

Health Care Finance and Administration	Section: Financial Eligibility Requirements
Policy Manual Number: 110.052	Chapter: ABD Conditional Assistance

## ABD CONDITIONAL ASSISTANCE

Legal Authority: 20 CFR 416.1240 – 20 CFR 416.1245; 42 CFR 435.601

### 1. Policy Statement

Conditional assistance may be available to an otherwise-eligible TennCare Medicaid applicant who has excess non-liquid resources. Conditional assistance is a contractual agreement allowing Medicaid eligibility based on the individual's agreement to make reasonable efforts to sell excess non-liquid resources at current market value (CMV). The applicant must also agree to repay TennCare for Medicaid costs during the conditional assistance period with proceeds of the sale of the excess non-liquid resources. An individual is allowed to receive one period of conditional assistance during a period of eligibility.

### 2. Eligibility Conditions

To be eligible for conditional assistance, an individual must:

- a. Meet all non-financial eligibility criteria (be aged, blind or disabled);
- b. Have liquid assets below the limit of \$2,000.00;

Note: When applying conditional assistance to a nursing home or waiver case with a community spouse, deduct the spousal resource maintenance allowance first from the community spouse's own assets, then from the joint liquid assets, and finally from the joint non-liquid assets up to the total spousal resource maintenance allowance. Test the remaining liquid assets to limit of \$2,000.00 for the institutionalized individual.

- c. Have total countable resources which exceed the Medicaid resource standard; and
- d. Agree in writing to sell excess non-liquid resources within the conditional assistance period.

All joint owners of a property must sign the *Agreement to Sell Property Form* in order for any joint owner to be considered for conditional assistance.

### 3. Non-Liquid Personal Resources

A non-liquid real or personal resource is a property which is not cash, and cannot be converted to cash within twenty (20) workdays.

The following resource types are eligible to be sold under a conditional assistance agreement:

- Real property;
- Life Estates;
- Items of Unusual Value;
- Livestock;
- Oil and Mineral Rights;
- Farm/Business/Other Equipment; and
- Vehicles.

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#### 4. Liquid Resources

A liquid resource is cash or any other form of resource which can be converted to cash within twenty (20) workdays.

The following resource types are considered to be liquid resources:

- Stocks, bonds, and mutual fund shares;
- Checking and savings accounts and time deposits;
- United States Savings Bonds and Treasury bills, notes and bonds;
- Mortgages and promissory notes; and
- Life insurance.

#### 5. Eligibility Period

Conditional assistance may be allowed to eligible individuals for up to 3 months while attempting to dispose of excess personal property, and up to 9 months while attempting to dispose of excess real property. An extension of 3 months may be given for good cause of failure to dispose of personal property timely. There is no good cause extension for failure to dispose of real property within 9 months.

Good cause exists when circumstances beyond an individual's control prevent him from maintaining reasonable efforts to sell the property. Examples of good cause may include:

- Receiving no offer despite good faith effort to sell, or being prevented from good faith efforts for reasons beyond the individual's control;
- Reliance on a legitimate offer that doesn't result in a sale;
- Escrow begins, but closing doesn't happen within disposal period;
- Being homebound or hospitalized for a prolonged period due to illness or injury, and unable to arrange for someone else to sell the property; or
- Joint owner dies and probate delays efforts to sell.

Conditional benefits end the earliest of the following:

- The property is sold;
- Once it's determined continued reasonable efforts to sell the property ended without good cause;
- The individual requests in writing that conditional benefits end;
- The individual becomes resource eligible without the property exclusion; or
- The applicable conditional benefits eligibility period has ended.

The individual is required to sell all parcels of real property within one conditional assistance period. When eligibility is terminated, a new conditional benefits period is required.

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## 6. Reasonable Efforts to Sell

Reasonable efforts to sell resources consist of taking all necessary steps to sell in the geographic area where the resource is located. Within thirty (30) days of signing a conditional assistance agreement, the individual must:

1. List the property with an agent; or
2. All of the following: begin continuously advertising in at least one of the appropriate local media; place a “For Sale” sign on the property in clear public view; begin conducting “open houses” or otherwise show the property to interested parties on a continuous basis; AND attempt any other methods of sale.

An individual who enters into a conditional assistance agreement must provide verification that she is making reasonable efforts to sell the property. Verification may include, but is not limited to: copy of contract with real estate agent; collateral contact; or copy of property advertisement in local media. Efforts to sell should not have gaps of more than one week. The individual may not reject any reasonable offers on the property. An offer for real property is assumed to be reasonable if it is at least two-thirds of CMV. The individual has the burden of proving that rejected offers over two-thirds of CMV are not reasonable.

## 7. Property Not Sold During Conditional Assistance Period

If property under a conditional assistance agreement is not sold during the conditional assistance period, the property will become an inaccessible resource at the end of the conditional assistance period. An individual may receive one period of conditional assistance during the eligibility period.

If the property is sold after the period of conditional assistance is over, Medicaid costs paid during the conditional assistance period will be recouped from the proceeds of the sale up to the total amount received from the sale. Any remainder will be subject to review of resource eligibility limits. Additionally, the sale will be reviewed under transfer of assets policy. See the *Transfer of Assets and Penalty Periods* policy.

## 8. Procedure

Conditional assistance is not provided automatically if an individual is over the resource limit. An Eligibility Specialist must manually review the case to determine if an offer of conditional assistance can be made. Follow the steps below to determine whether an offer of conditional assistance is permissible:

- i. A completed application for TennCare Medicaid is submitted. Required verification is provided.
- ii. The individual is not determined eligible for any TennCare Medicaid category.
- iii. The Eligibility Specialist determines if the individual would be eligible for an ABD TennCare Medicaid category if the non-liquid real or personal property was not considered.

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- iv. If the individual would be eligible for an ABD TennCare Medicaid category if the non-liquid real or personal property was not considered, the Eligibility Specialist will offer conditional assistance to the individual. If the answer to iii. is no, the application will be denied.
- v. The individual will complete the *Agreement to Sell Property Form*, ensuring signatures of all owners of the property, and return the form to HCFA.
- vi. Upon receipt of the *Agreement to Sell Property Form*, the application will be approved.

## 9. Real Property

If real property is listed at the Total Market Appraisal (Fair Market Value), consider the value to be CMV. If real property is listed significantly below or above the Total Market Appraisal (Fair Market Value), obtain a statement from a knowledgeable and disinterested third party stating the value of the real property and why it should be considered current market value. If the individual is working with a real estate agent to sell the real property, obtain the statement from the individual's real estate agent. If the individual is selling the real property herself, request that the individual obtain a written statement from a third party real estate agent.

## 10. Recoupment

Individuals receiving conditional assistance are subject to the recoupment of Medicaid costs up to the net proceeds (total sale price – any costs/taxes/mortgage/lien) received from the sale of excess personal or real property. Only the Medicaid costs assumed during the period of conditional assistance are subject to recoupment.

The individual must continue making reasonable attempts to sell the property after the property becomes inaccessible due to the expiration of the conditional assistance period. If sold after the conditional assistance period ends, the recoupment amount is limited to the amount of Medicaid payments made during the conditional assistance period.