

CHAPTER CONTENTS

Section		Page
432	RESOURCE EXCLUSIONS.....	L-1
432-1	REAL PROPERTY.....	L-1
	A. THE HOME.....	L-1
	1. THE HOME EXCLUSION.....	L-1
	2. DEFINITION OF THE HOME.....	L-1
	3. TEMPORARY ABSENCE FROM THE HOME.....	L-1
	B. HOME REPLACEMENT FUNDS	L-2
	C. JOINTLY OWNED REAL PROPERTY EXCLUSION/ HARDSHIP PROVISION	L-3
	D. REAL PROPERTY FOLLOWING A 9-MONTH PERIOD OF CONDITIONAL BENEFITS	L-4
	E. RESTRICTED ALLOTTED INDIAN LANDS.....	L-4
432-2	PERSONAL PROPERTY	L-4
	A. ONE VEHICLE	L-4
	1. EXCLUSION REGARDLESS OF VALUE.....	L-4
	2. APPLYING THE VEHICLE EXCLUSION.....	L-5
	3. OTHER VEHICLES.....	L-5
	4. VEHICLES IN REMOTE AREAS.....	L-5
	5. VERIFICATION.....	L-6
	B. LIMITED LIFE INSURANCE EXCLUSION	L-7
	C. BURIAL SPACES	L-7
	D. FUNDS SET ASIDE FOR BURIAL.....	L-8
	1. DEFINITION OF BURIAL FUNDS.....	L-9
	2. DESIGNATION OF BURIAL FUNDS	L-9
	3. BURIAL FUNDS MUST BE SEPARATE AND IDENTIFIABLE	L-10
	4. REDUCTIONS IN MAXIMUM BURIAL FUNDS EXCLUSION	L-11
	5. INCREASES IN VALUE OF BURIAL FUNDS	L-12
	6. BURIAL FUNDS USED FOR ANOTHER PURPOSE	L-13
	E. HOUSEHOLD GOODS AND PERSONAL EFFECTS	L-14
	1. HOUSEHOLD GOODS	L-14
	2. PERSONAL EFFECTS	L-14
	3. OTHER PERSONAL PROPERTY	L-15
432-3	REAL OR PERSONAL PROPERTY	L-15
	A. PROPERTY NECESSARY FOR SELF-SUPPORT.....	L-15

	1.	PROPERTY EXCLUDED REGARDLESS OF VALUE.....	L-16
	2.	NONBUSINESS PROPERTY USED FOR SUBSISTENCE EXCLUDED UP TO \$6000 EQUITY REGARDLESS OF RATE OF RETURN.....	L-16
	3.	NONBUSINESS PROPERTY EXCLUDED UP TO \$6000 EQUITY IF IT PRODUCES A 6 PERCENT RATE OF RETURN	L-17
	B.	RESOURCES SET ASIDE AS PART OF AN APPROVED PLAN FOR ACHIEVING SELF-SUPPORT	L-18
432-4		RETAINED CASH PAYMENTS AND IN-KIND PAYMENTS.....	L-18
	A.	RETROACTIVE SSI AND RSDI PAYMENTS.....	L-18
	B.	PAYMENTS TO VICTIMS OF NAZI PERSECUTION	L-19
	C.	FEDERAL DISASTER ASSISTANCE	L-19
	D.	CASH RECEIVED FOR THE REPAIR OR REPLACEMENT OF LOST, DAMAGED, OR STOLEN EXCLUDED RESOURCES.....	L-19
	E.	FOOD.....	L-19
	F.	COMPENSATION TO VOLUNTEERS.....	L-20
	G.	REMUNERATION FOR OUT-OF-POCKET EXPENSES	L-20
	H.	FEDERAL HOUSING ASSISTANCE	L-20
	I.	FEDERAL RELOCATION ASSISTANCE PAYMENTS	L-21
	J.	LIMITED EXCLUSION OF STATE OR LOCAL RELOCATION ASSISTANCE PAYMENTS.....	L-21
	K.	EDUCATIONAL ASSISTANCE.....	L-22
	1.	TOTAL EXCLUSION.....	L-22
	2.	LIMITED EXCLUSION	L-22
	L.	ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) ASSETS	L-23
	M.	OTHER EXCLUSIONS OF PAYMENTS TO INDIANS.....	L-25
	N.	WORLD WAR II RESTITUTION FUNDS.....	L-27
	O.	AGENT ORANGE SETTLEMENT FUNDS	L-27
	P.	VICTIMS' COMPENSATION PAYMENTS	L-27
	Q.	EARNED INCOME TAX CREDITS AND CHILD TAX CREDITS.....	L-28
	R.	GIFTS OF DOMESTIC TRAVEL TICKETS.....	L-28
	S.	ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PAYMENTS.....	L-29
	T.	RADIATION EXPOSURE COMPENSATION TRUST FUND.....	L-29
	U.	INDIVIDUAL DEVELOPMENT ACCOUNT (IDA).....	L-29
	V.	PAYMENTS TO PERSONS CAPTURED AND INTERNED BY NORTH VIETNAM	L-30
	W.	RICKY RAY HEMOPHILIA RELIEF FUND	L-30
	X.	VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA	L-31
432-5		COMMINGLED FUNDS.....	L-31

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432 RESOURCE EXCLUSIONS

The following exclusions are applied when determining the resources that are measured against the resource limits of the APA program:

432-1 REAL PROPERTY

A. THE HOME

1. The home exclusion

An individual's home, regardless of its value, is excluded as a resource.

2. Definition of the home

An individual's home is property in which he or she has an ownership interest and that serves as the individual's principal place of residence. A principal place of residence is the dwelling the individual considers as his or her established or principal home and to which, if absent, the individual intends to return.

