

MEDICAID RESOURCE DISREGARDS CHART

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

	Parent/caretaker of child under 21, Persons age 19-20, Pregnant Women, Children, and Single adults & Childless Couples Over 21 and Not Disabled	Disabled adults & age 65+ (and disabled children ONLY if using disability budgeting)
	FOR THESE CATEGORIES, RESOURCE TEST WAS ELIMINATED AS OF 1/1/10.	They have option to “attest” to resources, rather than verify them, unless seeking any long-term care service, whether home care or nursing home care.¹
BASICS		
Resource Level (2013)	Beginning January 1, 2010, there is no longer any resource test for all categories of Medicaid except for SSI-related (“DAB”).² This includes AFDC-related, LIF, and S/CC categories. As a result, the resource disregards for these categories (while still on the books) are rendered moot, and are not listed here.	One person - \$14,400 Two people - \$21,150 (Resource limit is always 1 or 2 with this budgeting) For disabled children, count only child’s own resources plus amount of parents’ countable resources over \$14,400 if lives with 1 parent, and over \$21,150 if lives with 2 parents

¹ 04 ADM-06, available at http://www.health.state.ny.us/health_care/medicaid/publications/docs/adm/04adm-6.pdf

² 10 ADM-1, available at http://www.health.state.ny.us/health_care/medicaid/publications/docs/adm/10adm-1.pdf

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

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

⁴ 18 NYCRR § 360(b)(2)(i)

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

⁶ MRG pg. 348-350

⁷ 18 NYCRR 360(b)(5)

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

⁹ MRG pg. 334.

¹⁰ MRG pg. 315

	Parent/caretaker of child under 21, Persons age 19-20, Pregnant Women, Children, and Single adults & Childless Couples Over 21 and Not Disabled	Disabled adults & age 65+ (and disabled children ONLY if using disability budgeting)
LIFE INSURANCE AND BURIAL ARRANGEMENTS		
Life Insurance	NO RESOURCE TEST	If face value of policy(ies) are \$1500 or less ¹² , face value counts toward \$1500 burial fund (see below). If face value under \$1500, then cash surrender value up to \$1500 is exempt as a burial fund (see below). If cash value is over \$1500, excess amount is applied against the <u>regular</u> resource limit. ¹³
Burial Fund (bank account, stock, etc. designated as burial fund)	NO RESOURCE TEST	Separate account up to \$1500 (\$3000 for a disabled couple) is disregarded. ¹⁴ Interest accrued is also disregarded. BUT if applicant also has life insurance, the cash surrender value of life insurance and burial fund must <i>together</i> equal less than \$1500, not counting interest accrued after applied for Medicaid. ¹⁵ Irrevocable pre-paid funeral agreement <i>may</i> limit right to have burial fund - see below. May have \$1500 burial fund for spouse, even if not applying for Medicaid.
Irrevocable pre-paid funeral agreement for APPLICANT	NO RESOURCE TEST	Same - may have agreement of any value. But if agreement provides for "non-burial space items" worth more than \$1500, agreement is fully exempt, but applicant <i>may not also have a burial fund</i> . See Burial Plot box below for definition of "non-burial space items" ¹⁶
Irrevocable pre-paid funeral agreement for family members	NO RESOURCE TEST	May pre-purchase burial space items for immediate family members only, not non-burial space items. See Burial Plot below.

¹¹ MRG pg. 322; 18 NYCRR 360-4.6(a)(xviii)

¹² 18 NYCRR 360-4.6(b)(2)(ii)

¹³ MRG pg. 264;

¹⁴ 18 NYCRR 360-4.6(b)(1)(ii)

