



# Iowa Department of Human Services

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## GENERAL LETTER NO. 8-D-94

ISSUED BY: Bureau of Financial, Health and Work Supports  
Division of Adult, Children and Family Services

SUBJECT: Employees' Manual, Title 8, Chapter D, **RESOURCES**, pages 6, 7, 10, 10a, 10b, 20, 21, 22, 24, 25, 123, 133, and 144, revised.

### Summary

Chapter 8-D is revised to:

- ◆ Update the 2015 maximum community spouse resource allowance to \$119,220 and the minimum monthly maintenance needs allowance to \$2,980.50.
- ◆ Update attribution examples.
- ◆ Update the 2015 maximum equity amount for property in a homestead for people requesting long-term care to \$552,000.
- ◆ Update legal references.
- ◆ Remove references to IowaCare due to the end of the program.
- ◆ Update all links due to the Department's new website.

### Effective Date

January 1, 2015

### Material Superseded

This material replaces the following pages from Employees' Manual, Title 8, Chapter D:

<u>Page</u>	<u>Date</u>
6, 7, 10, 10a, 10b, 20, 21	July 25, 2014
22	June 11, 2010
24	January 1, 2010
25	February 20, 2009
123	July 25, 2014
133	February 20, 2009
144	July 19, 2013

### Additional Information

Refer questions about this general letter to your income maintenance administrator.

Mr. and Mrs. G claimed resources of \$60,000 on the application for attribution. However, they could provide verification for only \$50,000. The attribution was based on the verified resources of \$50,000.

Count the uncompensated value of any divested resources owned by either spouse if the resource was owned on the first moment of the first day of the month. "Uncompensated value" is the fair market value of the asset minus the amount that was received for the asset.

NOTE: If either spouse transferred resources at less than fair market value to attain eligibility, see [Transfer of Assets](#) for procedures to handle such transfers when determining eligibility.

2. Add together all resources of both spouses.
3. Attribute one-half of the documented resources to each spouse. If necessary, adjust the division so that the community spouse will receive no less than \$24,000 (if there is that much) but no more than \$119,220.

Value of Combined Resources	\$0 - \$47,999	\$48,000 - \$238,439	\$238,440 or more
Amount attributed to:			
Community spouse	\$24,000	One-half	\$119,220
Institutionalized spouse	Remainder	One-half	Remainder

After the attribution is complete, send each spouse the results on form 470-2588, *Notice of Attribution of Resources*, with copies of the resource documents. The notice includes an explanation of the spouses' appeal rights. (See [If the Applicant Appeals the Attribution Amount.](#))

If a court or administrative appeal decision has ordered an amount greater than half the resources for the community spouse, or more than \$119,220, attribute the amount ordered.

1. Mr. A enters a medical institution and his wife remains at home. Mr. and Mrs. A furnish verification of a total of \$69,500 in resources. One-half of this is \$34,750. Mrs. A is attributed \$34,750 and Mr. A is attributed \$34,750.

2. Mr. B enters skilled care expecting to stay indefinitely. His wife remains at home. Their total resources are \$24,792. One-half of this is \$12,396. Since this result is less than \$24,000, the minimum amount of \$24,000 is attributed to Mrs. B. \$792 is attributed to Mr. B.

3. Mrs. D enters a hospital and is expected to stay over 30 days. Her husband remains at home. Their total resources are \$300,000. One-half of this is \$150,000.

The community spouse cannot be attributed more than \$119,220 without a court order or final appeal decision. Therefore, \$180,780 is attributed to Mrs. D and \$119,220 is attributed to Mr. D ( $\$300,000 - \$119,220 = \$180,780$ ).

4. Mr. M enters a nursing facility and Mrs. M remains at home. The total value of their resources is \$40,000. However, the court has ordered that \$30,000 be transferred to Mrs. M for support. In this case, \$30,000 is attributed to Mrs. M, even though this amount exceeds the \$24,000 minimum; \$10,000 is attributed to Mr. M.

