12VAC30-40-100. Methods of determining income.

a. AFDC-related individuals (except for poverty level related pregnant women, infants, and children).

(1) In determining countable income for AFDC-related individuals, the methods under the State's approved AFDC plan and any more liberal methods described in 12VAC30-40-280 are used.

(2) In determining relative financial responsibility, the agency considers only the income of spouses living in the same household as available to children living with parents until the children become 21.

(3) Agency continues to treat women eligible under the provisions of §1902(a)(10) of the Act as eligible, without regard to any changes in income of the family of which she is a member, for the 60-day period after her pregnancy ends and any remaining days in the month in which the 60th day falls.

b. Aged individuals. In determining countable income for aged individuals, including aged individuals with incomes up to the Federal poverty level described in section 1902(m)(1) of the Act, the following methods are used.

The methods of the SSI program and/or any more liberal methods described in 12 VAC 30-40-280.

For optional State supplement recipients in §1902(f) States and SSI criteria States without §1616 or 1634 agreements SSI methods ~~only~~ and/or any more liberal methods than SSI described in 12 VAC 30-40-280 apply.

In determining relative financial responsibility, the agency considers only the income of spouses living in the same household as available to spouses.

c. Blind individuals. In determining countable income for blind individuals, only the methods of the SSI program and/or any more liberal methods described in 12 VAC 30-40-280 apply.

For optional State supplement recipients in §1902(f) States and SSI criteria States without §1616 or 1634 agreements, ~~only~~ the SSI methods and/or any more liberal methods than SSI described in 12 VAC 30-40-280 apply.

In determining relative financial responsibility, the agency considers only the income of spouses living in the same household as available to spouses and the income of parents as available to children living with parents until the children become 21.

d. Disabled individuals. In determining countable income of disabled individuals, including disabled individuals with incomes up to the Federal poverty level described in §1902(m) of the Act, ~~only~~ the methods of the SSI program ~~only~~. and/or any more liberal methods described in 12 VAC 30-40-280 apply.

For optional State supplement recipients in §1902(f) States and SSI criteria States without §1616 or 1634 agreements, ~~only~~ the SSI methods and/or any more liberal methods than SSI described in 12 VAC 30-40-280 apply.

In determining relative financial responsibility, the agency considers only the income of spouses living in the same household as available to spouses and the income of parents as available to children living with parents until the children become 21.

e. Poverty level pregnant women, infants, and children. For pregnant women and infants or children covered under the provisions of §1902(a)(10)(A)(i)(IV), (VI), and (VII), and 1902(a)(10)(A)(ii)(IX) of the Act--

(1) The methods of the State's approved AFDC plan and any more liberal methods described in 12 VAC30-40-280 are used in determining countable income.

(2) In determining relative financial responsibility, the agency considers only the income of spouses living in the same household as available to spouses and the income of parents as available to children living with parents until the children become 21.

(3) The agency continues to treat women eligible under the provisions of §1902(a)(10) of the Act as eligible, without regard to any changes in income of the family of which she is a member, for the 60-day period after her pregnancy ends and any remaining days in the month in which the 60th day falls.

f. Qualified Medicare beneficiaries. In determining countable income for qualified Medicare beneficiaries covered under §1902(a)(10)(E)(i) of the Act, ~~only~~ the methods of the SSI program ~~are used~~. and/or more liberal methods described in 12 VAC 30-40-280 are used.

If an individual receives a Title II benefit, any amounts attributable to the most recent increase in the monthly insurance benefit as a result of a Title II COLA is not counted as income during a "transition period" beginning with January, when the Title II benefit for December is received, and ending with the last day of the month following the month of publication of the revised annual federal poverty level.

For individuals with Title II income, the revised poverty levels are not effective until the first day of the month following the end of the transition period.

For individuals not receiving Title II income, the revised poverty levels are effective no later than the date of publication.

g. Qualified disabled and working individuals. In determining countable income for qualified disabled and working individuals covered under 1902(a)(10)(E)(ii) of the Act, the methods of the SSI program are used.

h. ~~COBRA Continuation Beneficiaries.~~ RESERVED.