The home consists of the home itself, the plot of land on which the home is located, any land that adjoins the home plot (whether or not the land is legally described as a separate plot of land), and any other buildings located on the land. Easements and public rights of way (utility lines, roads, etc.) do not separate adjoining land from the home plot.

3. Temporary absence from the home

A home property may be excluded as a resource while the individual is not living there if:

- (a) The individual continues to consider it as his or her principal place of residence and intends to resume living in it; or
- (b) The spouse or a dependent relative of the individual continues to live there while the individual is institutionalized.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-1

Continued

For the purpose of this exclusion, dependency may be of any kind (financial, medical, etc.). Relative means: a child, stepchild, or grandchild; parent, stepparent, or grandparent; aunt, uncle, niece or nephew; brother or sister, stepbrother or stepsister, half brother or half sister; cousin; or in-law.

***Verification.** A written statement of an individual's intent to return to a home from which he or she is temporarily absent shall be obtained if the absence is expected to last for more than a full calendar month. The form APA 12, "Statement Regarding Principal Place of Residence", may be used for this purpose.*

In situations where the absence is due to institutionalization, the case worker may accept the client's written statement that a spouse or dependent relative continues to reside in the home, unless there is reason to question the allegation. If questionable, the client must provide proof of relationship and/or dependency.

B. HOME REPLACEMENT FUNDS

If an individual sells an excluded home, the proceeds of the sale are excluded from resources if the individual:

1. Plans to use them to buy another excluded home, and
2. Does so within 3 full calendar months of receiving them.

If the individual receives any part of the proceeds under an installment contract, the contract is an excluded resource for as long as the individual:

1. Plans to use the entire down payment and the entire principal portion of each installment payment to buy another excluded home; and
2. Does so within 3 full calendar months of receiving such down payment or installment payment.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-1 Continued

The portion of either the down payment or the installment payment that represents payment against the principal balance is excluded from consideration as income. The portion of any payment that represents interest on the principal is considered as unearned income in the month that it is received, even if it also is reinvested in the replacement home.

This exclusion is not allowed if the proceeds of the sale are not reinvested in a replacement home within the specified three-month period.

C. JOINTLY OWNED REAL PROPERTY EXCLUSION/ HARDSHIP PROVISION

Jointly owned real property is excluded from countable resources if the sale of the property would cause undue hardship to another joint owner.

For this exclusion to apply, the property must be the other joint owner's principal place of residence, and sale of the property would have to cause the joint owner to move and not have any other housing readily available. (Not having any other housing readily available means that the other joint owner does not own another home that is legally available for his or her occupancy.)

Verification. *A written statement from the other joint owner must be provided. The statement must contain the following information:*

1. *The property is used as the other joint owner's principal place of residence; and*
2. *The other joint owner would have to move if the property were sold; and*
3. *The other joint owner has no other housing readily available.*

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-1 Continued

D. REAL PROPERTY FOLLOWING A 9-MONTH PERIOD OF CONDITIONAL BENEFITS

Real property may continue to be excluded following a 9-month period of conditional benefits if the owner continues to make reasonable efforts to sell the property. Refer to manual section 433-2G for a detailed explanation of this policy.

E. RESTRICTED ALLOTTED INDIAN LANDS

Allotted land, owned by an individual who is of Indian descent from a federally recognized Indian tribe, is an excluded resource if the individual cannot legally sell, transfer, or otherwise dispose of it without permission from other individuals, his or her tribe, or an agency of the Federal Government. (Refer to sections 432-4L and 432-4M for policy on other Indian-related resource exclusions.)

Verification. The status of allotted land must be verified with the appropriate Indian agency. In Alaska, the Bureau of Indian Affairs (BIA) is the agency that keeps records of restricted allotted land.

432-2 PERSONAL PROPERTY

A. ONE VEHICLE

A vehicle is any vehicle used for transportation. Vehicles used for transportation include but are not limited to cars, trucks, motorcycles, all terrain vehicles (ATVs), boats, snowmobiles, animal-drawn vehicles, and animals. A temporarily broken down vehicle normally used for transportation meets the definition of a vehicle. A vehicle that has been junked or that is used only as a recreational vehicle (for example, a boat used on weekends for pleasure) does not qualify for the vehicle exclusion.

1. Exclusion Regardless of Value

One vehicle per household is excluded regardless of value if it is used for transportation of the eligible individual or couple or a member of the eligible individual's or couple's household. A member of the individual's or couple's household includes anyone who is living with the eligible individual or couple.

432-2

Continued

2. Applying the vehicle exclusion

The vehicle exclusion applies in the manner most advantageous to the individual. If the individual or couple owns more than one vehicle used for transportation, the total exclusion applies to the vehicle with the greater equity value.

3. Other Vehicles

The countable amount of any vehicle that is not totally excluded is the owner's equity (fair market value minus the amount owed on the vehicle), unless it can be excluded under another provision, such as:

- Property necessary for self-support (Section 432-3A),
- Property necessary for an approved plan for achieving self-support (Section 432-3B),
- Conditional benefits (Section 433-2).

The fair market value of a vehicle is the average price a vehicle of that particular year, make, model, and condition will sell for on the open market to a private individual in the particular geographic area involved.

The vehicle value does not include optional equipment, nor does it include shells or campers that are mounted on the vehicle. Shells and campers are considered separately as personal property.

4. Vehicles in Remote Areas

Used vehicles such as boats, snow machines, and ATVs that might be salable in urban Alaska may not be salable in remote areas. This does **not** make such vehicles exempt from consideration as a resource, but may result in a determination that a vehicle has little or no market value in the community.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-2

Continued

Caseworkers will determine fair market value and equity value for vehicles in remote areas based on:

- The local market conditions and circumstances that exist in the community, including the presence or absence of a significant cash economy. (How much would the vehicle sell for as is, where is? What are other vehicles of its type selling for in the community?);
- Accessibility of parts and repair service; and
- Information provided by the household.