### **If the Applicant Appeals the Attribution Amount**

**Legal reference:** 441 IAC 75.5(3)"f"

The current minimum monthly maintenance needs allowance (MMMNA) for a community spouse is \$2,980.50. If the income available to the community spouse is less than the MMMNA, the applicant or the community spouse may file an appeal to set aside additional resources that would generate income equal to the difference between the income available to the community spouse and the MMMNA.

The appeal request must be filed within 90 days of the *Notice of Attribution of Resources* (NOA) or any *Notice of Decision* (NOD) regarding medical assistance. If the applicant does not file an appeal within 90 days of an NOA or NOD, the applicant loses the right to a hearing on the attribution for that application. If requested, help the applicant to complete form 470-0487 or 470-0487(S), *Appeal and Request for Hearing*.

If the appeal is filed after one or more applications has been denied, and the appeal allows a substitution of resources that result in the institutionalized spouse now being eligible, the date of approval begins with the most recent application. Only one appeal to allow a substitution of resources will be conducted.

1. Mrs. B enters a facility in January 2006. Mr. B remains at home. The Bs file an application for medical assistance for Mrs. B in March 2006. An attribution of resources is completed. The worker totals all of the household resources as of January 1, 2006, and subtracts the community spouse resource allowance assigned in the attribution process. The remaining resources continue to exceed the resource limit. The worker issues an NOD denying the application in April 2006.

Mrs. B files an appeal regarding the NOD. A hearing is granted. Since Mrs. B entered the facility before February 8, 2006, only Mr. B's income is used when the Bs provide a quote for the cost of an annuity to set aside additional resources for Mr. B.

2. Mr. C enters a facility on April 19 and files an application on April 21. Mr. C has a community spouse, Mrs. C. The Cs have combined total resources that are counted in the attribution, in the amount of \$27,000. \$24,000 was attributed to Mrs. C and that left \$3,000 for Mr. C.

Mr. C has \$1,410.90 Social Security and \$700 pension with a total income of \$2,110.90. Mr. C has Medicare and a Medicare supplement with a monthly premium of \$150. Mr. C has total unmet medical deductions in the amount of \$254.90 (\$104.90 Medicare premium + \$150 Medicare supplement = \$254.90). Mrs. C has \$1,100.90 Social Security.

The April application was denied since Mr. C's resources exceed the \$2,000 resource limit. Mr. C appealed the attribution and the denial.

Since Mr. C became institutionalized after February 8, 2006, Mrs. C's income, plus the income that will be made available from Mr. C is used when determining the shortfall of income between the MMMNA and Mrs. C's available income for the attribution process.

\$ 1,410.90	Social Security
+ <u>700.00</u>	Pension
\$ 2,110.90	
- <u>50.00</u>	Personal needs allowance
\$ 2,060.90	Total of Mr. C's income available to Mrs. C
+ <u>1,100.90</u>	Mrs. C's income
\$ 3,161.80	Total income available to Mrs. C when determining her shortfall for the annuity quote
\$ 2,980.50	MMMNA
- <u>3,161.80</u>	Total income available to Mrs. C
\$ .00	Shortfall of income used to determine the cost of an annuity for the attribution

Since there is not a shortfall of income for Mrs. C, additional resources cannot be attributed to Mrs. C. Mr. C remains ineligible until he spends down his resources to \$2,000.

If Mr. C is determined eligible, calculate the CP as follows:

\$ 1,410.90	Social Security
+ <u>700.00</u>	Pension
\$ 2,110.90	
- 50.00	Personal needs allowance
- <u>1,879.60</u>	Mrs. C's deficit
\$ 181.30	Client participation

\$ 2,980.50	MMMNA
- <u>1,100.90</u>	Mrs. C's Social Security
\$ 1,879.60	Mrs. C's deficit of income

Since Mr. C has income left after the spousal diversion, this is when you will allow other deductions in the CP calculation, such as unmet medical needs (Medicare and health insurance premiums). Since there is only \$181.30 left, Mr. C will have \$181.30 that he can use to pay towards his Medicare premium or health insurance premium.

