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## RESOURCES

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### A. DEFINITION

Resources are defined as cash or other liquid assets, or any real or personal property, that an individual (or spouse) owns which could be converted to cash for use in support and maintenance. If the individual has the right, authority or power to liquidate property or a share in property, the proceeds are considered a resource. If a property right cannot be liquidated, the property is not be considered a resource.

The CAPI applicant's/participant's declaration on the MC 210, Statement of Facts (Medi-Cal), items 23 - 29 will be used to determine whether or not the individual's or couple's resources will be counted. The County Use sections in the MC 210 are used to determine if the applicant/participant is within the countable resource limits.

#### 1. Liquid Resources (MC 210 - item 23)

Liquid resources are cash or other resources which can be converted to cash within 20 working days. Examples include stocks, bonds, mutual funds, promissory notes, mortgages, life insurance policies, and bank accounts including time deposits.

#### 2. Non-Liquid Resources (MC 210 - items 24 to 27)

Non-liquid resources are property which cannot be converted to cash within 20 days. Examples include loan agreements, household goods, vehicles, boats, buildings, and land.

### B. INCOME vs. RESOURCE

1. When an individual first receives property, it is income and should be counted under the income rules. It becomes a resource the following month.

#### **EXAMPLE:**

CAPI participant receives a \$2,000 inheritance. The \$2,000 are considered income in the month received. The CAPI participant buys a refrigerator valued at \$600 on the same month and does not spend any other money. The remaining \$1,400 are considered resources in the following month.

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### B. **INCOME vs. RESOURCE** (Continued)

2. Some income items are excluded for one or more months before they become a countable resource.

#### **EXAMPLE:**

CAPI participant sells his/her house for \$90,000 and plans to convert this cash into another house. The CAPI participant has three months to buy the new house before the cash becomes a countable resource.

### C. **COUNTABLE RESOURCE LIMITS**

Resources, unlike income, do not affect payment amounts; they only affect eligibility. If countable resources exceed the limit, the person is not eligible for any payment. Countable resources cannot exceed \$2,000 for an individual, and \$3,000 for a couple.

The couple resource limit is the same regardless of whether one or both members of the couple household are eligible for CAPI. A couple member's individually owned asset is counted toward the joint couple limit. Pension funds, however, owned by an ineligible spouse are excluded from countable resources. Pension funds are defined as funds held in an individual retirement account (IRA) or in a work-related pension plan, such as a Keogh plan.

The resource determination is based on the countable resources available as of the first (moment) of the month. Any increase or decrease in the value of a resource is not counted until the first of the following month. If an individual sells, exchanges, or replaces a resource, the receipts (or increased values) are not income, but considered a resource conversion.

### D. **DEEMED RESOURCES**

Deemed resources are resources belonging to another person which are considered available to CAPI participants for the purpose of determining CAPI eligibility. It does not matter whether the resources are or are not available for use by the participants.

Resources are deemed from anybody in the same household who is an ineligible spouse or ineligible parent of a minor child. Resources of an ineligible spouse/parent are subject to the same exclusions listed below (see F). Also, the pension funds belonging to an ineligible spouse/parent are excluded.

### D. **DEEMED RESOURCES** (Continued)

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The SOC 454 is to be used to determine the resources deemed to the immigrant. The deemed resource amount is added to the CAPI participant's own resources to determine CAPI eligibility.

Resources can also be deemed from a sponsor to an immigrant. See E below.

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

Resources are deemed from a sponsor or from the sponsor's spouse to an immigrant without regard as to:

- whether the sponsor is living in the same household; or,
- whether the resources are actually available to the participant; or,
- whether the sponsor's marriage took place after s/he signed the Affidavit of Support.

Deeming does not apply to PRUCOLs/Qualified Immigrants who entered the U.S. on or after **8/22/96** who do **not** have a sponsor.