If the caseworker determines that a countable vehicle is not salable in the community, the vehicle's resource value is zero.

5. Verification

For countable vehicles, the fair market value and amount owed must be determined.

Find the fair market value of countable vehicles by using the NADA Appraisal Guides on the Internet at www.NADAguides.com. (See Administrative Procedures manual section 105-15 for procedures for using the NADA website.) The fair market value is the base amount quoted as "Average Trade-in" or "Low Retail".

The fair market value of a countable vehicle may also be determined using:

- Appraisal from a local dealer;
- Local newspaper ads, community bulletin boards, or other local advertisements giving the selling price for similar vehicles; or
- In remote areas, collateral contacts from a disinterested knowledgeable source such as a bank, village council, storeowner, merchant, or dealer.

432-2

Continued

Acceptable evidence of the amount owed includes a statement from the lien holder or other reasonable evidence of the current debt on the vehicle

If the household questions the value assigned to their vehicle, discuss with them the reason they think the vehicle is worth less and document this information in the case file. For example, they may explain that the vehicle is not running or needs significant repairs. Accept the household's stated value unless the explanation provided is questionable.

If the claimed value is questionable, the household must be given the opportunity to verify the lower value. See Administrative Procedures manual section 105-1C for the definition of questionable information.

B. LIMITED LIFE INSURANCE EXCLUSION

The **cash surrender value** of all life insurance policies owned by an individual on the life of the same insured person is not a resource to the owner of the policies if the combined **face value** of the policies does not exceed \$1,500.

If the combined face value of all life insurance policies owned by an individual on the life of the same insured person exceeds \$1500, the cash surrender value of the policies is a countable resource. (See section 431-2J for related policy on countable life insurance.)

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.

C. BURIAL SPACES

A burial space held for the burial of an applicant or recipient and the applicant's or recipient's spouse, or any other member of the applicant's or recipient's immediate family is an excluded resource, regardless of value. The burial **space** exclusion is allowed **in addition** to the \$1500 burial **fund** exclusion explained in section 432-2D.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-2

Continued

Immediate family members include: parents, including adoptive parents; minor or adult children, including adoptive and step-children; brothers and sisters, including adoptive and step siblings; and spouses of these individuals. Immediate family does not include the members of an ineligible spouse's family unless they meet one of the above definitions.

A burial space is: a burial plot, gravesite, crypt, mausoleum, casket, urn, niche, or other repository customarily and traditionally used for a deceased's bodily remains.

Burial spaces also include necessary and reasonable improvements or additions to the burial spaces, including but not limited to vaults; headstones, markers, or plaques; burial containers such as those used for caskets; and contractual arrangements for the opening and closing of the gravesite.

Some or all of a prepaid burial contract may also qualify for the burial space exclusion if the burial contract is paid up and the funeral provider is obligated to provide the service. A prepaid (or pre-need) burial contract is an agreement where the buyer pays in advance for a burial that the seller agrees to furnish upon the death of the buyer. Any portion of a prepaid burial contract that clearly represents the purchase of a burial **space** is excludable, regardless of value. Some or all of the remaining value of the contract may be excludable as burial **funds**.

The funeral provider is not obligated to provide burial services until a burial contract is completely paid for. Therefore, until the contract is paid up, funds paid into the contract do not qualify for the burial space exclusion; they must be treated as burial funds.

D. FUNDS SET ASIDE FOR BURIAL

The caseworker must explore, as part of the resource determination process, the possibility that the client has set aside funds for his or her own burial or the burial of his or her spouse. The first \$1500 of funds set aside for the burial of an eligible individual are excluded as a resource. An additional exclusion of \$1500 is applied to funds set aside for the burial of a spouse.

432-2

Continued

1. Definition of burial funds.

Burial funds include: revocable burial contracts; revocable burial trusts; other revocable burial arrangements (including the value of certain installment sales contracts for burial spaces); cash; financial accounts such as savings or checking accounts; and other financial instruments with a definite cash value such as life insurance, stocks, bonds, certificates of deposit, etc.

Property other than that listed in this definition is not considered burial funds and may not be excluded under the burial funds provision. For example, a car, real property, livestock, etc., may not be set aside as burial funds.

2. Designation of burial funds

Burial funds may be designated as such by an indication on the burial fund document (for example, the title on a bank account) or a signed statement. A signed statement must show:

- The value and owner of the resources;
- For whose burial the resources are set aside;
- The form(s) in which the resources are held (burial contract, bank account, etc.); and
- The date the individual first considered the funds set aside for the burial of the person specified.

The designation may be made by an applicant or recipient, or by a person acting on his or her behalf. The signer may designate the funds as having been set aside since a date before the actual signing of the statement. However, the first month for which the burial funds exclusion is effective is the initial month of application for APA or APA-related Medicaid benefits.

432-2

Continued

Example:

Jim applies for APA on April 1, 2005. During the interview, he states that he owns a whole life insurance policy with a face value of \$10,000, and current cash surrender value of \$2,000. Jim provides a signed statement designating the life insurance policy as a burial fund. Since the cash surrender value on the date of application is \$2,000, \$1,500 may be excluded under the burial fund exclusion effective April 1, 2005. The remaining \$500 counts as a resource.

3. Burial funds must be separate and identifiable

Burial funds must be kept separate from non-burial-related assets to be excluded. Burial funds may, however, be commingled with other burial-related assets. Burial-related assets are burial funds (both excluded and non-excluded) and burial spaces.

