

# ALASKA ADULT PUBLIC ASSISTANCE MANUAL

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### 431 COUNTABLE RESOURCES

This section describes assets that are countable resources in determining eligibility for the APA program.

Unless specified otherwise, the value of a resource is its equity value. Equity value is the fair market value of the resource less any amounts owed or other legal encumbrances.

#### 431-1 REAL PROPERTY AND PROPERTY RIGHTS

##### A. NON-HOME REAL PROPERTY

Non-home real property consists of land and buildings or other objects that are attached permanently to the land and that do not meet the definition of a home.

##### B. PROPERTY RIGHTS

Even though an individual may not own an item of property, he or she may own certain rights to the property. If the individual can sell these property rights to another party, the property rights are an available resource. Examples of such saleable property rights are listed below:

###### 1. Mineral rights

Mineral rights represent ownership interest in natural resources such as coal, oil, natural gas, and other precious and non-precious metals which normally are extracted from the ground.

###### 2. Timber rights

Timber rights permit one party to cut and remove trees from the property of another party.

###### 3. Easement

An easement gives one party the right to use the land of another party for a particular purpose.

###### 4. Leasehold

A leasehold conveys to one party the use and control of certain property of another party for a specified period.

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Continued

**5. Water rights**

Water rights usually confer upon the owner of riverfront or shorefront property the right to access and use the adjacent water.

**6. Life estate**

A life estate conveys to an individual certain property rights for the duration of his or her life, or someone else's life. Most commonly, a life estate conveys a right to use or live on a piece of real property.

The owner of a life estate can sell the life estate but does not have title to the property itself and thus normally cannot sell the property or pass it on as an inheritance. The asset that is potentially countable as a resource is the specific right that is conveyed as a life estate.

**Value of a life estate.** The value of a life estate is the amount that it would sell for as of the first moment of the month. This value is determined by multiplying the fair market value of the property by a decimal value based on the life estate holder's life expectancy. These life expectancy tables and the applicable decimal multipliers are available on the Internet at the following website: <http://policy.ssa.gov/poms.nsf/lnx/0501140120>. If the life estate holder is an SSI applicant or recipient, or someone whose resources are considered available to meet the needs of an SSI applicant or recipient, accept the determination of value made by Social Security.

If an individual wishes to contest the value of a life estate interest determined by an case worker, the individual may obtain an appraisal of the value of a life estate from a knowledgeable source in the area where the property is located. A knowledgeable source is a person or institution that deals in the sale of life estates, such as a financial institution or real estate agent.

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#### 7. Remainder interest

A remainder interest exists if the owner of property conveys it to one party in the form of a life estate, and designates a second party to inherit the property upon the death of the life estate owner. The second party has a remainder interest in the property.

**Value of a remainder interest.** The value of a remainder interest is determined the same way as the value of a life estate, except that the fair market value is multiplied by a different decimal value. These values are available on the Internet at <http://policy.ssa.gov/poms.nsf/lnx/0501140120>.

### 431-2 PERSONAL PROPERTY

#### A. JOINT ACCOUNTS

All funds in a jointly owned checking or savings account to which each owner has unrestricted access are totally available to each owner of the account.

The **only** exception to this rule is that if each owner of the account is eligible for SSI or APA, the funds in the account are prorated equally to each owner. This exception does **not** apply to situations where the other joint owner receives another type of assistance such as Temporary Assistance.

An APA applicant or recipient who is an owner of a joint account may argue that some or all the funds in the account do not belong to him or her. To establish non-ownership of the funds, the APA client must:

1. Provide a written statement that explains why some or all of the funds in the account do not belong to him or her. If the client indicates that only some of the funds do not belong to him or her, the client must specify what portion of the funds are not his or hers; and

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### Continued

2. Provide a corroborating statement from the other account owner(s). If the other owner(s) of the account is (are) not competent to provide such a statement, a statement from a third party who is familiar with the situation is acceptable; and
3. Change the account designation to either remove the individual's name from the account, or show that the owner(s) have restricted access to the account.