A sponsor's resources are subject to the same applicant's/participant's resource exclusions listed at the end of this section (See F). The resources of the sponsor (and spouse, if any) are counted only to the extent that they exceed the resource limits (i.e., \$2,000 for an individual or \$3,000 for a couple).

The deeming period **starts** from the date the sponsor signed the Affidavit **or** the immigrant's lawful date of entry into the U.S., whichever is later.

Deeming from a sponsor/sponsor's spouse is applicable regardless of which Affidavit of Support was signed, **unless** the sponsor dies or one of the deeming exemptions applies (See E.1. below).

Sponsor to immigrant deemed resources rules/deeming period differ depending on whether the sponsor is deceased/disabled/abusive and whether the sponsor signed an old Affidavit (I-134) or a new Affidavit (I-864). The **new Affidavit** became effective **12/19/97**. It is possible that some immigrants entered the U.S. for a period of time after that date under the old Affidavit.

#### 1. Determining Deeming Periods

The deeming period depends on which version of the Affidavit of Support was signed by the sponsor(s).

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 1. **Determining Deeming Periods** (Continued)

#### a. New Affidavit of Support, I-864

Deeming from a sponsor who signed a new Affidavit of Support applies **indefinitely unless or until** one of the following occurs:

- The CAPI participant becomes a naturalized citizen.
- The CAPI participant is credited with 40 quarters of employment.
- The CAPI participant, the CAPI participant's minor child, or the CAPI participant's parent, if the participant is a minor child, is a victim of abuse, regardless of where the victim lives.
- The immigrant meets the eligibility criteria for **Extended CAPI**, Aid Code 99. A **10-year sponsor deeming** applies to these cases.
- The immigrant is a battered sponsored Qualified Alien under the Violence Against Women Act (VAWA). These cases are exempt for **from sponsor deeming** for one year from the date INS issues the prima facie notice.

This exemption may be extended beyond one year if:

- CAPI eligibility criteria continues to be met;
- INS has made a prior determination that abuse did occur;
- The abuse has been recognized in an order from a judge or from an administrative law judge.

(See the Residence Chapter, Section (C)(1)(i), for more information on VAWA noncitizen qualified aliens).

- The immigrant meets the Indigent Exception criteria which allows for a temporary, 12-month sponsor deeming exception. (See Section E.4. for application of this exception.)

#### b. Old Affidavit of Support, I-134

A **3-year sponsor deeming** period applies to these cases **unless or until** one of the following occurs.

- The sponsor dies (verification of death is required).

## E. **SPONSOR TO IMMIGRANT DEEMED RESOURCES**

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### 1. Determining Deeming Periods

#### b. Old Affidavit of Support, I-134 (Continued)

- The sponsor becomes disabled for more than 30 days (verification of disability must be provided).
- The immigrant becomes blind or disabled after admission to the U.S. An **onset date** of disability from DAPD is required on these cases.
- The CAPI participant, the CAPI participant's minor child, or the CAPI participant's parent, if the participant is a minor child, is a victim of abuse, regardless of where the victim lives.
- The immigrant meets the eligibility for **Extended CAPI**, Aid Code 99. A **10-year sponsor deeming** period applies to these cases.

**NOTE:** If the sponsor/sponsor's spouse is abusive, the immigrant is exempt from all deeming requirements.

Deeming also does not apply to PRUCOLs/qualified aliens who entered the U.S. on or after 8/22/96 who do not have a sponsor.

### 2. Indigence Exception

The Indigence Exception allows a temporary, 12-month suspension of sponsor deeming for **certain needy**, legal, noncitizens with a **New Affidavit of Support**. This exception is effective September 1, 2002.