~~For COBRA continuation beneficiaries specified at 1902(u)(4), costs incurred from medical care or for any other type of remedial care shall not be taken into account in determining income, except as provided in section 1612(b)(4)(B)(ii).~~

12VAC30-40-140. Methods for determining resources.

a. AFDC-related individuals (except for poverty level related pregnant women, infants, and children).

(1) In determining countable resources for AFDC-related individuals, the following methods are used:

(a) The methods under the State's approved AFDC plan; and/or

(b) Any more liberal methods described in 12VAC30-40-290.

(2) In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

b. Aged individuals. For aged individuals covered under §1902(a)(10)(A)(ii)(X) of the Act, the agency used methods that are more restrictive (except for individuals described in §1902(m)(1) of the Act) and/or more liberal than those of the SSI program for the treatment of resources. 12VAC30-40-240 describes the more restrictive methods and 12VAC30-40-290 specifies the more liberal methods.

In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses.

c. Blind individuals. For blind individuals the agency uses methods that are more restrictive and/or more liberal than those of the SSI program for the treatment of resources. 12VAC30-40-

240 describes the more restrictive methods and 12VAC30-40-290 specifies the more liberal methods.

In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

d. Disabled individuals, including individuals covered under §1902(a)(10)(A)(ii)(X) of the Act. The agency used methods that are more restrictive (except for individuals described in §1902(m)(1) of the Act) and/or more liberal than those of the SSI program for the treatment of resources. More restrictive methods are described in 12VAC30-40-240 and more liberal methods are specified in 12VAC30-40-290.

In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

e. Poverty level pregnant women covered under §1902(a)(10)(A)(i)(IV) and 1902(a)(10)(A)(ii)(IX)(A) of the Act.

The agency does not consider resources in determining eligibility.

In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

f. Poverty level infants covered under §1902(a)(10)(A)(i)(IV) of the Act.

The agency does not consider resources in determining eligibility.

g. Poverty level children covered under section 1902(a)(10)(A)(i)(VI) of the Act.

(1) The agency does not consider resources in determining eligibility. In determining relative financial responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

(2) Poverty level children under section 1902(a)(10)(A)(i)(VIII). The agency does not consider resources in determining eligibility.

In determining relative responsibility, the agency considers only the resources of spouses living in the same household as available to spouses and the resources of parents as available to children living with parents until the children become 21.

h. For Qualified Medicare beneficiaries covered under §1902(a)(10)(E)(i) of the Act the agency uses ~~only the methods of~~ ~~the SSI program~~ methods that are more liberal than those of the SSI program for the treatment of resources. More liberal methods are specified in 12VAC30-40-290.

i. For qualified disabled and working individuals covered under §1902(a)(10)(E)(ii) of the Act, the agency uses SSI program methods for the treatment of resources.

j. Reserved.

k. Specified low-income Medicare beneficiaries covered under §1902(a)(10)(E)(iii) of the Act. The agency uses the same method as in subsection (h) of this section.

12VAC30-40-240. More restrictive methods of treating resources than those of the SSI program; §1902(f) states only.

A. The following limitations apply to resources in addition to the resource requirements of the Supplemental Security Income (SSI) program for the aged, blind and disabled.

1. For income-producing property and other nonresidential property, appropriate equity and profit is to be determined by the prorata share owned by an individual in relation to his proportionate share of the equity and profit.

2. Property in the form of an interest in an undivided estate is to be regarded as an asset when the value of the interest plus all other resources exceeds the applicable resource limit unless it is considered unsaleable for reasons other than being an undivided estate. An heir can initiate a court action to partition. If a partition suit is necessary (because at least one other owner of or heir to the property will not agree to sell the property) in order for the individual to liquidate the interest, estimated partition costs may be deducted from the property's value. However, if a partition would not result in the applicant/recipient securing title to property having value substantially in excess of the cost of the court action, the property would not be regarded as an asset.