¹⁵ MRG pg. 300-302

¹⁶ MRG pg. 303

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Burial plot	NO RESOURCE TEST	Burial plot and burial space items for applicant/recipient and for “immediate family members” are exempt --includes spouse, minor AND adult children, stepchildren, siblings & their spouses, parents & step-parents, even if not living in same household. See MRG p. 303.3 “Burial space items” include: gravesite, crypt, vault, mausoleum, casket, urn, opening/closing grave, perpetual care of the gravesite, headstone, and engraving. “Non-burial space items” include: topical disinfection, custodial care, dressing/casketing, cosmetology, supervision for visitation and/or funeral service, hearse, death notices, flowers, and out-of-town shipping. ¹⁷
OTHER DISREGARDS		
Americorps/ VISTA	NO RESOURCE TEST	Payments to volunteers in VISTA , Retired Senior Volunteer Program under the Domestic Volunteer Services Act, Foster Grandparent disregarded as income and resources ¹⁸
Blood Plasma Settlements	NO RESOURCE TEST	Payments received from class action for hemophilia patients infected with HIV by blood transfusion ¹⁹
Business or Trade & Income-Producing Real Property	NO RESOURCE TEST	Equity value of trade or business is disregarded, including any real property and liquid resources used to operate business. For income-producing not used in a trade or business , only the first \$12,000 of equity is disregarded if produces net return of 6% or more ²⁰
Disaster Relief	NO RESOURCE TEST	World Trade Center or other federal, state, or local disaster relief is disregarded ²¹
Energy	NO RESOURCE TEST	Federal Energy Assistance Payments ²²
Foster care	NO RESOURCE TEST	Foster care payments received for care of foster children ²³
Hostile Fire Pay	NO RESOURCE TEST	Payment received while on active military duty disregarded ²⁴
HUD Block Grants	NO RESOURCE TEST	HUD Community Block Grants are disregarded ²⁵

¹⁷ MRG pg. 303, 303.3

¹⁸ MRG pg. 316, 329; 18 NYCRR 360-4.6(xiv), (xi), (xii)

¹⁹ MRG pg. 313, 318

²⁰ MRG pg. 278

²¹ MRG pg. 318; 18 NYCRR 360-4.6(b)(11)

²² MRG pg. 307; 18 NYCRR 360-4.6(a)(1)(iii)

²³ 18 NYCRR 360-4.6(a)(1)(iv)

²⁴ MRG pg. 307

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Native American payments	NO RESOURCE TEST	Disregarded ²⁶
IRA or Pension plan of ineligible spouse or parent	NO RESOURCE TEST	Pension funds belonging to an Ineligible or non-applying legally responsible relative (spouse of applicant or parent of minor disabled child) held in an IRA or work-related pension plan or Keogh (for self-employed) are disregarded. But amounts disbursed from pension fund are income. ²⁷
IRA or Pension plan of applicant - and retirement annuities	NO RESOURCE TEST Note that though disregarded as an asset, if individual takes out periodic payments from IRA, these are counted as income. Non-periodic irregular withdrawals should not be counted as income. ²⁸	Retirement funds in annuity, IRA, Keogh, etc. are NOT countable as a resource and need not be cashed in IF the applicant is entitled to periodic payments (begins at age 59-1/2 or when disabled). For the exemption, they must apply for periodic payments -- even before IRS requires them to at age 70.5. <ul style="list-style-type: none"> • Periodic payments from the IRA count as <i>income</i>. Once in payment status, the principal in the retirement fund is not a countable <i>resource</i>. Payments must be of sufficient amount that is actuarially sound - amortized over life expectancy.²⁹ • "...[T]he SSI-related individual may choose to take money out of a retirement account on a non uniform and/or inconsistent basis. An example would be an individual electing to withdraw \$350 from a retirement fund in February and \$600 in October. These irregular withdrawals are not treated as periodic payments. The non-periodic distributions are considered a conversion of a resource and not countable income. In this situation, the retirement fund is treated as an available, countable resource." DOH MRG p. 316 (updated June 2010) http://www.health.state.ny.us/health_care/medicaid/reference/mrg/mrg.pdf. (INTERPRETATION: An individual might take out periodic payments –which are counted as income, and make the IRA exempt as an asset. If she also takes out additional irregular withdrawals, those are not income but would be counted as a resource). <p>Annuity must be irrevocable, with no right to withdraw the principal. Payments must be made that are actuarially sound.</p>

²⁵ MRG pg. 307

²⁶ 18 NYCRR 360-4.6(b)(12)

²⁷ MRG pg. 320

²⁸ MRG. p. 316, FH #5773586M (Chemung Co. July 6, 2011, Rep: Karen Gooderum, Chemung Co. Neighborhood Legal Services), redacted copy available online at http://www.otda.ny.gov/fair%20hearing%20images/2011-7/Redacted_5773586M.pdf; FH # 5696948L (Onondaga Co. June 14, 2011, Rep: Maureen Kieffer Legal Services of Central New York); MRG p. 316 (redacted copy available online at http://www.otda.ny.gov/fair%20hearing%20images/2011-6/Redacted_5696948L.pdf).