#### Indigence Exception Requirements

The Indigence Exception applies only if all the following requirements are met:

- The noncitizen is sponsored through a New Affidavit of Support;
- The noncitizen does not live with his or her sponsor(s);  
The noncitizen cannot obtain both food and shelter because income is below the SSI rate (\$545 in 2002 and \$552 in 2003 for an individual; \$817 in 2002 and \$829 in 2003 for a couple);
- Application of the sponsor deeming rules would result in denial, discontinuance or reduction of CAPI benefits;
- Verification of Sponsor's Support;

## E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 2. Indigence Exception (Continued)

- The immigrant completes and signs the Indigence Exception Statement, SOC 809, (Exhibit A is located in the Resources Chapter).
- The County determines that the Indigence Exception applies.

The Indigence Exception applies only if the following requirements are met:

#### a. The Noncitizen is Sponsored Through a New Affidavit of Support

Only noncitizens whose sponsor signed a New Affidavit of Support may be eligible for CAPI benefits under the Indigent Exception.

#### b. The Noncitizen does NOT Live With the Sponsor(s)

A CAPI applicant/participant who claims to be indigent (needy) shall complete the SOC 809: Indigence Exception Statement. Through this form, the immigrant declares that he/she doesn't live with the sponsor. The noncitizen must provide proof of residential address and living arrangements.

#### c. The Noncitizen Cannot Obtain Both Food and Shelter Because Income is below the SSI Rate

When determining whether a noncitizen can obtain food and shelter, the EW shall evaluate the noncitizen's income to determine if it is below the SSI rate (\$545 in 2002 and \$552 in 2003 for an individual; \$817 in 2002 and \$829 in 2003 for a couple). The SOC 809 allows the needy noncitizen to state his/her reasons for applying for the exception and the support he/she receives from his/her sponsor(s).

The noncitizen's statement on the SOC 809, the following sources of income, and other information in the case record must be evaluated in order to determine whether he/she can obtain food and shelter:

- For purposes of the Indigence Exception, SSI, General Relief, and Food Stamp benefits are considered when determining whether the noncitizen is able to obtain food and shelter.
- Other income which must be considered to determine whether the noncitizen is able to obtain food and shelter is: any cash, food, housing, other assistance provided by other individuals or agencies (including the sponsor), income of the noncitizen's spouse (if living together) or the parent(s) (if living with the minor noncitizen).

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 2. Indigence Exception (Continued)

c. The Noncitizen Cannot Obtain Both Food and Shelter Because Income is below the SSI Rate

Whenever the noncitizen's total income is below the SSI rate, as shown on the SOC 809, the worker must proceed with eligibility determination for the Indigence Exception. This includes completing the SOC 813 and forwarding it to the DDD as indicated in Section E.5.j.

d. Application of the Sponsor Deeming Rules Would Result in Denial, Discontinuance, or Reduction of CAPI Benefits

A needy noncitizen with a New Affidavit of Support may be eligible for the Indigence Exception if application of the sponsor deeming rules would result in denial, discontinuance, or reduction of CAPI benefits.

The sponsor's resources are NOT considered when determining eligibility to the CAPI Indigence Exception. Furthermore, the sponsor's resources are NOT deemed to an Indigence Exception case throughout the 12-month sponsor deeming exception period.

(See **Section E.4.k., Example #1 and #2** for application of this regulation.)

The sponsor's income and other countable income is entered in the SOC 813: Cash Assistance Program for Immigrants Indigence Exception Statement, (Exhibit B).

e. The Sponsor's Whereabouts are Known, or the Sponsor's Whereabouts are Unknown and He or She is Uncooperative

In cases where the sponsor's whereabouts are known, the noncitizen is required to obtain from the sponsor: (1) The New Affidavit of Support (if not on file), and (2) a signed statement that supports the noncitizen's allegation regarding the sponsor's inability/refusal to support the noncitizen.