3. Mr. D applied for waiver services in April and meets level of care for waiver services on May 5. Mr. D has a community spouse, Mrs. D. The Ds have combined total resources that are counted in the attribution, in the amount of \$78,000. \$39,000 was attributed to each spouse ( $\$78,000 \div 2 = \$39,000$ ).

Mr. D has \$1,390.90 Social Security and \$233 pension with a total income of \$1,623.90. Mr. D has Medicare and a Medicare supplement with a monthly premium of \$100. Mr. D has total unmet medical deductions in the amount of \$204.90 (\$104.90 Medicare premium + \$100 Medicare supplement = \$204.90). Mrs. D has \$535.90 Social Security.

The April application was denied since Mr. D's resources exceed the \$2,000 resource limit. Mr. D appealed the attribution and the denial.

Since Mr. D became institutionalized after February 8, 2006, Mrs. D's income, plus the income that will be made available from Mr. D is used when determining the shortfall of income between the MMMNA and Mrs. D's available income for the attribution process.

\$ 1,390.90	Social Security
+ <u>233.00</u>	Pension
\$ 1,623.90	
- <u>50.00</u>	Personal needs allowance
\$ 1,573.90	Total of Mr. D's income available to Mrs. D
+ <u>535.90</u>	Mrs. D's income
\$ 2,109.80	Total income available to Mrs. D when determining her shortfall for the annuity quote
\$ 2,980.50	MMMNA
- <u>2,109.80</u>	Total income available to Mrs. D
\$ 870.70	Shortfall of income used to determine the cost of an annuity for the attribution

If Mr. D is determined eligible, calculate the CP as follows:

\$ 1,390.90	Social Security
+ <u>233.00</u>	Pension
\$ 1,623.90	
- <u>2,199.00</u>	Mr. D's maintenance needs
\$ .00	Client participation
\$ 483.00	MNIL for one-person household
- <u>535.90</u>	Mrs. D's Social Security
\$ .00	Mrs. D's deficit of income

In this situation for client participation, Mrs. D does not have a deficit of income and Mr. D has no income left to allow any other deductions. If Mr. D had income left after the spousal diversion, this is when you would allow other deductions in the CP calculation, such as unmet medical needs (Medicare and health insurance premiums).

The worker divides \$28,500 by 2, which equals \$14,250. Because this is less than \$24,000, the amount attributed to Mrs. R (the community spouse) is \$24,000. The remaining amount of \$4,500 is attributed to Mr. R.

### Appealing an Attribution

After the attribution is complete, Mrs. R files an appeal to set aside additional resources that would generate income equal to the difference between the couple's available income and the MMMNA. The deficit in income is \$1,622.

The cost of an annuity to generate \$1,622 per month is \$103,119. Because \$103,119 is more than the \$24,000 attributed to Mrs. R, the attribution will be modified to substitute \$103,119 for the \$24,000 previously attributed to Mrs. R. No resources are attributed to Mr. R.

### Determining Eligibility After the Appeal

After the appeal, Mrs. R applies for Medicaid for Mr. R. The worker subtracts the community spouse allowance of \$103,119 from the couple's resources. This leaves no resources available to Mr. R. He is resource-eligible for Medicaid payment for nursing facility care. Mr. R has 90 days to transfer resources to Mrs. R to maintain his eligibility.

2. Mrs. J enters a nursing facility and files form 470-2577, *Resources Upon Entering a Medical Facility*. The Js list resources of a \$150,000 farm, a homestead, \$10,000 in bonds, \$100,000 in CDs, one car, \$10,000 in a checking account, and \$35,000 in a savings account.

### Completing the Attribution

The following items are used to complete the attribution:

\$ 150,000	Farm
10,000	Bonds
100,000	CDs
10,000	Checking account
+ <u>35,000</u>	Savings account
\$ 305,000	Total resources

\$119,220 is attributed to Mr. J. \$185,780 is attributed to Mrs. J.