B. Real property.

1. The current market value of real property is determined by ascertaining the tax assessed value of the property and applying to it the local assessment rate. The equity value is the current market value less the amount due on any recorded liens against the property. "Recorded" means written evidence that can be substantiated, such as deeds of trust, liens, promissory notes, etc.

2. Real property contiguous to an individual's residence which does not meet the home property definitions in subdivision 3 of this subsection, the SSI income-producing requirement or the exceptions listed in subdivision 6 of this subsection and which is saleable according to the provisions in 12VAC30-40-290 C, shall be counted as an available resource. The equity value of the contiguous property shall be added to the value of all other countable resources.

3. Ownership of a dwelling occupied by the applicant as his home does not affect eligibility. A home shall mean the house and lot used as the principal residence and all contiguous property as long as the value of the land, exclusive of the lot occupied by the house, does not exceed $5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the State Plan for Medical Assistance in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value.

The lot occupied by the house shall be a measure of land as designated on a plat or survey or whatever the locality sets as a minimum size for a building lot, whichever is less. In localities where no minimum building lot requirement exists, a lot shall be a measure of land designated on a plat or survey or one acre, whichever is less.

Contiguous property essential to the operation of the home means:

a. Land used for the regular production of any food or goods for the household's consumption only, including:

(1) Vegetable gardens;

(2) Pasture land which supports livestock raised for milk or meat, and land used to raise chickens, pigs, etc. (the amount of land necessary to support such animals is established by the

local extension service; however, in no case shall more land be allowed than that actually being used to support the livestock.);

(3) Outbuildings used to process and/or store any of the above;

b. Driveways which connect the homesite to public roadways;

c. Land necessary to the home site to meet local zoning requirements (e.g. building sites, mobile home sites, road frontage, distance from road, etc.);

d. Land necessary for compliance with state or local health requirements (e.g. distance between home and septic tank, distance between septic tanks, etc.);

e. Water supply for the household;

f. Existing burial plots;

g. Outbuilding used in connection with the dwelling, such as garages or tool sheds.

All of the above facts must be fully reevaluated and documented in the case record before the home site determination is made.

4. An institutionalized individual's former residence is counted as an available resource if the recipient is institutionalized longer than six months after the date he was admitted.

The former residence is disregarded if it is occupied by the recipient's:

a. spouse;

b. minor dependent child under age 18;

c. dependent child under age 19 if still in school or vocational training;, or

d. ~~[parent or]~~ adult child who is disabled according to the Medicaid [or civil service] disability definition, and who was living in the home with the recipient for at least one year prior to the recipient's institutionalization, and who is dependent upon the recipient for his shelter needs.

e. parent who is age 65 or older and who is disabled according to the Medicaid or civil service disability definition and who was living in the home with the recipient for at least one year prior to the recipient's institutionalization and who is dependent upon the recipient for his shelter needs.

5. An applicant or recipient's proportional share of the value of property owned jointly with another person to whom the applicant or recipient is not married as tenants in common or joint tenants with the right of survivorship at common law is counted as a resource unless it is exempt property or is unsaleable.

6. Ownership of other real property generally precludes eligibility. Exceptions to this provision are: (i) when the equity value of the property, plus all other resources, does not exceed the appropriate resource limitation; (ii) the property is smaller than the county or city zoning ordinances allow for home sites or building purposes, or the property has less than the amount of road frontage required by the county or city for building purposes and adjoining land owners will not buy the property; or (iii) the property has no access, or the only access is through the exempted home site; or (iv) the property is contiguous to the recipient's home site and the survey expenses required for its sale reduce the value of such property, plus all other resources, below applicable resource limitations; or (v) the property cannot be sold after a reasonable effort to sell it has been made, as defined in 12VAC30-40-290.

C. Personal Property

1. Prepaid burial plans are counted as resource since the money is refundable to the individual upon his request. Cemetery plots are not counted as resources. See 12VAC30-40-290.

