# Ohio Administrative Code

## Rule 5160:1-3-05.19 Medicaid: real or personal property essential to self-support.

Effective: August 1, 2016

(A) This rule describes exclusions when real or personal property is essential to an individual's means of self-support.

(B) Definition.

(1) "Basic daily living needs", for the purpose of this rule, means any food, basic clothing, basic shelter, and any medical care that are not provided by medicaid. Items for entertainment or leisure are not basic daily living needs.

(2) "Maximum allowable equity" means an individual's equity in income-producing property, up to a maximum of six thousand dollars.

(C) Categories of property essential to self-support.

(1) Property used in a trade or business, government permits that represent authority granted by a government agency to engage in an income-producing activity, or property used by an individual as an employee for work.

(a) Is excluded as a resource regardless of value or rate of return.

(b) Government permits includes any permit, license, or similiar instrument issued by a federal, state, or local government agency.

(c) Personal property used by an employee for work include farm machinery, tools, safety equipment, uniforms, etc.

(2) Nonbusiness real or personal property used to produce goods or services essential to basic daily living needs.

(a) Up to six thousand dollars of the equity value is excluded, regardless of rate of return.

(b) Any portion of the property's equity value in excess of six thousand dollars is a countable resource.

(c) Nonbusiness property used to produce goods or services include growing produce or livestock solely for personal consumption in the individual's household or perform activities essential to the production of food solely for home consumption.

(3) Nonbusiness income-producing property.

(a) Up to six thousand dollars of the equity value is excluded as a resource if the property produces a net annual return equal to at least six per cent of the excluded equity.

(b) Any portion of the property's equity value in excess of six thousand dollars is a countable resource.

(c) If the property produces less than a six per cent return, the exclusion can only apply if the lower return is for reasons beyond the individual's control and there is a reasonable expectation that the property will again produce a six per cent return. Otherwise, none of the equity value is excluded under this section.

(d) If the earnings decline was for reasons beyond the individual's control, up to twenty-four months can be allowed for the property to resume producing a six per cent return. The twenty-four month period begins with the first day of the tax year following the one in which the return dropped to below six per cent.

(e) If the tax return shows that the activity has operated at a loss for the two most recent years or longer, the property cannot be excluded unless the individual submits current receipts and records to show that it currently is producing a six per cent return.

(f) If an individual owns more than one piece of income-producing property, the six per cent return requirement applies individually to each property and the six thousand dollar equity value limit applies to the total equity value of all the properties meeting the six per cent return requirement.

(g) If all properties meet the six per cent test but the total equity value exceeds six thousand dollars, that portion of the total equity value in excess of six thousand dollars is a countable resource.

(D) For any of the exclusions to apply, the property must be in current use in the type of activity that qualifies it as essential.

(E) Property not in current use. If the property is not in current use, it must be for reasons beyond the individual's control and there must be a reasonable expectation that the use will resume within twelve months of last use.

(1) Property not in current use can be excluded for twelve months as essential for self-support if it has been in use and there is reasonable expectation that the use will resume. The individual must provide a signed statement of last date of use, reason the property is not in use, and when the individual expects to resume the self-support activity.

(2) If an individual alleges that self-support property is not in current use because of a disabling condition of the individual, the individual must provide a signed statement of the nature of the condition, the date the individual ceased the self-support activity, and when the individual intends to resume activity to receive up to an additional twelve months.

(3) If the individual does not intend to resume the self-support activity, the property is a countable resource in the month after the month of last use.

(4) If, after property has been excluded because an individual intends to resume self-support activity, the individual decides not to resume such activity, the exclusion ceases to apply as of the date of the change of intent. The property is a resource in the following month.

(F) Individual responsibilities. The individual shall:

(1) Provide a copy of the tax return for the tax year prior to application or renewal to be used to

determine the net income earned for the individual from the income-producing property.

(2) Provide pertinent documents and a signed statement if the individual alleges owning a government license, permit, or other property that represents government authority to engage in an income-producing activity, and has value as a resource. The statement shall include:

(a) The type of license, permit or other property;

(b) The name of the issuing agency, if appropriate;

(c) Whether the law requires such license, permit, or property for engaging in the income-producing activity at issue; and

(d) How the license, permit, or other property is being used; or

(e) Why it is not being used.

(3) Provide a signed statement if the individual alleges owning items used in his or her work as an employee. The statement shall include:

(a) The name, address, and telephone number of the employer;

(b) A general description of the items;

(c) A general description of the individual's duties; and

(d) Whether the items are currently being used.

(G) Administrative agency responsibilities. The administrative agency shall:

(1) Determine whether the property qualifies under one of the three categories identified in paragraph (C) of this rule if the individual asserts his or her property is essential for self-suppport.

(2) Determine whether to exclude equity in nonbusiness income-producing property described in paragraph (C)(3) of this rule as follows:

(a) Determine the individual's maximum allowable equity in the property.

(b) Multiple the individual's maximum allowable equity by six per cent.

(c) Establish the net annual income the property produces for the individual.

(i) If the income to the individual is equal to or greater than the six per cent calculated in paragraph (G)(2)(b) of this rule, then the maximum allowable equity is not counted as a resource.

(ii) If the income to the individual is less than the six per cent calculated in paragraph (G)(2) of this rule, then the individual's entire equity is counted as an available resource.

(d) If there is more than one potentially excluded property, the six per cent return requirement applies individually to each property and the six thousand dollars equity value limit applies to the total equity value of all the properties meeting the six per cent return requirement.

(3) Determine whether to exclude equity in property that provides either a product or a service that supplies basic daily living needs for the individual.

(a) If the property does provide basic daily living needs for the individual, then the individual's equity up to a maximum of six thousand dollars shall not be counted as a resource. Any equity in excess of six thousand dollars shall be counted as a resource.

(b) If the property does not provide basic daily living needs for the individual, then the entire equity is a countable resource.

(4) Apply only the provision that is most beneficial to the individual if the individual's property falls under more than one of the categories in paragraph (C) of this rule.

(5) Request any other documentation necessary to fully and adequately distinguish between the

income from the income-producing property, and income from other sources.

(6) Consider the individual's entire equity as a countable resource if the individual fails to cooperate with providing the appropriate documentation.