Example:

An individual owns a paid-up burial contract worth \$4,000. The entire value of the burial contract is a burial-related asset. \$2,000 of the contract clearly represents burial spaces (burial plot, casket, etc) and is totally excluded. \$1,500 of the remaining \$2,000 is excluded as a burial fund. The remaining \$500 is counted as a resource.

Once burial funds are separated from non-burial-related assets, the burial funds exclusion is allowed the month following the month the funds are separated.

Example:

A bank account containing \$3,300, \$1,500 of which is designated for burial and \$1,800 of which is other funds available for living expenses, is not allowable and the \$1,500 may not be excluded as a burial fund.

432-2

Continued

If the \$1,500 is moved to a separate account and designated as burial funds, the burial funds exclusion is allowed the month after the funds are separated.

4. Reductions in maximum burial funds exclusion

The \$1,500 burial funds exclusion is reduced by the amount of other excluded assets that are available to meet the client's burial expenses. However, excluded assets that represent burial spaces do **not** reduce the \$1,500 burial fund exclusion.

Assets that reduce the burial funds exclusion include:

- (a) the face value of any term life insurance on the individual; and
- (b) the face value of burial insurance on the individual; and
- (c) the value of any portion of an irrevocable burial contract or burial trust that does not clearly represent a burial space, and
- (d) the face value of any life insurance policies on the individual which have had their cash value excluded because the face value is less than \$1500. (Refer to manual section 432-2B.)

Example:

An applicant has a \$1,900 savings account. The applicant also has a life insurance policy with a face value of \$1,000 and a cash value of \$750. The cash value of the insurance policy is excluded as a resource because its face value does not exceed \$1,500. The \$1,500 burial funds exclusion is reduced by \$1,000 (the face value of the policy), to \$500.

432-2

Continued

The applicant may designate the entire \$1,900 savings account as funds set aside for burial, but only \$500 of the \$1,900 balance in the account qualifies for the burial funds exclusion; the remaining \$1,400 value of the savings account is a countable resource.

If the applicant or recipient does not designate the entire balance of the \$1,900 as funds set aside for burial, the entire \$1,900 is a countable resource.

5. Increases in value of burial funds

Interest that is left to accumulate and become part of **excluded** burial funds, or appreciation in the value of prepaid burial arrangements, will be excluded from income and resources. The exclusion of any increase in the value of excluded burial funds may be applied only to increases in value that have accrued since the most recent date that a recipient became eligible for assistance.

The preferred method for keeping track of excluded increases in the value of burial funds is to keep excluded burial funds separate from other non-excluded burial funds. The caseworker may advise the client of this, but may not require it.

Example:

A client designates a \$2,000 savings account as having been set aside for burial since October 1, 1986, and \$1,500 of this is excluded as funds set aside for burial.

The interest that accrues to the excluded portion of the funds from that date is also excluded as income and resources. The interest that accrues to the non-excluded portion of the funds in the account is countable as income in the month of accrual and is a countable resource thereafter.

432-2

Continued

6. Burial funds used for another purpose

If an individual uses excluded burial funds for a purpose other than the burial arrangements of the individual or the individual's spouse, it may be necessary to correct the burial fund designation to show the current amount. The burial fund exclusion is not lost and reapplied, but merely corrected. Re-designation is only necessary if the amount excluded falls below the previously designated amount. If the use of burial funds does not cause the excluded amount to fall below the previously designated amount, then no re-designation is necessary.

Example 1: Funds fall below designated amount

Ron originally designates \$1,500 as a burial fund. After several years, interest accumulations increase the excluded amount to \$1,750. In November, Ron withdraws \$500 to repair his car. Because the remaining \$1,250 in the account is below the originally designated amount of \$1,500, Ron must re-designate the remaining \$1,250 as a burial fund.

Ron may choose to replenish the burial funds, but the amount excluded may not exceed \$1,500.

Example 2: Funds do not fall below designated amount

Cheryl originally designates \$1,500 for burial. After several years, interest accumulations increase the excluded amount to \$1,850. During June, she uses \$250 for another purpose. The remaining amount of \$1,600 (\$1,500 + \$100 interest) will be excluded as a burial fund for July. Because the excluded amount has not fallen below \$1,500, Cheryl does not have to re-designate the burial funds.

432-2 Continued

E. HOUSEHOLD GOODS AND PERSONAL EFFECTS

Household goods and personal effects are excluded from resources, regardless of their dollar value.

1. Household goods

Household goods are:

- Items of personal property, found in or near the home, that are used on a regular basis; and
- Items needed by the household for maintenance, use, and occupancy of the premises as a home.

Household goods include, but are not limited to, furniture, appliances, tools, electronic equipment such as personal computers and television sets, carpets, cooking and eating utensils, and dishes.

2. Personal effects

Personal effects are:

- Items of personal property ordinarily worn or carried by the individual; and
- Articles otherwise having an intimate relation to the individual.

Personal effects include, but are not limited to, personal jewelry including wedding and engagement rings, personal care items, educational or recreational items (such as books or musical instruments), and items of cultural or religious significance to an individual (such as ceremonial attire). Items required because of an individual's physical or mental impairment (such as prosthetic devices or wheelchairs) are also considered personal effects.

432-2 Continued

3. Other personal property

Personal property that an individual acquires or holds because of its value or as an investment is not excluded under this section. Such items include, but are not limited to, jewelry that is not worn or held for family significance, gems, and collectibles (such as an art collection).

432-3 REAL OR PERSONAL PROPERTY

A. PROPERTY NECESSARY FOR SELF-SUPPORT

Certain property may be either totally or partially excluded from resources if it is necessary for self-support. Property excluded under this provision generally falls into the three categories explained below.

To qualify for this exclusion, the property must be in current use in the type of activity that qualifies it as necessary for self-support.