Once this is done, any funds determined to be owned by the other account holder(s), and that the individual can no longer withdraw from the account, were not and are not a resource to the individual.

### B. TIME DEPOSITS

A time deposit is a contract between an individual and a financial institution where the individual agrees to leave funds on deposit for a specified period and the financial institution agrees to pay interest at a specified rate for that period. Certificates of deposit and savings certificates are common forms of time deposits.

Withdrawal of a time deposit before the specified period expires incurs a penalty. This penalty does not prevent the time deposit from being a resource, but does reduce its value as a resource.

In some situations, the terms of a time deposit will prohibit early withdrawal altogether; in such cases, the time deposit has no value as a resource until it can be withdrawn.

The resource value of a time deposit is the amount that the owner would receive upon withdrawing it at the first moment of the month.

### C. STOCKS

Shares of stock represent ownership in a business corporation. Many stocks are sold publicly. Their value shifts with demand and may fluctuate widely. The value of publicly traded stock is the amount that the stock can be sold for as of the first moment of the month. Broker fees do not reduce the value that stocks have as a resource.

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Some stocks may be held within close groups and traded very infrequently. The sale of such stock is often handled privately and may be subject to restrictions. As a rule, such stocks cannot be converted to cash within 20 working days.

***Verification:** The closing price of publicly traded stock may usually be found in the next day's regular or financial newspaper. If the case worker is unable to determine the value of a stock from this source, the APA client is responsible for providing proof of the value of the stock. The preferred evidence for stock that is not publicly traded is a letter or other written statement from the firm's accountants giving their estimate of the stock's value.*

#### D. SAVINGS BONDS

U.S. Savings Bonds are obligations of the Federal Government. Unlike other government bonds, savings bonds are not transferable; they can only be sold back to the Department of the Treasury. U.S. Savings Bonds cannot be redeemed for six months after the issue date specified on the bond.

U.S. Savings Bonds are not resources during the six-month mandatory retention period. They are resources as of the first moment of the seventh month. The value of a savings bond increases over time, sometimes even after the maturity date is reached. However, after maturity, the value of a series H and HH bond is its face value.

If more than one individual owns a U.S. Savings Bond, the co-owners own equal shares of the value of the bond. A U.S. Savings Bond is not a resource to a co-owner if another co-owner has and will not relinquish physical possession of it.

#### E. MUNICIPAL, CORPORATE, AND GOVERNMENT BONDS

A bond is a written obligation to pay a sum of money at a specific future date. A municipal bond is the obligation of a state or locality (county, city, town, village, or special purpose authority such as a school district). A corporate bond is the obligation of a private corporation. A government bond, as distinct from a U.S. Savings Bond, is a transferable obligation issued or backed by the Federal Government.

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Municipal, corporate, and government bonds are negotiable and transferable. Their value as a resource is their fair market value. Their redemption value, which is available only at maturity, is immaterial.

***Verification.** Bonds are usually bought and sold through brokers, security dealers, or other investors. They may sell for more or less than their face value or purchase price, depending on a variety of factors. The APA applicant or recipient is responsible for providing proof of the value of any bonds.*

**F. TRUST PROPERTY**

**1. Definitions**

**Trustee.** A trustee is a person who holds legal title to property for the use or benefit of another. In most instances, the trustee has no legal right to revoke the trust or use the property for his or her own benefit.

**Trust beneficiary.** A trust beneficiary is a person for whose benefit a trust exists.

**Trustor/grantor.** A trustor/grantor is a person who creates a trust.

**Totten trust.** A Totten trust is a trust in which a trustor makes himself or herself trustee of his or her own funds for the benefit of another. The trustor/trustee can revoke a Totten trust at any time. Should the trustor/trustee die without revoking the trust, the principal reverts to the beneficiary.

**Trust principal.** The trust principal is the amount placed in trust by the trustor plus any trust earnings paid into the trust and left to accumulate.

**Trust earnings.** Trust earnings are amounts earned by trust property. They may take such forms as interest, dividends, royalties, rents, etc. Trust earnings are unearned income to the person (if any) legally able to use them for personal support and maintenance.