### Appealing an Attribution

After the attribution is complete, Mr. J files an appeal to set aside additional resources to generate income equal to the difference between the couple's income and the MMMNA. The couple's available income is \$1,844 per month.  $\$2,980.50 - \$1,844 = \$1,136.50$  unmet need.

The average estimate of the cost of an annuity to generate \$1,136 per month is \$45,000, which is less than the \$119,220 attributed to Mr. J. The attribution remains the same.

### Determining Eligibility After the Appeal

After the appeal, Mr. J files an application for medical assistance for Mrs. J. The Js have the following resources at the time of application:

\$ 61,920	CDs
50,000	Bonds
10,000	Checking account
+ <u>35,000</u>	Savings account
\$ 156,920	Total resources

The worker subtracts the community spouse allowance of \$119,220. This leaves \$37,700 in resources available to Mrs. J. She is ineligible for Medicaid payment for nursing facility care, because she is over the resource limit.

## Estate Recovery

**Legal reference:** 441 IAC 75.28(7)

The cost of medical assistance is subject to recovery from the estate of certain Medicaid members. Members affected by the estate recovery policy are those who:

- ◆ Are 55 years of age or older, regardless of where they are living; or
- ◆ Are under age 55 and:
  - Reside in a nursing facility, an intermediate care facility for the mentally retarded, or a mental health institute, and
  - Cannot reasonably be expected to be discharged and return home. See [Establishing Whether a Member Under Age 55 Can Return Home](#).

Give a copy of Comm. 123 or Comm. 123(S), *Important Information for You and Your Family Members About the Estate Recovery Program*, to all Medicaid applicants at the time of the application.

An "estate" includes all real property, personal property, or any other asset in which the member had any legal title to or interest in at the time of the death of the member, to the extent of such interest. This includes, but is not limited to, interest in jointly held property, interest in trusts and retained life estates.

All assets included in the Medicaid member's estate are subject to probate for the purpose of estate recovery. NOTE: It is not allowable for assets of a deceased member to be used to pay for travel expenses of family members of the deceased at the time of the member's death.

Refer questions from members about estate recovery to the Iowa Medicaid Enterprise (IME) Estate Recovery Unit at the toll-free number 1-888-513-5186 or in the Des Moines area, at (515) 246-9841. You may also give members Comm. 266, *Iowa's Estate Recovery Law*, which gives detailed information about estate recovery procedures.

### **Establishing Whether a Member Under Age 55 Can Return Home**

**Legal reference:** 441 IAC 75.28(7)

Presume that a member in a medical institution who is under age 55 is **unable** to return home. You are required to inform members of this policy by manually issuing form 470-2980, *Estate Recovery Notice for New Approvals*, to all members who are **under age 55 and a resident of a medical institution** at the time of Medicaid approval.

If a member under age 55 is discharged before six months has elapsed, no further action is necessary. Estate recovery will not be pursued because the member was not permanently institutionalized.

A member in a medical institution who is under age 55 has the right to rebut this presumption. To do so, the member must make a written request to the Department after being in the institution for six months.

If a member dies before six consecutive months of institutionalization, the family or another interested party may submit a written request to the Department to rebut the presumption that the member could not have been reasonably expected to be discharged.

Inform members who are under age 55 of their rebuttal rights by manually issuing them form 470-3209, *Estate Recovery Six-Month Follow-Up*, six months after their admission into the medical institution. If the member dies in the medical institution after a stay of less than six months, issue the form to the family or someone acting on the member's behalf.

Additionally, the IME Revenue Collection Unit compares monthly Medicaid eligibility files against Vital Statistics records on reported deaths in Iowa to determine when estate recovery can be initiated for an individual.

### **Amount Due**

**Legal reference:** 441 IAC 75.28(7) "d" and "f"

The debt due the Department from the member's estate is equal to all medical assistance provided on the member's behalf on or after:

- ◆ The date the person attained age 55, or
- ◆ The date a person under age 55 entered a medical institution with no reasonable expectation of returning home.