Nonuse exception. Property that is not in current use may continue to be excluded as necessary for self-support only if it has been in use, and there is a reasonable expectation that the use will resume. Resumption of use must be expected within 12 months of last use.

This 12-month period can be extended for an additional 12 months if nonuse is due to a temporarily disabling condition. For this extension to apply, there must be a reasonable expectation that use will resume within the additional 12-month period.

432-3

Continued

1. Property excluded regardless of value

- (a) **Property used in a trade or business.** All property used in a trade or business is excluded as a resource. A trade or business is a **self-employment** activity that is designed to produce income. (Refer to section 441-1D for the definition of self-employment.) The liquid assets of a trade or business are also totally excluded.
- (b) **Property that represents governmental authority.** Any property that represents governmental authority to engage in an income-producing activity is excluded as a resource. This type of property includes Limited Entry Fishing Permits. A Limited Entry Permit that is not being used in an income-producing activity must be treated as personal property and its equity value counted as a resource, unless there is a reasonable expectation that use will resume within 12 months. (See nonuse exception provisions in this section above.)
- (c) **Personal property used by an employee for work.** Personal property used by an employee for work is excluded from resources. Excluded items include tools, safety equipment, uniforms, etc.

2. Nonbusiness property used for subsistence excluded up to \$6000 equity regardless of rate of return

Exclude from resources up to \$6000 of the equity value of **nonbusiness** property that is used to produce goods or services for home consumption.

This type of property includes land used to grow produce for home consumption, a boat used to subsistence hunt and fish, and livestock or tools used to produce items for home consumption. A Limited Entry Fishing Permit may also be excluded up to \$6000 of its equity value under this provision if the permit is used to access a fishery for subsistence use.

432-3

Continued

3. Nonbusiness property excluded up to \$6000 equity if it produces a 6 percent rate of return

Up to \$6000 of the equity value of nonbusiness income-producing property is excluded from resources if the property produces a net annual return equal to at least 6 percent of the excluded equity value. Any portion of the property's equity value that exceeds \$6000 is treated as a countable resource. The liquid assets of an item of nonbusiness income-producing property are not excluded.

Nonbusiness property that is in current use, but is earning less than 6 percent of its excludable equity value must have its entire equity value treated as a countable resource unless:

- (a) Some unusual circumstance has caused a temporary reduction in the net earnings, and
- (b) The usual earnings would satisfy the 6 percent test, and
- (c) The client furnishes evidence of a reasonable expectation that the property will again satisfy the 6 percent test within 24 months from the end of the taxable year in which the unusual circumstance began.

This type of property includes rental property such as a rental home and land leases.

Example 1:

Mr. Jones lives in an apartment and is renting out his formerly excluded home, which has an equity value of \$10,000. Even if the property produces a 6% return ($6\% \times \$6000 = \360), \$4000 of its equity value cannot be excluded under this provision, and must be counted as an available resource.

432-3

Continued

Example 2:

Mrs. Patterson owns a mobile home (not her home) that has an equity value of \$3000. She owns other property that has an equity value of \$2000. The mobile home produces a net annual return of \$750, and the other property produces less than \$50 a year.

Since the mobile home produces more than a 6 percent return ($6\% \times \$3000 = \180), its equity value is excluded. Since the other property produces less than a 6 percent return ($6\% \times \$2000 = \120), its equity value counts as an available resource.

B. RESOURCES SET ASIDE AS PART OF AN APPROVED PLAN FOR ACHIEVING SELF-SUPPORT

A plan for achieving self-support allows blind or disabled (but not aged) individuals to set aside specified income and/or resources necessary for the achievement of its goals. Exclude the resources of a blind or disabled individual if they are needed to fulfill a plan for achieving self-support and the plan has been approved by either the Social Security Administration (in the case of an SSI recipient) or the Division of Vocational Rehabilitation (in the case of a non-SSI APA applicant or recipient).

432-4

RETAINED CASH PAYMENTS AND IN-KIND PAYMENTS

A. RETROACTIVE SSI AND RSDI PAYMENTS

Any amounts retained from retroactive Social Security Retirement, Survivors, and Disability Insurance (RSDI) and SSI benefits are excluded from resource consideration for nine (9) consecutive calendar months following the month of receipt. This exclusion does not apply to retroactive APA payments.

Interest earned by funds excluded under this provision is not excluded.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4 Continued

B. PAYMENTS TO VICTIMS OF NAZI PERSECUTION

Payments received from any source by individuals because of their status as victims of Nazi persecution are excluded from resources.

Interest earned on unspent payments is not excluded from resources.

C. FEDERAL DISASTER ASSISTANCE

Any unspent assistance received under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (formerly the Disaster Relief and Emergency Assistance Act of 1974), or some other federal statute, because of a presidentially declared major disaster, is permanently excluded from resources.

Interest earned by funds excluded under this provision is also excluded from both income and resources.

***Verification.** Acceptable proof of federal disaster assistance is documentation or a collateral contact with the source of the payment which specifies that the assistance is provided under federal statute because of a presidentially-declared disaster.*

D. CASH RECEIVED FOR THE REPAIR OR REPLACEMENT OF LOST, DAMAGED, OR STOLEN EXCLUDED RESOURCES

Cash received from any source for the repair or replacement of lost, damaged, or stolen **excluded** resources are themselves excluded resources for 9 calendar months following the month of their receipt.

Interest earned by funds excluded under this provision is also excluded as income and resources for the period during which the funds themselves are excluded.

E. FOOD

The value of the food stamp allotment provided under the Food Stamp Act of 1977; the value of assistance provided under the National School Lunch Act; the value of assistance provided under the Child Nutrition Act of 1966; and the value of federally donated foods distributed under section 32 of Public Law 74-320 or section 416 of the Agriculture Act of 1949 are excluded.

