**MEDICAID RESOURCE DISREGARDS CHART**

**Note:** beginning January 1, 2014, many categories of Medicaid eligibility in New York will be replaced with a new budgeting method based on Modified Adjusted Gross Income (MAGI). Do not attempt to use this chart after that date.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>FOR THESE CATEGORIES, RESOURCE TEST WAS ELIMINATED AS OF 1/1/10.</strong></td>
<td>They have option to “attest” to resources, rather than verify them, unless seeking any long-term care service, whether home care or nursing home care.(^1)</td>
</tr>
</tbody>
</table>

**BASICS**

| Resource Level (2013) | Beginning January 1, 2010, there is no longer any resource test for all categories of Medicaid except for SSI-related (“DAB”).\(^2\) This includes AFDC-related, LIF, and S/CC categories. As a result, the resource disregards for these categories (while still on the books) are rendered moot, and are not listed here. | One person - $14,400 Two people - $21,150 (Resource limit is always 1 or 2 with this budgeting) For disabled children, count only child’s own resources plus amount of parents’ countable resources over $14,400 if lives with 1 parent, and over $21,150 if lives with 2 parents |

---


## MEDICAID RESOURCE DISREGARDS CHART

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Home and Personal Property</strong></td>
<td>Home disregarded if primary residence, personal property disregarded. Size of home unlimited (may be a 4-family or more), even if income-producing, as long as it is primary residence of applicant (rental income may be counted as income, after deducting expenses).(^3) Contiguous property to home is exempt for SSI-related (disabled/aged) only, not for other categories.(^4) If equity value of home is more than $802,000, client is not eligible for all home care services, nursing home services, and adult day care, unless the Medicaid recipient’s spouse, minor or disabled child lives in the home, or unless denial of Medicaid would cause an undue hardship and there is a legal impediment that prevents accessing equity in the home. A reverse mortgage may reduce the home equity.(^5)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
<tr>
<td><strong>Car</strong></td>
<td>One car any value is exempt if a member of household uses it. If no one uses it, fair market value counted toward resource level. 2nd car exempt if medical need for it.(^6)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
<tr>
<td><strong>Child’s Savings Account</strong></td>
<td>Same $500 exemption as first column.(^7) Additionally, a child’s own savings are NEVER counted in budget of a disabled parent if using disability budgeting.(^8)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
<tr>
<td><strong>Bona Fide Loans Other than Student Loans</strong></td>
<td>The proceeds of a loan other than Student Loans, discussed below, are NOT a disregarded resource.(^9)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
<tr>
<td><strong>Student Loans</strong></td>
<td>Disregarded for college and graduate students. Interest on loans is countable as income.(^10)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
<tr>
<td><strong>Student grants, scholarships, fellowships</strong></td>
<td>Eff 6/1/04, if used for tuition and fees, not for food, clothing, shelter, excluded from income and as a resource for 9 months following month of receipt.(^11)</td>
</tr>
<tr>
<td>NO RESOURCE TEST</td>
<td></td>
</tr>
</tbody>
</table>

---

3 State regulation that used to limit size of homestead to 4-family or less were removed from 18 NYCRR § 360-1.4(f). See July 10, 1996 State Register. The SSI rules have no such limit, so New York Medicaid cannot.

4 18 NYCRR § 360(b)(2)(i)

5 SSL § 366, subd. 2(a)(1). 06 OMM/ADM-5 pp. 24-25.

6 MRG pg. 348-350

7 18 NYCRR 360(b)(5)

