section 871 does not apply to a trust created with assets other than those of the individual, including a trust established by a will. (3-30-07)

01. **Revocable Trust**. Revocable trusts are treated as listed in Subsections 871.01.a. through 871.01.d. of these rules. A revocable burial trust is not a trust for the purposes of Subsection 871.01 of these rules. (4-11-06)

a. The body (corpus) of a revocable trust is a resource. (7-1-99)

b. Payments from the trust to or for the participant are income. (7-1-99)

c. Any other payments from the trust are an asset transfer, triggering an asset transfer penalty period. (7-1-99)

d. As defined in 42 U.S.C. 1396p(e)(5), the home and adjoining property loses its exclusion for eligibility purposes when transferred to a revocable trust, unless the participant or spouse is the sole beneficiary of the trust. The home is excluded again if removed from the trust. The exclusion restarts the month following the month the home was removed from the trust. (3-30-07)

02. **Irrevocable Trust**. Irrevocable trusts are treated as listed in Subsections 871.02.a. through 871.02.g. of these rules. (4-11-06)

a. The part of the body of an irrevocable trust, from which corpus or income payments could be made to or for the participant, is a resource. (7-1-99)

b. Payments made to or for the participant are income. (7-1-99)

c. Payments from the trust for any other reason are asset transfers, triggering the asset transfer penalty. (7-1-99)

d. Any part of the trust from which payment cannot be made to, or for the benefit of, the participant under any circumstances, is an asset transfer. (7-1-99)

e. The effective date of the transfer is the date the trust was established, or the date payments to the participant were foreclosed. (7-1-99)

f. The value of the trust, for calculating the transfer penalty, includes any payments made from that portion of the trust after the date the trust was established or payments were foreclosed. (7-1-99)

g. An irrevocable burial trust is not subject to treatment under Subsection 871.02 of these rules, unless funds in the trust can be paid for a purpose other than the participant's funeral and related expenses. The trust can provide that funds not needed for the participant's funeral expenses are available to reimburse Medicaid, or to go to the participant's estate. (4-11-06)

872. EXEMPT TRUSTS.
A trust, created or funded on or after August 11, 1993, is exempt from trust treatment and not subject to the asset

transfer penalty if it meets a condition in Subsections 872.01 through 872.03 of this rule. (4-2-08)

01. **Trust for Disabled Person**. To be exempt, a trust for a disabled person must meet all the conditions in Subsections 872.01.a. through 872.01.f. of this rule. (4-2-08)

a. The trust contains the assets of a person under age sixty-five (65). (7-1-99)

b. The person is blind or totally disabled under the Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

c. The trust is established for the person's benefit by his parent, grandparent, legal guardian or a court. (7-1-99)

d. The trust is irrevocable. (7-1-99)

e. The trust is exempt until the person reaches age sixty-five (65). After the person reaches age sixty-five (65), additions or augmentations are not exempt from trust treatment. (3-20-04)

f. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

02. **Income Trust**. To be exempt, an income trust must meet all the conditions in Subsections 872.02.a. through 872.02.e. of this rule. (4-2-08)

a. The trust is established for the sole benefit of a person who would be eligible for Medicaid in long-term care, or eligible for HCBS except for excess income. (3-20-04)

b. Any income, placed directly into an income trust in the same calendar month in which received by the recipient, is not considered income to the individual for determining long-term care Medicaid eligibility. Money paid into the trust is income for patient liability or client participation. (4-2-08)

c. The trust is irrevocable. The trust document may include a clause allowing the trust to be revoked if the participant leaves the nursing facility or HCBS for a reason other than death, and is no longer eligible for Medicaid because of excess income, if Medicaid is reimbursed up to the amount Medicaid has paid on the person's behalf. (3-20-04)

d. Income transferred to the trust must be used to pay patient liability or client participation. If income is not used to pay allowable expenses, it is subject to the asset transfer penalty, unless one (1) of the following exceptions in Subsections 872.02.d.i. through 872.02.d.iii. of this rule applies. (4-2-08)

i. Benefit of the spouse in Subsection 841.05 of these rules; (4-2-08)

ii. Transfer from the spouse in Subsection 841.06 of these rules; or (4-2-08)

iii. Undue hardship in Subsection 841.11 of these rules. (4-2-08)

e. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

03. **Trust Managed by Non-Profit Association for Disabled Person**. To be exempt, a trust managed by non-profit association for a disabled person must meet all the conditions in Subsections 872.03.a. through 872.03.e. of this rule. (4-2-08)

a. The trust is established and managed by a nonprofit association. The nonprofit association must not be the participant, his parent or his grandparent. (7-1-99)

b. The trust contains the assets of a disabled person. The person must be blind or totally disabled

under Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

c. Accounts in the trust are established only for the benefit of disabled persons. An account can be established by the disabled person, his parent, grandparent, legal guardian, or a court. A separate account must be maintained for each beneficiary of the trust. For purposes of investment and management, the trust may pool the funds in the accounts. (3-20-04)

d. The trust is irrevocable. (7-1-99)

e. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

873. PAYMENTS FROM AN EXEMPT TRUST FOR DISABLED PERSON OR POOLED TRUST.
Cash payments from an exempt trust for a disabled person or a pooled trust must be treated as described in Subsections 873.01 through 873.04 of these rules. (4-11-06)

01. Payments from Exempt Trust. Cash payments from an exempt trust for a disabled person are income in the month received. (7-1-99)

02. Payments from Pooled Trust. Cash payments from a pooled trust made directly to the participant are income in the month received. (7-1-99)

03. Payments for Food or Shelter. Payments for the participant's food or shelter are income in the month paid. The payments for food or shelter are valued at one-third (1/3) of the AABD budgeted needs for the participant's living arrangement. (4-11-06)

04. Payments Not Made to Participant. Payments from the exempt trust not made to, or on behalf of, the participant are an asset transfer. (7-1-99)

874. -- 914. (RESERVED)

915. MEDICAID REDETERMINATION.
Medicaid eligibility is redetermined each year. The redetermination for AABD cash is the Medicaid redetermination for participants receiving both programs. (7-1-99)

916. -- 999. (RESERVED)

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