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### 2. Indigence Exception (Continued)

e. The Sponsor's Whereabouts are Known, or the Sponsor's Whereabouts are Unknown and He or She is Uncooperative (Continued)

If the sponsor's whereabouts are unknown, the EW must attempt to obtain the sponsor's address from INS. This can be done by using form G-845: Document Verification Request. If the sponsor no longer lives at the address provided by INS and all other attempts to locate him or her are unsuccessful, the EW must accept the noncitizen's signed statement regarding the sponsor's unknown whereabouts. The immigrant's statement must be credible and must NOT conflict with other information in the case.

f. The Immigrant Completes and Signs the Indigence Exception Statement, SOC 809, (Exhibit A)

The noncitizen must complete and sign the SOC 809 to determine the reasons for the exception and the support provided by the sponsor.

g. The County Determines that the Indigence Exception Applies

If after reviewing all information received from the noncitizen, the sponsor, INS, and existing information in the case record, the EW determines that the Indigence Exception applies, the EW must exempt the case from sponsor deeming for 12 consecutive months (including any nonpayment months within that period).

g. The County Determines that the Indigence Exception Applies

Once the Indigence Exception is approved, the EW must clearly document this in the case record, set an 11-month control for reevaluation of the Indigence Exception, and label the case folder with the following information:

- Indigence Exception Case
- Sponsor Deeming Exception begins on \_\_\_\_\_ and ends \_\_\_\_\_.  
(date) (date)

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 2. Indigence Exception (Continued)

#### h. Countable Resources

For purposes of the Indigence Exception, **all** of the noncitizen's resources are counted and most of the sponsor's resources are excluded at the time of application and throughout the 12-month Indigence Exception period.

- Noncitizen's resources: Countable noncitizen's resources include all liquid resources, even excluded liquid resources such as burial funds.
- Sponsor's resources: The sponsor's resources are excluded from sponsor deeming rules unless one of the following applies:
  - The noncitizen has ownership in them;
  - The noncitizen has the right, authority, or power to convert the resources to cash; or
  - The noncitizen has no legal restrictions from using the resources for his/her support.

(See **Section E.4.k., Example #1 and #2** for application of these regulations.)

- Sponsor is the spouse or the parent: If the sponsor signed a New Affidavit and he/she is also the noncitizen's ineligible spouse or parent, regular sponsor deeming, NOT spousal or parental deeming applies in the CAPI case. This means that regular sponsor deeming rules are used to determine whether the immigrant is eligible for the Indigence Exception.

LEADER Input: **Excluding the sponsor's resources**



Due to LEADER's inability to recognize and apply reported resources to the eligibility determination at this time, the EW must manually exclude the sponsor's resources for 12 months if the immigrant meets the Indigence Exception criteria. Once LEADER is programmed to recognize and process the sponsor's resources, it will automatically evaluate eligibility criteria for the Indigence Exception and will exclude the sponsor's resources in cases where this criteria are met.

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 2. Indigence Exception (Continued)

#### i. Indigence Exception Period(s)

When the criteria for the exception are met, deeming is suspended for 12 consecutive months (including any nonpayment months within that period). The 12-month period may begin at any time when all of the conditions are met. It can be effective with the first month of eligibility or in a subsequent month.

- Extension: The 12-month Indigence Exception may be extended if the noncitizen continues to meet the exception criteria. When this happens, the noncitizen qualifies for a new 12-month sponsor deeming exemption period.
- Multiple Exceptions: A noncitizen may apply and may qualify for a new Indigence Exception any time after the current exception expires on the last day of the 12<sup>th</sup> month.

(See **Section E.4.K., Example #3 and #4** for application of these regulations.)

#### j. Case Referrals to Immigration and Naturalization Service (INS) and Notification to the California Department of Social Services (CDSS)

State regulations require that counties inform INS and CDSS of sponsors who fail to support adequately their sponsored noncitizen. This is done by forwarding a copy of the Indigence Exception Determination, SOC 813, to the ES.

Upon approval of the Indigence Exception, the ES shall provide his/her DDD with two copies of the completed SOC 813. The DDD will keep one copy of the form and forward the other copy to GR & CAPI Programs Section on a flow basis. GR & CAPI Programs Staff will forward the received SOC 813s to INS and CDSS.