However, no debt is due for assistance provided before July 1, 1994 (the beginning of the estate recovery program). Effective January 1, 2010, Medicaid payments for Medicare cost-sharing benefits are excluded from estate recovery for the following members:

- ◆ Qualified Medicare Beneficiaries (QMB)
- ◆ Specified Low-Income Medicare Beneficiaries (SLMB)
- ◆ Expanded Specified Low-Income Medicare Beneficiaries (E-SLMB)
- ◆ Qualified Disabled Working People (QDWP)
- ◆ Dually eligible for a full Medicaid coverage group and QMB
- ◆ Dually eligible for a full Medicaid coverage group and SLMB

Medicare cost-sharing benefits include Medicaid payments for Medicare Part A and Part B premiums, copayments, coinsurance, and deductibles.

If a member under the age of 55 is discharged from the facility and returns home before six consecutive months, no debt is assessed for Medicaid payments made on the member's behalf for the time of the institutionalization.

A claim against the estate of a member who was eligible for Medicaid because resources were disregarded under the Long-Term Care Asset Preservation program is computed differently. The amount of the assets disregarded under this program is not subject to estate recovery. EXCEPTION: Medicaid paid before the member attained eligibility due to long-term care asset preservation is still recovered from the estate.

Interest accrues on a debt due beginning six months after the death of a Medicaid member, surviving spouse, or surviving child, or upon the minor child reaching age 21. The Department does not use liens in the estate recovery program.

### **When Estate Recovery Is Waived**

**Legal reference:** 441 IAC 75.28(7) "b," "c," and "g"

Waiver of collection from the estate based on undue hardship is determined on a case-by-case basis. Collection of the debt from the estate of a Medicaid member is waived when collection of the debt would result in:

- ◆ Reduction in the amount received from the member's estate by a surviving spouse, or by a surviving child who is under age 21, blind, or permanently and totally disabled at the time of the member's death, or
- ◆ Other undue hardship. Undue hardship exists when all of the following are true:
  - The household that claims hardship has gross monthly income, as defined by Family Investment Program (FIP) policy, of less than 200% of the poverty level for a household of the same size.
  - The household that claims hardship has total resources, as defined by FIP policy, that do not exceed \$10,000.
  - Application of estate recovery would deprive a person of food, clothing, shelter, or medical care such that the person's life or health would be endangered.

When a person claims undue hardship, refer the person to the program manager for Estate Recovery at the Iowa Medicaid Enterprise.

If collection of all or part of a debt is waived for a surviving spouse or child, or for hardship, the amount waived creates a debt due from:

- ◆ The estate of the member's surviving spouse or blind or disabled child, upon the death of the spouse or child,
- ◆ A surviving child who was under 21 years of age at the time of the member's death, or upon the child reaching age 21,
- ◆ The estate of a surviving child who was under age 21 at the time of the member's death, if the child dies before reaching age 21, or
- ◆ The person who received the hardship waiver if the hardship no longer exists or from the estate of the person, whichever is first.

The debt owed by the surviving spouse, child, or person who received the hardship waiver will not exceed the amount in which recovery was waived.

Use the following chart to determine the correct maximum equity amount based on the date of application.

Application filed on or after:	Equity interest cannot exceed:
January 1, 2014	\$543,000
January 1, 2015	\$552,000

**Property Earning Six Percent of Equity**  
20 CFR 416.1201

Exclude real property as a resource if its equity value does not exceed \$6,000 and the net annual return earned on the property is at least 6% of the equity value. **Equity** is the current market value of the property minus any legal debt on the property. **Market value** is the amount an item can be sold for on the open market.

To determine if the property is earning 6% of equity, multiply the net monthly income by 12 months. This amount is the net annual return earned on the property. Then multiply the equity value by 6%. Compare the net annual return amount to the 6% of equity amount.

If the net annual return is higher than 6% of the client's equity in the property, exclude the property if the equity value does not exceed \$6,000.

If the client's equity in the property exceeds \$6,000 and the property is earning at least 6% of equity, count only the amount of equity over \$6,000 as a resource.