2. Assets which can be liquidated such as cash, bank accounts, stocks, bonds, securities and deeds of trusts are considered resources.

12VAC30-40-280. More liberal income disregards.

A. For children covered under §§1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act, the Commonwealth of Virginia will disregard one dollar plus an amount equal to the difference between 100%6C of the AFDC payment standard for the same family size and 100% of the Federal Poverty Level for the same family size as updated annually in the Federal Register.

B. For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance shall be granted an income exemption consistent with the Act (§§1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§1902(a)(10)(A)(ii)(VIII), (IX); §1902(a)(10)(C)(i)(III)). Any interest earned on one interest-bearing savings account per assistance unit not to exceed $5,000 at a financial institution, if the applicant, applicants, recipient or recipients designate that the account is reserved for the purpose of paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university, or for making down payment on a primary residence or for business incubation, shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. For purposes of this section, "business incubation" means the initial establishment of a commercial operation owned by a member of the Medicaid assistance unit (§63.1-110 of the Code of Virginia).

C. For Aged, Blind, and Disabled individuals, both Categorically and Medically Needy, with the exception of the special income level group of institutionalized individuals, the Commonwealth of Virginia shall disregard the value of in-kind support and maintenance when determining eligibility. In-kind support and maintenance means food, clothing, or shelter or any combination of these provided to an individual.

12VAC30-40-290. More liberal methods of treating resources under §1902(r)(2) of the Act.

§1902(f) State

A. Resources to meet burial expenses. Resources set aside to meet the burial expenses of an applicant/recipient or that individual's spouse are excluded from countable assets. In determining eligibility for benefits for ~~medically needy~~ individuals, disregarded from countable resources is an amount not in excess of $3,500 for the individual and an amount not in excess of $3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by:

1. The face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources; and

2. The amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses.

B. Life rights. Life rights to real property are not counted as a resource.

C. Reasonable effort to sell.

1. For purposes of this section, "current market value" is defined as the current tax assessed value. If the property is listed by a realtor, then the realtor may list it at an amount higher than the tax assessed value. In no event, however, shall the realtor's list price exceed 150% of the assessed value.

2. A reasonable effort to sell is considered to have been made:

a. As of the date the property becomes subject to a realtor's listing agreement if:

(1) It is listed at a price at current market value; and

(2) The listing realtor verifies that it is unlikely to sell within 90 days of listing given the particular circumstances involved (e.g., owner's fractional interest; zoning restrictions; poor topography; absence of road frontage or access; absence of improvements; clouds on title, right of way or easement; local market conditions); or

b. When at least two realtors refuse to list the property. The reason for refusal must be that the property is unsaleable at current market value. Other reasons for refusal are not sufficient; or

c. When the applicant has personally advertised his property at or below current market value for 90 days by use of a "Sale By Owner" sign located on the property and by other reasonable efforts, such as newspaper advertisements, or reasonable inquiries with all adjoining landowners or other potential interested purchasers.

3. Notwithstanding the fact that the recipient made a reasonable effort to sell the property and failed to sell it, and although the recipient has become eligible, the recipient must make a continuing reasonable effort to sell by:

a. Repeatedly renewing any initial listing agreement until the property is sold. If the list price was initially higher than the tax-assessed value, the listed sales price must be reduced after 12 months to no more than 100% of the tax-assessed value.

b. In the case where at least two realtors have refused to list the property, the recipient must personally try to sell the property by efforts described in subdivision 2 c of this subsection for 12 months.

c. In the case of a recipient who has personally advertised his property for a year without success (the newspaper advertisements and "for sale" sign do not have to be continuous; these efforts must be done for at least 90 days within a 12-month period), the recipient must then:

(1) Subject his property to a realtor's listing agreement at price or below current market value; or

(2) Meet the requirements of subdivision 2 b of this subsection which are that the recipient must try to list the property and at least two realtors refuse to list it because it is unsaleable at current market value; other reasons for refusal to list are not sufficient.