#### k. Examples

The examples below present hypothetical situations and the appropriate action to take in each case.

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### 2. Indigence Exception

#### k. Examples (Continued)

Example #1: **Applicant for the Indigence Exception reports excessive sponsor's resources at Intake** - Mr. Ruiz is ineligible to Extended CAPI due to his sponsor's excessive resources. In his application, Mr. Ruiz stated that he does not live with his sponsor. Further, he stated that he has no power, no authority and no access to his sponsor's resources. On his application, Mr. Ruiz declared that he cannot meet his basic needs; he is unable to obtain food and shelter. He wishes to apply for the Indigence Exception.

**Analysis:** Mr. Ruiz is potentially eligible to Extended CAPI under the Indigence Exception. The EW must verify Mr. Ruiz's statement regarding his lack of ownership, power and authority over his sponsor's resources. The EW must also confirm Mr. Ruiz's claim that he cannot obtain food and shelter and evaluate other eligibility criteria to grant the Indigence Exception.

Example #2: **CAPI participant reports excessive sponsor's resources at redetermination** - Mr. Dolcini, an Extended CAPI participant, living independently, reported excessive sponsor's resources at his annual redetermination. He also reported that he has no power, no authority, and no access to his sponsor's resources. When informed that his CAPI benefits were going to be discontinued, Mr. Dolcini told his EW that he would not be able to pay his rent and buy his food without the CAPI payment. Mr. Dolcini heard about the Indigence Exception for needy immigrants and would like to apply for it.

**Analysis:** Mr. Dolcini appears to be eligible to the Indigence Exception. The worker must verify Mr. Dolcini's statement and evaluate other eligibility criteria to grant the Indigence Exception. If possible, the EW must prevent a break in aid.

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### 2. Indigence Exception

#### k. Examples (Continued)

Example #3: **Recipient of the Indigence Exception requests an extension on his/her Indigence Exception** - Mr. Lee's Indigence Exception will expire on December 15, 2003; however, a week before the exception expires, Mr. Lee informs his EW that his sponsor's whereabouts remain unknown and everything else remains the same, including his income and living arrangements.

**Analysis** - Mr. Lee is potentially eligible to a 12-month extension of his Indigence Exception. The EW must obtain a written declaration (Affidavit) from Mr. Lee regarding his sponsor's whereabouts and evaluate other eligibility criteria to grant the Indigence Exception.

Extension of the exception would begin December 16, 2003 (a day after the previous exception expired) or the day the noncitizen meets all the eligibility criteria for the Indigence Exception. Extensions of the Indigence Exception are granted on 12-month increments.

Example #4: **Multiple Indigence Exceptions** - Following the expiration of Mrs. Kazini's first Indigence Exception on February 26, 2004, her case was converted to Extended CAPI and sponsor deeming was resumed. However, on March 5, 2004, Mrs. Kazini informed her EW that once again, she was without her sponsor's support and could not obtain food and shelter. Mrs. Kazini wishes to apply for the Indigence Exception again.

**Analysis** - The County must process Mrs. Kazini's request for a second Indigence Exception. If eligible, Mrs. Kazini's new Indigence Exception will begin the date she meets all the eligibility criteria for the Indigence Exception. A new approval notice must be sent to Mrs. Kazini to inform her of her new Indigence Exception period.

### E. **SPONSOR TO IMMIGRANT DEEMED RESOURCES** (Continued)

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### 3 Forms Used to Determine Deemed Resources

- a. SOC 451: Cash Assistance Program for Immigrants - Supplemental Application Form

This application form is completed by the CAPI applicant.

- b. SOC 452: Cash Assistance Program for Immigrants - Income Eligibility - Adult

This form is completed by the CAPI Worker to determine and calculate the CAPI benefit amount. It includes the CAPI applicant's/participant's income and that of their sponsors.