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Continued

**2. Trust funds and resources**

**(a) Individual cannot revoke trust**

The trust principal is not a resource to an individual who is not legally empowered to revoke the trust and use the principal for his or her own support and maintenance. Revocability of a trust depends on the terms of the trust agreement and/or on state law. If a trust is irrevocable, the trust principal is not anyone's resource

**(b) Individual can revoke trust**

The trust principal is a resource to anyone who can revoke the trust and who can access the principal thereafter, whether or not he or she actually does so.

If a trust is revocable, generally the right to revoke is reserved with the trustor. A trust beneficiary will not usually have the authority to revoke the trust. Therefore, the trust principal is not likely to be his or her resource unless the trust itself gives him or her access to the property without trustee intervention. Occasionally, a trustee has the legal authority to revoke a trust.

The trustor/trustee of a Totten trust has the authority to revoke the trust at any time, therefore, the trust principal is his or her resource.

**(c) Special Needs or Pooled Trust**

A trust that meets the Medicaid criteria for a special needs or pooled trust under [Medical Assistance Manual Section 5028](#) is not a resource. This exemption applies to trusts established on or after January 1, 2000

**3. Trust funds and income**

**(a) Individual cannot revoke trust**

Trust disbursements from an irrevocable trust that are paid to a beneficiary in cash are income; it does not matter whether the disbursements are from the trust principal or the trust earnings.

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Trust earnings and disbursements are not income to the trustor or trustee unless designated as belonging to the trustor or trustee under the terms of the trust. Trust earnings are not income to the beneficiary unless the trust dictates, or the trustee allows, payment to the beneficiary.

#### (b) Individual can revoke trust

If an individual can revoke a trust and thereby receive the trust principal, the trust is a resource to the individual. Disbursements from the principal of a revocable trust are never income, but represent the conversion of a resource. Trust earnings from a revocable trust are income to such an individual.

#### 4. Verification

The client's access to a trust shall be determined by viewing the trust documents. It is the client's responsibility to provide these documents. If the trust document is unclear, the case worker shall refer the trust document to the APA Policy Specialist for an opinion.

### G. RETIREMENT FUNDS

Retirement funds are annuities or work-related plans for providing income when employment ends. They include such items as pension, disability, or retirement plans administered by an employer or union. They also include funds held in individual retirement accounts (IRA) and plans for self-employed persons, sometimes called Keogh plans.

A retirement fund is a resource to an APA applicant or recipient if he or she has the option of withdrawing a lump sum, and is not yet eligible for periodic payments. The resource value of such a retirement fund is the amount of money that an individual can currently withdraw from the fund.

If the individual is eligible for periodic payments from a retirement fund, the individual must apply for such payments under APA development of income requirements. In this situation, the fund is not a resource, but the periodic payments are counted as income in the month received.

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Unlike other types of retirement funds that may be excluded from resources because they provide periodic payments, the available balance of an IRA or Keogh account is considered as a countable resource to the owner of the account because he or she can access the principal, even though he or she may have to pay a penalty for doing so.

Any retirement fund belonging to an ineligible spouse is excluded as a resource. (See [manual section 460-4A](#).)

#### H. INHERITANCES

An inheritance is cash, a right, or a noncash item received as the result of someone's death. An inheritance is considered an available resource the month after it is received, unless otherwise excluded. Noncash items are not counted as income when received, but they must be evaluated as a resource the month after they are received.

#### I. PROMISSORY NOTES, LOANS, AND PROPERTY AGREEMENTS

##### 1. Definitions

**Promissory note.** A promissory note is a written, unconditional agreement where one party agrees to pay a specified sum of money at a specified time to another party. It may be given in return for goods, money loaned, or services rendered.

**Loan.** A loan is a transaction where one party advances money to, or on behalf of another party, who promises to repay the lender in full, with or without interest. The loan agreement may be written or oral. A written loan agreement is a form of promissory note.

**Property agreement.** A property agreement is a pledge of a particular property for the payment of a debt within a specified time period. Property agreements on real estate are generally referred to as mortgages, but also may be called land contracts, contracts for deed, escrow contracts, or deeds of trust. Personal property agreements are commonly known as chattel mortgages.