Ms. T owns her home and rents it out for \$700 a month. The fair market value of the home is \$80,000 and she still owes \$50,000 on it. Ms. T's equity value is \$30,000. She files an application for medical assistance. Determine if the property is earning 6% of equity as follows:

$$\$700 \times 12 = \$8,400 \text{ net annual return}$$

$$\$30,000 \times 6\% = \$1,800$$

Since Ms. T's equity amount exceeds \$6,000 and the property is earning at least 6% of equity, count only the amount of equity over \$6,000 as a resource.

$$\$30,000 - \$6,000 = \$24,000 \text{ countable resource value}$$

2. Mr. P and his child apply for FMAP on January 2. Mr. P requests retroactive Medicaid for the three months before the month of application (October, November, and December). His resources are as follows:

\$1,700	October
\$1,800	November
\$1,900	December
\$2,100	January

If all other eligibility requirements are met, Mr. P is resource eligible in the retroactive period because his resources do not exceed \$2,000. A decision on his application is made in January and is denied for ongoing Medicaid, because he is over the \$2,000 resource limit for January.

Mr. P's child may be eligible for Medicaid under CMAP, MAC, or MN since resources are not counted when determining eligibility for children. Mr. P may be eligible for Medically Needy.

The resource limits apply only to adults in the eligible group.

The Automated Benefit Calculation (ABC) system determines whether to apply the \$2,000 applicant limit or the \$5,000 member limit according to your entries.

If **any** household member was active for Medicaid in the month before the month of application, the system applies the \$5,000 member resource limit.

If there is a break in assistance, the system applies the \$2,000 applicant resource limit.

Households are not members for any month that is subject to recoupment. To override the \$2,000 resource limit, enter an "A" for applicant on the RSCM screen in the ABC system.

1. Mr. D and his children are canceled from FMAP effective December 1. He reapplies on April 2. He has \$3,000 in countable resources. On April 22, the worker, in error, enters a "P" for participant on the resource screen that causes the system to apply the \$5,000 resource limit for members rather than the \$2,000 limit for applicants.

Since it is past timely notice to cancel for May, the worker cancels FMAP effective June 1. An automatic redetermination is completed for the children under CMAP and for Mr. D under Medically Needy.

Ms. A's countable resources are within the \$5,000 limit for members.

If Ms. A were an applicant for FMAP, her resources would exceed the \$2,000 limit. The children may be eligible under CMAP and Ms. A may be eligible under Medically Needy.

When the household has a vehicle that is used for a self-employment enterprise and also used for personal use, apply the one motor vehicle exemption policy, the \$10,000 exemption for capital assets, and the vehicle exclusion. See [Self-Employment Assets](#).

Ms. A receives Medicaid under FMAP. She has the following resources: One camper valued at \$12,000, one car valued at \$6,000, \$1,000 in savings, \$200 cash value in a life insurance policy, and \$5,000 equity in tools needed for her self-employment.

<u>Countable Resources</u>		<u>Exempt Resources</u>	
\$ 1,000	Savings	\$12,000	Camper (exempt one motor vehicle)
200	Cash value of insurance	\$5,000	Equity in tools
<u>+ 196</u>	Excess equity in car	\$5,874	Car equity exclusion
\$ 1,396	Countable resources		

Ms. A is resource-eligible for Medicaid under FMAP.

### **Exempt Resources For FMAP**

**Legal reference:** 441 IAC 75.56(1), 75.56(2), 75.56(6), 75.56(8), 75.56(9) and 75.57(6)

Some resources are always exempt under FMAP. However, for other resources, the exemption lasts only for the month of receipt and the month following the month of receipt. Any resources remaining are then counted towards the maximum resource limit.

The following resources are exempt in the month of receipt and perhaps in the following month of receipt. See individual sections for more information.

- ◆ [Corrective payments](#)
- ◆ [Earned income credit \(EIC\) payments](#)
- ◆ [Property settlements](#)
- ◆ [Insurance settlements and damage judgments](#)