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

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Persecution Payments	NO RESOURCE TEST	Benefits received by Japanese-Americans, Aleuts, Pribolof Islanders under wartime restitution laws. ³⁰ Payments made to individuals because of their status as victims of Nazi persecution - restitution or charitable payments. ³¹
PASS plan - Plan to Achieve Self Support	NO RESOURCE TEST	Disabled or blind persons may set aside countable income in plan to achieve self-support. Plan must meet specific criteria - refer to local independent living center. ³²
Preventative Housing Services	NO RESOURCE TEST	Payments made as Preventative Housing Service exempt ³³
Relocation Assistance - Federal	NO RESOURCE TEST	Disregarded ³⁴
Reverse mortgage	NO RESOURCE TEST	Reverse mortgage is disregarded as income. State MRG says countable as a resource if retained beyond the month received. However, this may be inconsistent with state law, SSL 131-x. Reverse Annuity Mortgage payments are countable as income and resource.
Vietnam Veterans	NO RESOURCE TEST	Agent Orange Settlement Funds exempt and monthly allowances to some veteran's children who have spina bifida ³⁵
TIME LIMITED RESOURCE DISREGARDS		
Earned Income Tax Credit	NO RESOURCE TEST	If received after 3/1/04, disregarded for 9 months ³⁶
Income tax refunds	NO RESOURCE TEST	Exempt in the month received and in the following month ³⁷

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

³⁰ 18 NYCRR 360-4.6(b)(3)(6)

³¹ MRG pg. 315(ADC), 320(SSi) & 328(S/CC)

³² MRG pg. 320

³³ MRG pg. 315, 321

³⁴ MRG pg. 327; 18 NYCRR 360-4.6(b)(8)

³⁵ MRG pg. 321, 329

³⁶ MRG pg. 322

³⁷ MRG pg. 323

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Insurance payments	NO RESOURCE TEST	Payments exempt for 9 months, and another 9 months for good cause, after month of receipt. ³⁸
Sale of homestead	NO RESOURCE TEST	Moneys from the proceeds of the sale of exempt real property (i.e., the homestead) are disregarded for a reasonable period of time, not to exceed six months, while the A/R reinvests the proceeds. ³⁹
Relocation Assistance - State or Local	NO RESOURCE TEST	Excluded for 9 months following month of receipt, but interest earned on this amount counts as income ⁴⁰
Social Security retro-active lump sum	NO RESOURCE TEST	Disregarded for 9 months following month of receipt. (increased from 6 months if received after 3/2/04) ⁴¹
Stimulus Bill one-time payment	NO RESOURCE TEST	The \$250 one-time payment given to certain recipients of Social Security, SSI, Railroad Retirement Benefits, and Veterans Benefits in 2009 is exempt from income in the month of receipt, and exempt from resources for 9 following months. ⁴²
Crime Victims Assistance Funds	NO RESOURCE TEST	Excluded for 9 months following month of receipt, but interest earned on this amount counts as income ⁴³
VA Benefits	NO RESOURCE TEST	Retroactive awards of the Special Monthly Pension enhancements for Aid & Attendance and Housebound, as well as the portion of benefits attributable to Unreimbursed Medical Expenses, are disregarded in the month of receipt and the following month. ⁴⁴

³⁸ POMS SI 01130.630 & MRG pg. 323

³⁹ MRG, Resources 388. SSI rule is 3 months. SSA POMS SI 01130.110. 1) "Using" the proceeds includes obligating them by contract as well as actually paying them out." B(3)(b). 2) If the funds are not timely used, "The exclusion of the unused funds will be revoked retroactively to the date of their receipt." (B)(c)(3).

⁴⁰ MRG pg. 323; 18 NYCRR 360-4.6(b)(2)(vii)

⁴¹ 18 NYCRR 360-4.6(b)(2)(v)

⁴² GIS 09 TA/DC 009 (March 19, 2009), available at <http://www.otda.state.ny.us/main/gis/2009/09dc009.pdf>

⁴³ 18 NYCRR 360-4.6(b)(2)(vi), MRG p. 323

⁴⁴ MRG Resources at 387.