8 MRG pg. 252 & 321; 18 NYCRR 360-4.6(a)(5)

9 MRG pg. 334.

10 MRG pg. 315

11
### LIFE INSURANCE AND BURIAL ARRANGEMENTS

<table>
<thead>
<tr>
<th>Description</th>
<th>Resource Test</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Life Insurance</strong></td>
<td><strong>NO RESOURCE TEST</strong></td>
<td>If face value of policy(ies) are $1500 or less(^{12}), face value counts toward $1500 burial fund (see below). If face value under $1500, then cash surrender value up to $1500 is exempt as a burial fund (see below). If cash value is over $1500, excess amount is applied against the regular resource limit.(^{13})</td>
</tr>
<tr>
<td><strong>Burial Fund (bank account, stock, etc. designated as burial fund)</strong></td>
<td><strong>NO RESOURCE TEST</strong></td>
<td>Separate account up to $1500 ($3000 for a disabled couple) is disregarded.(^{14}) Interest accrued is also disregarded. BUT if applicant also has life insurance, the cash surrender value of life insurance and burial fund must together equal less than $1500, not counting interest accrued after applied for Medicaid.(^{15}) Irrevocable pre-paid funeral agreement may limit right to have burial fund - see below. May have $1500 burial fund for spouse, even if not applying for Medicaid.</td>
</tr>
<tr>
<td><strong>Irrevocable pre-paid funeral agreement for APPLICANT</strong></td>
<td><strong>NO RESOURCE TEST</strong></td>
<td>Same - may have agreement of any value. But if agreement provides for “non-burial space items” worth more than $1500, agreement is fully exempt, but applicant may not also have a burial fund. See Burial Plot box below for definition of “non-burial space items.”(^{16})</td>
</tr>
<tr>
<td><strong>Irrevocable pre-paid funeral agreement for family members</strong></td>
<td><strong>NO RESOURCE TEST</strong></td>
<td>May pre-purchase burial space items for immediate family members only, not non-burial space items. See Burial Plot below.</td>
</tr>
</tbody>
</table>

---

\(^{11}\) MRG pg. 322; 18 NYCRR 360-4.6(a)(xviii)

\(^{12}\) 18 NYCRR 360-4.6(b)(2)(ii)

\(^{13}\) MRG pg. 264;

\(^{14}\) 18 NYCRR 360-4.6(b)(1)(ii)

\(^{15}\) MRG pg. 300-302

\(^{16}\) MRG pg. 303
### MEDICAID RESOURCE DISREGARDS CHART

| --- | --- |
| Burial plot | Burial plot and burial space items for applicant/recipient and for “immediate family members” are exempt -- includes spouse, minor AND adult children, stepchildren, siblings & their spouses, parents & step-parents, even if not living in same household. See MRG p. 303.3  
“Burial space items” include: gravesite, crypt, vault, mausoleum, casket, urn, opening/closing grave, perpetual care of the gravesite, headstone, and engraving.  
“Non-burial space items” include: topical disinfection, custodial care, dressing/casketing, cosmetology, supervision for visitation and/or funeral service, hearse, death notices, flowers, and out-of-town shipping.  |
| Burial plot | NO RESOURCE TEST |

### OTHER DISREGARDS

| Americorps/ VISTA | NO RESOURCE TEST | Payments to volunteers in VISTA, Retired Senior Volunteer Program under the Domestic Volunteer Services Act, Foster Grandparent disregarded as income and resources |
| Blood Plasma Settlements | NO RESOURCE TEST | Payments received from class action for hemophilia patients infected with HIV by blood transfusion  |
| Business or Trade & Income-Producing Real Property | NO RESOURCE TEST | Equity value of trade or business is disregarded, including any real property and liquid resources used to operate business. For income-producing not used in a trade or business, only the first $12,000 of equity is disregarded if produces net return of 6% or more  |
| Disaster Relief | NO RESOURCE TEST | World Trade Center or other federal, state, or local disaster relief is disregarded  |
| Energy | NO RESOURCE TEST | Federal Energy Assistance Payments  |
| Foster care | NO RESOURCE TEST | Foster care payments received for care of foster children  |
| Hostile Fire Pay | NO RESOURCE TEST | Payment received while on active military duty disregarded  |
| HUD Block Grants | NO RESOURCE TEST | HUD Community Block Grants are disregarded  |

---

17 MRG pg. 303, 303.3  
18 MRG pg. 316, 329; 18 NYCRR 360-4.6(xiv), (xii)  
19 MRG pg. 313, 318  
20 MRG pg. 278  
21 MRG pg. 318; 18 NYCRR 360-4.6(b)(11)  
22 MRG pg. 307; 18 NYCRR 360-4.6(a)(1)(iii)  
23 18 NYCRR 360-4.6(a)(1)(iv)  
24 MRG pg. 307
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Native American payments</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td>IRA or Pension plan of ineligible spouse or parent</td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td>IRA or Pension plan of applicant - and retirement annuities</td>
<td>NO RESOURCE TEST</td>
</tr>
</tbody>
</table>

- Periodic payments from the IRA count as *income*. Once in payment status, the principal in the retirement fund is not a countable *resource*. Payments must be of sufficient amount that is actuarially sound - amortized over life expectancy.\(^ {29}\)

- “…[T]he SSI-related individual may choose to take money out of a retirement account on a non uniform and/or inconsistent basis. An example would be an individual electing to withdraw $350 from a retirement fund in February and $600 in October. These irregular withdrawals are not treated as periodic payments. The non-periodic distributions are considered a conversion of a resource and not countable income. In this situation, the retirement fund is treated as an available, countable resource.” DOH MRG p. 316 (updated June 2010) [http://www.health.state.ny.us/health_care/medicaid/reference/mrg/mrg.pdf](http://www.health.state.ny.us/health_care/medicaid/reference/mrg/mrg.pdf).