- c. SOC 454: Cash Assistance Program for Immigrants Alien Deeming Work Sheet.

This form is completed by the CAPI Worker to determine the income amount deemed to the immigrant.

- d. SOC 809: Cash Assistance Program for Immigrants (CAPI) Indigence Exception Statement

This form is completed by the applicant/participant and it serves a dual purpose:

(1) to inform the CAPI EW of the applicant/participant's reasons for applying for the Indigence Exception, and

(2) to inform the CAPI EW of the support/contributions the applicant/participant receives from the sponsor.

- e. SOC 813: Cash Assistance Program for Immigrants (CAPI) Indigence Exception Determination

This form is completed by the CAPI EW to determine if the applicant/participant meets eligibility requirements for the Indigence Exception.

The deeming period for immigrants (qualified aliens who entered the U.S. on or after 8/22/96) whose sponsors are not deceased or disabled is **10 years, regardless of whether the old or new Affidavit was signed.**

### E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 3 Forms Used to Determine Deemed Resources (Continued)

The 10-year deeming period starts from the date the sponsor signed the Affidavit or the immigrant's date of entry into the U.S., whichever is later.

### 4. Deeming from a Sponsor's Spouse

A sponsor's spouse's resources are deemed to the immigrant regardless of when the sponsors' marriage took effect, unless:

- a. The sponsor and his/her spouse are separated or divorced (verification is required); or
- b. The sponsor's spouse dies (verification of death is required).

### 5. Multiple Deeming Situations

- a. Deeming from **more than one** Sponsor:

If an immigrant is sponsored by more than one individual (other than two sponsors who are married to each other and living together), deeming rules are applied separately to the income of each sponsor to determine the total income deemable to the immigrant.

- b. Deeming from **both** a Sponsor and a Spouse or Parent:

If an immigrant has a sponsor and also has an ineligible spouse or parent who is **not** the sponsor, both the sponsor-to-alien **and** spouse-to-spouse (or parent-to-child) deeming rules apply.

- c. Sponsor who Sponsors **two or more** CAPI Applicants/Participants:

If an individual sponsors two or more CAPI applicants/participants, none of whom are the spouse or child of the sponsor, then the sponsor's resources are deemed to each immigrant. The sponsor's resources are **not** "divided" among the CAPI applicants/participants.

- d. **Only** Ineligible Spouse of Couple is Sponsored:

If only the ineligible spouse of a couple is sponsored, sponsor-to-Immigrant deeming does **not** apply to **either** spouse.

## E. SPONSOR TO IMMIGRANT DEEMED RESOURCES

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### 5. **Multiple Deeming Situations** (Continued)

- e. Both members of Eligible Couple have **Same** Sponsor:

If both members of an eligible couple have the same sponsor, the sponsor's resources are deemed to **each** member.

- f. Each Member of Couple has **Different** Sponsor.

If each member of an eligible couple has a different sponsor, each sponsor's resources are deemed to the appropriate member. The couple's income includes the sum of their income amounts. determine and calculate the CAPI benefit amount. It includes the CAPI applicant's/participant's resources and those of his/her sponsors..

### F. **RESOURCE EXCLUSIONS (MC 210 - items 23 to 27)**

In determining the resources of an individual (and spouse, if applicable), the following items are excluded:

1. The home, and any adjoining land\*
2. Household goods and personal effects if their total equity value is \$2,000 or less
3. One car if it is: necessary for employment, or necessary for medical treatment, or modified for use by a handicapped person, or it provides necessary transportation to perform essential daily activities, or has a current market value that does not exceed \$4,500
4. Property of a trade or business which is essential for self support\*
5. Non-business property which is essential to self-support
6. Resources of a blind or disabled individual necessary to fulfill an approved PASS
7. Certain stock held by Alaskan natives
8. Life insurance if the total face value of all policies on one person do not exceed \$1,500. Otherwise, the cash surrender values of life insurance policies will count as a resource
9. Restricted allotted Native American lands
10. Payments or benefits paid under other Federal statutes
11. Disaster relief assistance
12. Burial spaces of any value\*
13. Burial funds up to \$1,500\*
14. Title XVI or Title II retroactive payments for 6 months
15. Housing assistance
16. Earned Income Tax Credits

### F. **RESOURCE EXCLUSIONS (MC 210 - items 23 to 27)** (Continued)

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17. Payments received as compensation for expenses or losses suffered as a result of a crime for 9 months
18. Relocation assistance for 9 months

\*See detailed explanations below.