432-4 **Continued**

F. COMPENSATION TO VOLUNTEERS

Compensation of any kind that is provided under the Domestic Volunteers Service Act is excluded from resources. This includes payments to people who are volunteers in the Foster Grandparents Program, Senior Companion Program, Retired Senior Volunteer Program, Cooperative Volunteer Program (RSVP), Senior Volunteer Program, and Volunteers in Service to America Program (VISTA).

G. REMUNERATION FOR OUT-OF-POCKET EXPENSES

Remuneration for out-of-pocket expenses to people who are volunteers in the Corps of Retired Executives (CORE), or in the Active Corps of Executives (ACE), is excluded from resources.

H. FEDERAL HOUSING ASSISTANCE

The value of any assistance paid with respect to a dwelling unit is excluded from income and resources if paid under the United States Housing Act of 1937, the National Housing Act, Section 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1949.

The federal government through the Office of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA) provides many forms of housing assistance. This assistance may include subsidized housing, loans for renovations, mortgage and investment insurance, guaranteed loans and mortgages, and loans for construction, improvement, or replacement of farm homes and other buildings. This assistance may be provided directly by the federal government or through other entities such as local housing authorities and non-profit organizations.

Any housing assistance in which HUD or FmHA funding is involved is subject to this exclusion. In Alaska, housing assistance which qualifies for this exclusion includes: Section 8 housing assistance, housing assistance provided by the Alaska Housing Finance Corporation (AHFC), and housing assistance in rural areas provided by various Native housing authorities.

432-4 Continued

I. FEDERAL RELOCATION ASSISTANCE PAYMENTS

Relocation assistance provided under the federal Uniform Relocation Assistance and Real Property Acquisition Act of 1970 is excluded from resources.

This exclusion applies to relocation assistance provided to persons displaced by any federal or federally assisted project. Relocation assistance may be furnished directly by a project or through an agency, such as a housing authority, designated for the purpose of providing relocation assistance. (Refer to manual section 432-4J below for policy on the treatment of relocation assistance provided by a state or political subdivision for a project that does not have any federal involvement.)

Interest earned on unspent relocation assistance payments is not excluded from either income or resources.

***Verification.** To be excluded from resources under this provision, evidence must show that the payment is relocation assistance.*

Acceptable evidence includes:

- *A letter or check stub that indicates the reason for the payment; or*
- *Any other document that indicates the reason for the payment; or*
- *A collateral contact with the federal project or agency that issued the relocation assistance payment.*

J. LIMITED EXCLUSION OF STATE OR LOCAL RELOCATION ASSISTANCE PAYMENTS

Unspent relocation assistance provided by a state or local government for a project that does not have any federal involvement is excluded from resources for 9 calendar months following the month of receipt.

Interest earned on unspent relocation assistance payments is not excluded from either income or resources.

***Verification.** To be excluded from resources under this provision, evidence must show that the payment is relocation assistance.*

Acceptable evidence includes:

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4

Continued

- *A letter or check stub that indicates the reason for the payment; or*
- *Any other document that indicates the reason for the payment; or*
- *A collateral contact with the state or local agency that issued the relocation assistance payment.*

K. EDUCATIONAL ASSISTANCE

1. Total exclusion

All student financial assistance received under Title IV of the Higher Education Act of 1965, or under Bureau of Indian Affairs (BIA) student assistance programs, is excluded from resources, for nine (9) calendar months beginning the month after the month it is received, regardless of use.

Educational assistance that falls into this category includes: Pell Grants, Supplemental Educational Opportunity Grants (SEOG), State Student Incentive Grants (SSIG), Academic Achievement Incentive scholarships, Upward Bound, and possibly others.

Verification. *Verify that the source of the educational assistance is Title IV or BIA by viewing the client's award letter. Contact the awarding institution if the award letter is not available or is unclear.*

2. Limited Exclusion

Educational Assistance from public or private agencies that is **not** received under Title IV of the Higher Education Act of 1965, or under BIA student assistance programs, is excluded from resources for nine (9) calendar months only to the extent that the assistance is used or set aside to pay for school attendance costs.

Educational assistance that falls into this category includes: Alaska State Student Loans, Veterans Affairs educational assistance, scholarships from Native organizations, work study programs, etc.

432-4

Continued

Educational assistance that is provided directly to an applicant or recipient in the form of cash by a private individual, such as a parent, is considered to be a gift and is also excluded from resources under this provision.

School attendance costs are tuition and fees, including costs for rental or purchase of any equipment, materials, or supplies required by all students in the same course of study. School attendance costs also include allowances for books, supplies, transportation, and miscellaneous personal expenses necessary for a student to attend school on at least a half-time basis.

From the total amount of educational assistance, subtract all expenses paid or reasonably anticipated to be paid for school attendance costs, including expected child care costs necessary for the client to attend school.

Any remaining funds are considered a resource the month following their receipt, unless otherwise excluded.

