

Department of Public Health
and Human Services

Section:
RESOURCES

FAMILY RELATED MEDICAID

Subject:
Native American Resources

Supersedes: FMA 402-2 (07/01/02)

References: OBRA '93; ARM 37.82.101, .903; 20 CFR 416, Subpart L; 42 CFR 435.601

GENERAL RULE—The equity value of all resources (real and personal property) owned by the filing/assistance unit are countable unless specifically excluded by regulation.

**► COUNTABLE
RESOURCES**

Countable resources include, but are not limited to retained proceeds of the following payments:

1. Tribal payments not distributed per capita (such as 107th Meridian Settlement payments);
2. Tribally managed gaming revenues distributed per capita (P.L. 98-64);
3. Farm and grazing leases, oil and gas royalties and mineral rights payments from land other than trust or restricted land;
4. Gravel sales,
5. Timber sales,
6. Estate payments,
7. Oil and gas bonuses,
8. Mineral rights bonuses,
9. Right-of-way payments,
10. Seismic payments,
11. Land sale proceeds (the land sale source may be sale of trust property or of countable fee patent (taxable) property.),
12. Resources purchased with funds which are no longer clearly identifiable as excluded,
13. Amounts exceeding \$2000 per individual per calendar year derived from leases or other uses of individual interests in trust or restricted land;
14. Bureau of Indian Affairs (BIA) payments; and
15. Transfers of countable monies from other Native American agencies.

**► EXCLUDED
RESOURCES**

Excluded Native American resources include:

1. Retained proceeds of any payment that was an excluded Native American income when received. This may include, but is not limited to:

- a. payments of up to \$2000 per individual per calendar year derived from leases or other uses of individual interests in trust or restricted lands;
 - b. judgment claim payments as listed in FMA 501-2, page 2, #3;
 - c. payments derived from sub-marginal lands held in trust as listed in FMA 501-2, page 3, #4;
 - d. per capita to enrolled members of certain tribes when distributed under specific public laws as listed in FMA 501-2, pages 3-4, #5;
2. Interest earned on all Native American funds/resources;
 3. Resources purchased with excluded Native American funds;
NOTE: This exclusion extends to only the original items purchased with excluded funds.
 4. Individual enrolled tribal members' interests in trust or restricted lands, oil and mineral rights, and improvements (buildings) on such land;
 5. All compensation (including cash, stock, partnership interest, land, interest in land, and other benefits) received under Section 15 of P.L. 100-241, 2/3/88, (the Alaska Native Claims Settlement Act Amendments of 1987);
 6. Reimbursements from the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (P.L. 91-646, Section 216);
 7. Funds paid to heirs of deceased Indians under the Old Age Assistance Claims Settlement Act (except for per capita shares in excess of \$2,000).

In the case of commingled funds, exclusion continues so long as the excluded funds are clearly identifiable. For example, a bank account may exceed the resource limit when multiple members deposit excluded funds into the single account and the distinction for each member's funds can be made.

When excluded income/resources are no longer clearly identifiable in a commingled account, exclusion no longer applies. See 'Commingled Funds', FMA 401-1.

EXAMPLE: Joe receives a per capita payment of \$1,500. This payment is excluded from resources. Joe uses this money to purchase a car. The car would remain an excluded resource.

If Joe later trades the car in on a newer one, the exclusion ends. If Joe had used both excluded and non-excluded funds to purchase the car, it would be a countable resource as the excluded funds are no longer clearly identifiable.

► INDIAN LANDS

Indian (Native American) land which is held jointly with the Tribe or land that can only be sold with the approval of the Bureau of Indian Affairs is excluded, as are any improvements (buildings, etc.) to the excluded trust land. Oil and mineral rights on Indian land are also excluded.

Fee patent land is countable, unless otherwise excluded (home, necessary for self-employment, etc.). See "Glossary" for further explanation of fee patent land. Oil and mineral rights connect to fee patent land are treated according to policies at FMA 402-1.

**INDIVIDUAL
INDIAN MONEY
(IIM) ACCOUNTS**

Funds in an IIM account must be evaluated according to the source(s) of the funds in the account. If the funds in the IIM are from an excluded source, they may be exempt according to the rules for the particular source. See also 'Commingled Funds' in FMA 401-1.

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