4. If the recipient has made a continuing effort to sell the property for 12 months, then the recipient may sell the property between 75% and 100% of its tax assessed value and such sale shall not result in disqualification under the transfer of property rules. If the recipient requests to sell his property at less than 75% of assessed value, he must submit documentation from the listing realtor, or knowledgeable source if the property is not listed with a realtor, that the requested sale price is the best price the recipient can expect to receive for the property at this time. Sale at such a documented price shall not result in disqualification under the transfer of property rules. The proceeds of the sale will be counted as a resource in determining continuing eligibility.

5. Once the applicant has demonstrated that his property is unsaleable by following the procedures in subdivision 2 of this subsection, the property is disregarded in determining eligibility starting the first day of the month in which the most recent application was filed, or up to three months prior to this month of application if retroactive coverage is requested and the applicant met all other eligibility requirements in the period. A recipient must continue his reasonable efforts to sell the property as required in subdivision 3 of this subsection.

D. Automobiles. Ownership of one motor vehicle does not affect eligibility. If more than one vehicle is owned, the individual's equity in the least valuable vehicle or vehicles must be counted. The value of the vehicles is the wholesale value listed in the National Automobile Dealers Official Used Car Guide (NADA) Book, Eastern Edition (update monthly). In the event the vehicle is not listed, the value assessed by the locality for tax purposes may be used. The value of the additional motor vehicles is to be counted in relation to the amount of assets that could be liquidated that may be retained.

E. Life, retirement, and other related types of insurance policies. Life, retirement, and other related types of insurance policies with face values totaling $1,500 or less on any one person 21 years old and over are not considered resources. When the face values of such policies of any one person exceeds $1,500, the cash surrender value of the policies is counted as a resource.

F. Resource exemption for Aid to Dependent Children categorically and medically needy (the Act §§1902(a)(10)(A)(i)(III), (IV), (VI), (VII); §§1902(a)(10)(A)(ii)(VIII), (IX); §1902(a)(10)(C)(i)(III)). For ADC-related cases, both categorically and medically needy, any individual or family applying for or receiving assistance may have or establish one interest-bearing savings account per assistance unit not to exceed $5,000 at a financial institution if the applicant, applicants, recipient or recipients designate that the account is reserved for one of the following purposes: (i) paying for tuition, books, and incidental expenses at any elementary, secondary or vocational school or any college or university; (ii) making down payment on a primary residence; or (iii) business incubation. Any funds deposited in the account, shall be exempt when determining eligibility for medical assistance for so long as the funds and interest remain on deposit in the account. Any amounts withdrawn and used for any of the purposes stated in this section shall be exempt. For purposes of this section, "business incubation" shall mean the initial establishment of a commercial operation which is owned by a member of the Medicaid assistance unit. The net worth of any business owned by a member of the assistance unit shall be exempt from consideration so long as the net worth of the business is less than $5,000.

G. Disregard of resources. The Commonwealth of Virginia will disregard all resources for qualified children covered under §§1902(a)(10)(A)(i)(III) and 1905(n) of the Social Security Act.

H. Household goods and personal effects. The Commonwealth of Virginia will disregard the value of household goods and personal effects. Household goods are items of personal property customarily found in the home and used in connection with the maintenance, use and occupancy of the premises as a home. Examples of household goods are furniture, appliances, televisions, carpets, cooking and eating utensils and dishes. Personal effects are items of personal property that are worn or carried by an individual or that have an intimate relation to him or her. Examples of personal property include clothing, jewelry, personal care items, prosthetic devices and educational or recreational items such as books, musical instruments, or hobby materials.

I. Determining Eligibility Based on Resources: When determining Medicaid eligibility, an individual shall be eligible in a month if his countable resources were at or below the resource standard on any day of such month.

CERTIFIED:

___5/16/2002___________	_/s/ Patrick W. Finnerty______________
Date	Patrick W. Finnerty, Director Department of Medical Assistance Services