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**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Betty Rice, Director  
Division of Consumer and Local District Relations

**SUBJECT:** Retirement Funds owned by Medicaid Applicants/Recipients

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Wendy Butz (518) 473-5500 or Dennis Boucher  
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This message is to clarify the Department's policy concerning the treatment of retirement funds for purposes of determining Medicaid eligibility. The clarification reflects the eligibility requirements of the Supplemental Security Income (SSI) program, however, the clarification applies to all Medicaid applicants/recipients.

Retirement funds are annuities or work-related plans for providing income when employment ends (e.g., pension, disability, or other retirement plans administered by an employer or union). Other examples are funds held in an individual retirement account (IRA) and plans for self employed individuals, sometimes referred to as Keogh plans.

#### Treatment as a Resource

A retirement fund owned by an individual is a countable resource if the individual is not entitled to periodic payments, but is allowed to withdraw any of the funds. The value of the resource is the amount of money that the individual can currently withdraw. If there is a penalty for early withdrawal, the value of the resource is the amount available after the penalty deduction. Any income taxes due are not deductible in determining the resource's value.

As advised in 90 ADM-36, retirement funds owned by an ineligible or non-applying community spouse are countable for purposes of determining the total combined countable resources of the couple. However, the retirement funds are not considered available to the institutionalized spouse. The retirement fund owned by the community spouse is counted first toward the maximum community spouse resource allowance.

## Periodic Payments

Medicaid A/Rs who are eligible for periodic retirement benefits must apply for such benefits as a condition of eligibility. If there are a variety of payment options, the individual must choose the maximum income payment that could be made available over the individual's life time. (By federal law, if the Medicaid A/R has a spouse, the maximum income payment option for a married individual will usually be less than the maximum income payment option that is available to a single individual.) Once an individual is receiving periodic payments, the payments are counted as unearned income on a monthly basis, regardless of the actual frequency of the payment. For example, if the periodic benefit is received once a year, the amount is to be divided by twelve to arrive at a monthly income amount.

Once an individual is in receipt of or has applied for periodic payments, the principal in the retirement fund is not a countable resource. This includes situations where a Medicaid applicant has already elected less than the maximum periodic payment amount and this election is irrevocable. In such situations, only the periodic payment amount received is counted as income and the principal is disregarded as a resource.

NOTE: Individuals who have met the minimum benefit duration requirement of a New York State Partnership for Long Term Care policy are not required to maximize income from a retirement fund. In addition, non-applying or ineligible spouses/parents cannot be required to maximize income from a retirement fund.

The above information will be contained in a forthcoming administrative directive.

**RESOURCES**

**RETIREMENT FUNDS**

**Description:** Retirement funds are annuities or work-related plans for providing income when employment ends. They include but are not limited to: pensions, Individual Retirement Accounts (IRAs); 401(k) plans; and Keogh plans.

**Policy:** A retirement fund owned by an individual is a countable resource if the individual is not entitled to periodic payments, but is allowed to withdraw any of the funds. The value of the resource is the amount of money that s/he can currently withdraw. If there is a penalty for early withdrawal, the value of the resource is the amount available after the penalty deduction. Any income taxes due are not deductible in determining the value of the resources.

A retirement fund owned by an ineligible or non-applying legally responsible relative is counted in the determination of one spousal allowance for individuals in medical facilities. Any excess in the retirement fund is not available to the institutionalized spouse. The retirement fund owned by the community spouse is counted first toward the maximum community spouse resource allowance.

If the individual is in receipt or has elected to receive periodic payments, the retirement fund is not a countable resource.

Medicaid A/Rs who are eligible for periodic retirement benefits apply for such benefits as a condition of eligibility.

**References:**

Dept. Reg.	360-4.4
	360-4.6(b)(2)(iii)
ADMs	90 ADM-36
	88 ADM-30
GIS	98 MA/024

**Interpretation:** If there are a variety of payment options, the individual chooses the maximum income payment that could be made available over the individual's life time. (By federal law, if the Medicaid A/R has a spouse, the maximum income payment option for a married individual will usually be less than the maximum income payment option that is available to a single individual.) Once an individual is receiving periodic payments, the payments are counted as unearned income on a monthly basis, regardless of the actual frequency of the payment. For example, if the periodic

## RESOURCES

### RETIREMENT FUNDS

benefit is received once a year, the amount is to be divided by twelve to arrive at a monthly income amount. If the retirement fund is not available to the A/R it is not counted as a resource.

Once an individual is in receipt of or has applied for periodic payments, the retirement fund is not a countable resource. This includes situations where a Medicaid applicant has already elected less than the maximum periodic payment amount and this election is irrevocable. In such situations, only the periodic payment amount received is counted as income and the principal is disregarded as a resource.

- When to Verify Status:**
- (a) When the A/R declares a retirement account;
  - (b) When the A/R is receiving retirement income;
  - (c) When the A/R indicates past employment with an employer that is likely to have provided a retirement plan.
- Verification Process:**
- (a) Seeing current statements from the employer, mutual fund, insurance company, or bank where the fund is deposited;
  - (b) If a retirement fund is invested in bonds and stock certificates, the current market value may be verified by a stock broker or newspaper.
- Documentation:**
- (a) current information including names of funds, banks and/or companies controlling funds;
  - (b) names of stocks and/or bonds, issuer's name, date issued, date of maturity if applicable;
  - (c) account numbers;
  - (d) name of owner; and
  - (e) current value.