***Verification.** Verify the total amount of all educational assistance provided by a public or private agency, which is not received under Title IV of the Higher Education Act of 1965, or under BIA student assistance programs, by viewing documentation from the school or from the source of the assistance.*

L. ALASKA NATIVE CLAIMS SETTLEMENT ACT (ANCSA) ASSETS

The Alaska Native Claims Settlement Act (ANCSA) excludes the following items from the resources of an Alaska Native, or from the resources of a descendant of an Alaska Native:

1. **Alaska Native Fund distributions.** Distributions from the original Alaska Native Fund are excluded from resources regardless of the amount distributed.
2. **Stock.** Any stock issued or distributed by an ANCSA corporation (including stock issued as a dividend or distribution on stock) is excluded from resources.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4

Continued

3. **Partnership Interests.** A partnership interest received from an ANCSA corporation is excluded from resources. However, income received as a result of a partnership interest is treated as a cash distribution. (See #6 below.)
4. **Land.** Any land or any interest in land received from an ANCSA corporation (including any land or any interest in land received as a dividend or distribution on stock) is excluded from resources. This includes any land or interest in land inherited by a descendant.
5. **Interest in a settlement trust.** Any interest in a settlement trust received from an ANCSA corporation is excluded from resources.
6. **Cash distributions.** For the purpose of this exclusion, cash distributions from ANCSA corporations are distributions that are made to a class of individuals, such as all shareholders, or all elders. Cash distributions do not include cash payments that are made to individuals or households for a specific purpose such as wages, a door prize, or a general assistance payment from the corporation.

This exclusion does not apply to any funds received as a result of the investment or deposit of an individual's ANCSA payments after they are distributed to the shareholders.

- (a) Any cash distributions (including cash dividends on stock) received from ANCSA corporations are totally excluded if they were received before February 3, 1988.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4

Continued

- (b) For cash distributions received February 3, 1988 or later, the total of all distributions received from ANCSA corporations in a calendar year are excluded up to \$2,000 per individual. This means that an individual can accrue up to \$2,000 per calendar year from all ANCSA distributions received that year and not have the money counted as a resource for that year or any subsequent year. For example, an individual who keeps at least \$2,000 in cash distributions from ANCSA corporations each year for 4 consecutive years may have a total of \$8,000 excluded from resources.

If the individual keeps more than \$2,000 from any year's distribution, the amount exceeding the \$2,000 exclusion for that year is a countable resource. If the individual keeps less than \$2,000 from any year's distributions, only the amount retained from that year's distribution qualifies for that year's exclusion.

M. OTHER EXCLUSIONS OF PAYMENTS TO INDIANS

For APA and SSI purposes, various federal statutes provide for the exclusion of certain payments made to members of Indian tribes and groups. Some statutes pertain to specific tribes or Indian groups while others apply to certain types of funds. The following types of payments made to Indian tribes and groups are excluded from both income and resources:

1. Per capita distribution payments by the Blackfeet and Gros Ventre tribal governments to members, which resulted from judgment funds to tribes, are excluded under Public Law 92-254.
2. Per capita distribution payments made by the Secretary of the Interior or by the Indian tribe itself to members of Indian tribes who were due judgment funds are excluded under Public law 93-134. This does not include payments of funds distributed or held in trust according to public laws enacted before October 19, 1973.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4

Continued

3. Receipts derived from certain trust lands and distributed to members of designated Indian tribes are excluded under Public Law 94-114. These lands, mineral rights, and receipts are excluded from income and resources, unless they were subject to the Mineral Leasing Act of 1920 and distributed before October 17, 1975.

These Indian trust lands are all located in the lower 48 states in the states of Idaho, Michigan, Montana, New Mexico, Oklahoma, North Dakota, South Dakota, and Wisconsin. A list of lands conveyed to Indian tribes under Public Law 94-114 is maintained in the Director's Office. If a case worker becomes aware of funds that may be derived from this source, he or she must contact the APA Policy Specialist for specific directions on the treatment of these funds.

4. Per capita payments made to, or held in trust for, members of the Grand River Band of Ottawa Indians are excluded under Public Law 94-540.
5. Judgment funds, including interest and investment income which accrues on Indian judgment funds while held in trust, and initial purchases made with distributed judgment funds, are excluded under Public Law 97-458.
6. Per capita distributions of funds held in trust by the Secretary of the Interior to members of an Indian Tribe are excluded under Public Law 98-64. These per capita payments may be distributed by the Secretary of the Interior or by the tribe itself. In Alaska, distributions of this type have been made by the Metlakatla Indian Community.
7. All money and lands transferred to the members of the Puyallup Tribes under the Puyallup Tribe of Indians Settlement Act of 1989 are excluded under Public Law 101-41.

432-4 Continued

N. WORLD WAR II RESTITUTION FUNDS

Any funds retained from restitution payments made by the U.S. Government to individual Japanese-Americans and to Aleuts (or, if deceased, payments made to their survivors) who were interned or relocated during World War II are excluded from resources under Public Law 100-383. Restitution payments paid to individual Japanese-Canadians who were interned or relocated during World War II by the Canadian Government are also excluded from resources.

This exclusion does not apply to any funds received as a result of the investment or deposit of a restitution payment.

Verification. The Director's Office maintains a list of individuals who have received Aleut reparation payments. The case worker may contact the APA Policy Specialist to verify an individual's receipt of Aleut reparations payments. Documents in the client's possession may be used to verify Japanese-American or Japanese-Canadian payments.

O. AGENT ORANGE SETTLEMENT FUNDS

Any funds retained from Agent Orange settlement payments are excluded from resources under Public Law 101-201 and 101-239. Distribution of Agent Orange settlement payments began in March 1989. Qualifying veterans will receive at least one payment a year for the life of the program. Qualifying survivors of deceased veterans will receive a single lump sum payment.

Any funds received as a result of the investment or deposit of Agent Orange settlement payments are not excluded from resources.

P. VICTIMS' COMPENSATION PAYMENTS

Effective May 1991, unspent payments made by a state to aid victims of crime are excluded from resources for 9 calendar months following the month of receipt.