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**Continued**

**2. Resource value**

Generally, promissory notes, loan agreements, and personal and real property agreements can be sold to a third party. If it is saleable, the note, loan, or property agreement is a resource in the amount of the outstanding principal balance, unless evidence is established that it has a lesser fair market value. If the fair market value is less than the outstanding principle balance, the resource value is the fair market value.

If the item is not saleable, it is not a resource. A promissory note, loan, or property agreement may be assumed to be unsalable if there is a legal bar to its sale.

**3. Installment payments**

Notes and property agreements frequently provide for installment payments to the owner of the note or agreement. If the note or agreement is a resource, that portion of any payment received representing payment on the principal is also a resource, and is not treated as countable income. The portion of any payment representing interest on the principal is unearned income in the month that it is received.

If a note or agreement is not a resource because it is not saleable, the total payment received, whether applied toward principal or interest, is unearned income.

**4. Verification**

The APA applicant or recipient is responsible for providing proof of the value of any promissory note, loan, and property agreement. If the client contends that the value of the item is less than its outstanding principal balance, evidence of its fair market value may be obtained from knowledgeable sources engaged in the business of making such transactions. Such sources include banks or other financial institutions, private investors, and real estate brokers.

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J. LIFE INSURANCE

A life insurance policy is a contract. Its purchaser (owner) pays premiums to the company (insurer) that provides the insurance. In return, the insurer agrees to pay a specified sum of money to a designated beneficiary upon the death of the insured (the person on whom, or on whose life, the policy exists). Life insurance policies which have a cash surrender value are generally called "whole life" insurance policies.

The **cash surrender value** of all life insurance policies on the life of the same insured person is a resource to the owner of the policies if the combined face value of the policies exceed \$1,500. If the insurance policies are on the life of different insured persons, only the **face values** of the policies on the same insured person are combined to determine if the combined face value of the policies exceeds \$1,500. (Refer to [section 432-2B](#) for an explanation of the limited life insurance exclusion for policies whose face value is less than \$1500.)

**Example 1:**

*Mr. Evans is the owner of a whole life insurance policy on himself. The policy has a face value of \$10,000 and a cash surrender value of \$1,700. He also owns a separate insurance policy on himself with a face value of \$1,000 and a cash surrender value of \$500.*

*The \$10,000 policy is a resource in the amount of its \$1,700 cash surrender value because its face value exceeds \$1,500. The \$1,000 policy is also a resource in the amount of its \$500 cash surrender value because its \$1,000 face value, in combination with the face value of the \$10,000 policy, exceeds \$1,500. The resource value of both policies is \$2,200 ( $\$1,700 + \$500 = \$2,200$ ). This resource value may be reduced by the amount of any allowable burial exclusion if Mr. Smith designates one or both of the policies as a burial fund. (See [manual section 432-2D](#) for an explanation of the burial fund exclusion.)*

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Continued

***Example 2:***

*A similar situation to example 1, except that the smaller \$1,000 whole life insurance policy owned by Mr. Evans covers the life of his wife instead of himself. The face value of the \$1,000 policy is not combined with the face value of the \$10,000 policy because it is on a separate insured person. The cash surrender value of the \$1,000 policy is not counted as a resource because its face value does not exceed \$1,500.*

Term insurance with no cash surrender value and burial insurance are not resources and are not taken into account in determining the combined face value of all life insurance policies. Burial insurance is insurance with terms that preclude the use of policy proceeds, including any cash surrender value, for any purpose other than payment of the insured's burial expenses.

**K. RETROACTIVE PAYMENTS**

Except for retroactive SSI and RSDI benefits, retroactive benefit payments are a countable resource in the month after the month they are received. Examples of retroactive benefits payments that are considered countable resources the month after they are received include: Retroactive APA benefits, retroactive VA benefits, etc. Refer to [section 432-4A](#) for an explanation of the limited resource exclusion allowed for retroactive SSI and RSDI benefits.