(INTERPRETATION: An individual might take out periodic payments—which are counted as income, and make the IRA exempt as an asset. If she also takes out additional irregular withdrawals, those are not income but would be counted as a resource). Annuity must be irrevocable, with no right to withdraw the principal. Payments must be made that are actuarially sound.

---

\(^{25}\) MRG pg. 307

\(^{26}\) 18 NYCRR 360-4.6(b)(12)

\(^{27}\) MRG pg. 320


\(^{29}\) *Matter of Arnold S*, Fair Hearing No. 3701203H (May 28, 2002)(available on [www.wnycf.net](http://www.wnycf.net) in fair hearing database. Note there is a dispute about which tables to use to determine the amount of the periodic payment. The IRS Minimum Distribution Tables for IRAs are more favorable and require smaller

---

Updated October 7, 2013 ©2013 New York Legal Assistance Group Citations thanks to law student Kim Birnbaum, April 2006. Please send corrections to EFLRP@nylag.org
# MEDICAID RESOURCE DISREGARDS CHART

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Persecution Payments</strong></td>
<td>Benefits received by Japanese-Americans, Aleuts, Pribolof Islanders under wartime restitution laws. Payments made to individuals because of their status as victims of Nazi persecution - restitution or charitable payments. Disabled or blind persons may set aside countable income in plan to achieve self-support. Plan must meet specific criteria - refer to local independent living center.</td>
</tr>
<tr>
<td><strong>PASS plan - Plan to Achieve Self Support</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Preventative Housing Services</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Relocation Assistance - Federal</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Reverse mortgage</strong></td>
<td>Reverse mortgage is disregarded as income. State MRG says countable as a resource if retained beyond the month received. However, this may be inconsistent with state law, SSL 131-x. Reverse Annuity Mortgage payments are countable as income and resource.</td>
</tr>
<tr>
<td><strong>Vietnam Veterans</strong></td>
<td>Agent Orange Settlement Funds exempt and monthly allowances to some veteran’s children who have spina bifida</td>
</tr>
</tbody>
</table>

## TIME LIMITED RESOURCE DISREGARDS

<table>
<thead>
<tr>
<th>Earned Income Tax Credit</th>
<th>NO RESOURCE TEST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Income tax refunds</td>
<td>NO RESOURCE TEST</td>
</tr>
</tbody>
</table>

If received after 3/1/04, disregarded for 9 months

Exempt in the month received and in the following month

---

payment amounts, See IRS Publication 590 [http://www.irs.gov/pub/irs-pdf/p590.pdf](http://www.irs.gov/pub/irs-pdf/p590.pdf) (2010) The federal tables issued by the former Medicaid agency, HCFA, regarding life estates, which are copied in state directive 96 ADM-8, are less favorable, requiring higher payments. Most local districts in NYS require use of the latter tables in 96-ADM-8, but there is no binding state ruling or regulation on the issue.

30 18 NYCRR 360-4.6(b)(3)(6)
31 MRG pg. 315(ADC), 320(SSI) & 328(S/CC)
32 MRG pg. 320
33 MRG pg. 315, 321
34 MRG pg. 327; 18 NYCRR 360-4.6(b)(8)
35 MRG pg. 321, 329
36 MRG pg. 322
37 MRG pg. 323
### MEDICAID RESOURCE DISREGARDS CHART

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Insurance payments</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Sale of homestead</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Relocation Assistance - State or Local</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Social Security retro-active lump sum</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Stimulus Bill one-time payment</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>Crime Victims Assistance Funds</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
<tr>
<td><strong>VA Benefits</strong></td>
<td>NO RESOURCE TEST</td>
</tr>
</tbody>
</table>

---

38 POMS SI 01130.630 & MRG pg. 323
39 MRG, Resources 388. SSI rule is 3 months. SSA POMS SI 01130.110. 1) "Using" the proceeds includes obligating them by contract as well as actually paying them out." B(3)(b). 2) If the funds are not timely used, "The exclusion of the unused funds will be revoked retroactively to the date of their receipt." (B)(c)(3).
40 MRG pg. 323; 18 NYCRR 360-4.6(b)(2)(vii)
41 18 NYCRR 360-4.6(b)(2)(v)
43 18 NYCRR 360-4.6(b)(2)(vi), MRG p. 323
44 MRG Resources at 387.