### G. **HOME EXCLUSION (MC 210 - item 24)**

The home is any property in which the individual has ownership interest and serves as the individual's principal place of residence. The principal place of residence is the dwelling which the CAPI participant considers to be his/her established or principal home and to which, whenever absent, he/she plans to return.

The property ceases to be the principal place of residence as of the date the individual leaves and does not intend to return. A statement of intent to return signed by the CAPI participant is the governing factor in determining that the home exclusion as principal place of residence continues to apply during a temporary absence. There is no time limit on how long a "temporary" absence can be.

Proceeds from the sale of an excluded home are also excluded to the extent they are intended to be used and are, in fact, used to purchase a similarly excluded home within three months of the date the proceeds are received. Any remaining balance will be counted as an excess resource.

### H. **PROPERTY (REAL OR PERSONAL) ESSENTIAL TO SELF SUPPORT (MC 210 - item 27)**

Property used in a trade or business, and non-business property which produces income either in cash or in-kind is considered property essential to self-support. Property in current use or that will again be used within one year of its most recent use, for income producing purposes qualifies as property essential to self support. Business property includes the necessary capital and operating assets of a business (e.g., real property, buildings, inventory and equipment). Property meeting this definition falls into the following three categories for purposes of the resource exclusion:

1. Property Excluded Regardless of Value or Rate of Return. This category includes, effective May 1, 1990, property used in a trade or business, and property used by an individual as an employee for work.

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### H. **PROPERTY (REAL OR PERSONAL) ESSENTIAL TO SELF SUPPORT (MC 210 - item 27)** (Continued)

2. Property Excluded up to \$6,000 Equity Regardless of Rate of Return. This category includes non-business property used to produce goods or services essential to daily activities, i.e., land used to produce vegetables for consumption by the individual's household. Equity is the difference between the property's fair market value minus any liens or encumbrances.
3. Property Excluded up to \$6,000 Equity if it Produces a 6% Rate of Return. This category includes non-business income-producing property, i.e., rental property. There are some exceptions to the 6% rate of return, but individuals will usually have higher than \$6,000 equity in rental property, which makes it a countable resource.

### I. **PROPERTY DISPOSITION AND CONDITIONAL PAYMENTS (MC 210 - items 23 to 29)**

Individuals with excess resources may receive conditional CAPI benefits if:

1. Total liquid resources do not exceed three times the CAPI benefit rate (e.g., for an aged or disabled individual residing in his own household this would be 3 X \$747.00 = \$2241.00) and;
2. The individual agrees in writing to sell the excess non-liquid resources at their current market value, and repay any overpaid conditional payments with the proceeds from such sale, and
3. Within 30 days of signing the conditional agreement, the individual must make reasonable efforts to sell the property by listing the property with a real estate agent or other conventional advertisement. The individual must accept any reasonable offer. Reasonable means at least two-thirds of the current market value.

Conditional payments do not apply to excess liquid resources. The basic conditional periods for disposal of non-liquid resources are nine months for real property, three months for personal property. The total overpayments to be recovered equal the lesser of the net proceeds received from the sale of the property, or the amount of CAPI benefits received during the conditional period.

If the conditional period expires with the property remaining unsold, the property will be excluded in determining regular CAPI benefits for as long as the person continues making reasonable efforts to sell. When the property is sold, the CAPI participant is only responsible to repay the conditional payments made during the conditional period.