Interest earned on unspent victims' compensation payments is not excluded from either income or resources.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4 Continued

Verification. *To be excluded from resources under this provision, evidence must show that the payment is compensation for expenses incurred or losses suffered as the result of crime. Acceptable evidence includes:*

- *A letter or check stub that indicates the reason for the payment; or*
- *Any other document that indicates the reason for the payment; or*
- *A collateral contact with the state agency that issued the payment.*

Q. EARNED INCOME TAX CREDITS AND CHILD TAX CREDITS

Unspent federal tax refunds or payments made by an employer that are related to the Earned Income Tax Credit (EITC) or the Child Tax Credit are excluded from resources for the nine (9) calendar months following the month the refund or payment is received.

Interest Earnings: Interest earned on unspent tax refunds related to the EITC or the Child Tax Credit is not excluded from resources.

R. GIFTS OF DOMESTIC TRAVEL TICKETS

Under Public Law 101-239, the value of a domestic travel ticket received by an individual or spouse is excluded from resources if the ticket is received as a gift and not converted to cash. Domestic travel is travel among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The travel ticket may be for transportation by air, land, or sea.

If the ticket is converted to cash, it becomes unearned income in the month it is converted, and a resource in the month following the month it is converted to cash.

432-4 Continued

Gifts of non-domestic travel tickets, such as airline tickets to Japan or the Philippines, which can be converted to cash, are not excluded from resources under this provision.

S. ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION PAYMENTS

The Energy Employees Occupational Illness Compensation Act provides compensation to individuals who develop illnesses as a result of employment at certain federally owned facilities in which radioactive materials were used. These payments, if retained, are exempt resources.

T. RADIATION EXPOSURE COMPENSATION TRUST FUND

Fallout emitted during the U.S. Government's atmospheric nuclear testing in Nevada during the 1950s and during a brief period in 1962 exposed some individuals to doses of radiation that put their health at risk. In addition, some individuals employed in uranium mines from 1947 through 1971 were exposed to large doses of radiation.

Public Law 101-426 created the Radiation Exposure Compensation Trust Fund and authorizes the Department of Justice to make compensation payments to individuals (or their survivors) who were found to have contracted certain diseases after exposure. The payments will be made as a one-time lump sum. Generally, the exposure occurred in parts of Arizona, Colorado, Nevada, New Mexico, Utah, and Wyoming.

Unspent payments from the Radiation Exposure Compensation Fund are excluded from resources.

U. INDIVIDUAL DEVELOPMENT ACCOUNT (IDA)

An Individual Development Account (IDA) is a special bank account that helps an individual save for his or her education, the purchase of a first home, or to start a business. An individual contributes money from his or her earnings to an IDA. These contributions are then matched with money from another source. The matching money helps the individual reach his or her goal sooner.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4 Continued

An individual's contributions, as well as any matching funds, that are deposited into a TANF-funded IDA or Demonstration Project IDA are excluded from resources. Any interest earned on these funds is also excluded from resources. IDAs that are not funded by either TANF or Demonstration Project monies are not excluded from resources.

TANF-funded IDA. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 authorized states to use money from their TANF grant to carry out a program to fund IDAs.

Demonstration Project IDA. The Assets for Independence Act (enacted on January 27, 1998) created a Federal Demonstration Project to test the effectiveness of IDAs in improving the lives of participating low-income persons. This Act provides for Demonstration Project monies to carry out a program to fund IDAs.

V. **PAYMENTS TO PERSONS CAPTURED AND INTERNED BY NORTH VIETNAM**

The Department of Defense provides payments to certain persons who were captured and interned by North Vietnam. If the individual is deceased, payment may be made to a surviving spouse or, if none, to surviving children (including biological and adoptive children) in equal shares. The amount payable is a one-time payment of up to \$50,000. These payments are excluded from resources.

W. **RICKY RAY HEMOPHILIA RELIEF FUND**

The Ricky Ray Hemophilia Relief Fund Act of 1998, Public Law 105-369, provides for a single payment of \$100,000 to:

- Individuals with a blood-clotting disorder who may have contracted an HIV infection from a blood transfusion;
- Current and former spouses of these individuals who also contracted an HIV infection;
- Children of these individuals who also contracted an HIV infection; and

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-4 Continued

- Surviving spouses, children, and parents of the above.

Unspent payments from the Ricky Ray Hemophilia Relief Fund are excluded from resources.

X. VIETNAM VETERANS' CHILDREN WITH SPINA BIFIDA

A 1996 study by the National Academy of Sciences found evidence associating parental exposure to herbicides in Vietnam with increased risk of spina bifida in their children. Spina bifida is a congenital birth defect characterized by defective closure of the bones surrounding the spinal cord.

Public law 104-204 authorizes the Department of Veterans Affairs (VA) to provide benefits, including a monthly monetary allowance, to certain Vietnam veterans' children who suffer from spina bifida. VA payments made to or on behalf of such children are excluded from resources.

432-5 COMMINGLED FUNDS

Excluded funds must be identifiable in order to be excluded. Except for burial funds (refer to section 432-2D), identifiability does not require that excluded funds be kept separate from other countable funds. If excluded funds are maintained in an account with countable funds, any amounts withdrawn are presumed to be from the countable portion of the funds unless the client indicates otherwise.

Example:

An individual has a savings account containing \$500 in countable funds. The individual receives an excludable \$400 distribution from an ANCSA corporation which is deposited into the account. The account balance is \$900. The \$400 in ANCSA funds are excluded from resources.

The individual then withdraws \$700. The entire remaining balance of \$200 is excluded from resources as an excluded ANCSA distribution. A later deposit of \$500 is made with countable funds. The balance is now \$700 but \$200 of this continues to be excluded as a resource.

ALASKA ADULT PUBLIC ASSISTANCE MANUAL

432-5

Continued

The case worker may recommend, but not require, that the client keep excluded resources separate from countable resources; such commingled resources make it difficult for both the client and the case worker to identify which resources must be counted or excluded. The client is responsible for providing documentation needed to determine whether funds are counted or excluded.