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I. **PROPERTY DISPOSITION AND CONDITIONAL PAYMENTS (MC 210 - items 23 to 29)** (Continued)

Excess real property that would otherwise be countable and subject to conditional payments is excluded if the property is jointly owned and sale of the property would cause undue hardship for the other joint owner(s). Undue hardship would result if another joint owner used the property as a principal place of residence and sale of the property would result in loss of that residence.

J. **BURIAL FUNDS (MC 210 - item 26)**

Burial funds consist of any of the following: revocable burial contracts, burial trusts, other burial arrangements, cash, accounts, or other financial instruments with a definite cash value clearly designated for the individual's (or spouse's) burial expenses and kept separate from non-burial related assets. Property other than listed in this definition are not considered burial funds.

Up to \$1,500 of a revocable burial fund may be excluded. This amount is reduced, however, by the value of any irrevocable burial fund and by the face value of any excluded life insurance policy. Any increased value of the burial fund due to interest earned is also excluded as long as the interest remains in the fund.

If the CAPI participant uses the burial funds for some other purpose, the individual's future CAPI benefits will be reduced by an amount equal to the amount used for another purpose.

CAPI applicants/participants can sign a contract with a funeral home placing up to \$1,800 in an irrevocable burial contract or a trust. Legitimate irrevocable burial trusts are not counted as a resource because the individual has no legal access to the money.

K. **BURIAL SPACES (MC 210 - item 26)**

Burial spaces include plots, grave sites, crypts, mausoleums, urns, niches and other customary repositories of bodily remains. Additionally, the term burial spaces includes necessary and reasonable improvements, such as vaults, headstones, markers, plaques, or burial containers and arrangements for opening and closing the grave site.

The value, with no limit, of burial spaces for the individual, and immediate family, is excluded from countable resources. The immediate family means the CAPI participant's spouse, minor and adult children, siblings, parents, and the spouses of those individuals.

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## RESOURCES

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### L. **TRANSFER OF RESOURCES (MC 210 - item 28)**

An individual can transfer any amount or type of resource in order to become eligible for CAPI. The applicant or participant only has to prove that he/she no longer has access to, or control of, the asset, and it will no longer be counted as a resource effective the first of the month following the transfer.

The uncompensated value of a transferred resource is, however, counted for 20 months following transfer in determining Medi-Cal eligibility for individuals who enter long-term care.

### M. **TRUSTS (MC 210 - item 26)**

A trust is a legal arrangement regulated by State law in which one party holds property for the benefit of another. A trust may be revocable or irrevocable. A trust can be, and generally is, an excluded resource for a CAPI participant who is the beneficiary. The beneficiary is the person for whose benefit the trust exists. Generally, the beneficiary has no control of or access to the trust account.

The trustor is the person who creates the trust. The trustee is the person who holds legal title to the trust account or property. In most instances, the trustee has no legal right to revoke the trust or to use it for his/her own purpose. Trust principal is the amount placed in the trust by the trustor, plus any earnings left to accumulate. Trust earnings are amounts earned by the trust property in the form of dividends, interest, etc. Some trusts pay, or otherwise give access to, the trust earnings, which would then be counted as income to the CAPI participant.

Some trusts expenditures made on behalf of the CAPI participant are counted as income. Expenditures made for food, clothing or shelter would be counted as in-kind support and maintenance, subject to the presumed maximum value (See Income Chapter). Expenditures made for other items which can be converted to cash would be counted as in-kind income equal to the current market value of the item. Expenditures for services such as medical care or rehabilitation treatment would not be counted as income. Any direct payments to the beneficiary are counted as income.

Because of the legal variables involved with a trust, each trust document, and possibly other records, to verify the amount of trust principal, earnings, and expenditures, before a decision is made about which portion of the trust, if any, is excluded. If the trust is unclear, administrative staff may contact General Relief program staff.