

**CONNECTICUT DEPARTMENT OF SOCIAL SERVICES
UNIFORM POLICY MANUAL**

Date: 12-10-03	Transmittal: UP-03-36	4000.01
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Section: Treatment of Assets	Type:	POLICY
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Chapter:	Program:	AFDC AABD MA FS
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Subject: Definitions		
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4000.01 Annuity

An annuity is an asset that may produce income either annually or at regular intervals pursuant to the terms of the annuity contract.

Assessment of Spousal Assets

An Assessment of Spousal Assets is a determination of the total value of all non-excluded available assets owned by both MCCA spouses which is done upon the request of an institutionalized spouse or a community spouse and is used to calculate the Community Spouse Protected Amount.

Asset Limit

The asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.

Assignment

An assignment is the act of transferring one's interest in an asset to another person or to an entity.

Assistance Unit

The assistance unit consists of one or more individuals who apply for or receive assistance together under one of the Department's programs.

Available Asset

An available asset is cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.

Beneficiary

A beneficiary is a person who is entitled to receive funds, property, or other benefits from an insurance policy, will, trust, or other settlement.

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4000.01 Burial Fund

A burial fund is a revocable burial contract - that is, a fund held by a licensed funeral director to be used for funeral and burial expenses, but which can be released prior to death by mutual agreement.

Burial Plot - Food Stamp Program

A burial plot is a grave site, crypt, mausoleum, urn, or any other repository traditionally used for the remains of a deceased person.

Burial Plot - All Other Programs

A burial plot is a grave site, opening and closing of a grave site, cremation urn, casket, other burial container and a headstone or marker, including a contract for the provision of the aforementioned items. A gravesite may include a crypt or mausoleum.

Cash Surrender Value

The cash surrender value of a life insurance policy, annuity or similar instrument is the amount of money the owner of the instrument may obtain by surrendering such instrument.

Community Spouse

A community spouse is an individual who resides in the community, who does not receive home and community based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long term care facility or who receives home and community based services (CBS) under a Medicaid waiver.

Community Spouse Disregard (CSD)

A community spouse disregard is the amount of the institutionalized spouse's available non-excluded assets which is not counted in determining the institutionalized spouse's eligibility for Medicaid.

Community Spouse Protected Amount (CSPA)

A community spouse protected amount is the amount of the total available non-excluded assets owned by both MCCA spouses which is protected for the community spouse and is not counted in determining the institutionalized spouse's eligibility for Medicaid.

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4000.01 Continuous Period of Institutionalization

A continuous period of institutionalization is a period of 30 or more consecutive days of residence in a medical institution or long term care facility, or receipt of home and community based services (CBS) under a Medicaid waiver.4000.01

Corpus

The corpus of a trust is the principal of the trust as distinguished from the income that is generated by the trust.

Corrective Payment

A corrective payment is assistance which the Department provides to or on behalf of an assistance unit as an adjustment for an underpayment of cash, medical, or Food Stamp benefits, or refunds owed to the assistance unit.

Counted Asset

A counted asset is an asset which is not excluded and either available or deemed available to the assistance unit.

Deemed Asset

A deemed asset is an asset owned by someone who is not a member of the assistance unit but which is considered available to the unit.

Deemor

A deemor is a person from whom income or assets are deemed available to the assistance unit.

Encumbrance

Encumbrance is a legal claim against an asset which a person must pay off in order to convert the asset to cash.

Equity Value

Equity value is the fair market value of an asset minus encumbrances.

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4000.01 Essential Household Item

An essential household item is furniture, furnishings, and equipment found in or about a house which is used in connection with the operation, maintenance, and occupancy of the home, as well as an item used in the functions and activities of home and family life or for comfort and accommodation.

Excluded Asset

An excluded asset is an asset which is not counted by the Department in determining the assistance unit's eligibility for assistance.

Face Value

The face value of a life insurance policy is the basic amount of insurance purchased on the insured's life, as listed on the policy.

Fair Market Value

Fair market value is the amount at which an asset can be sold on the open market in the geographic area involved at the time of the sale as a result of reasonable, bona fide efforts to gain the highest possible price in an arm's-length transaction.

Home Property

Home property is:

1. real property which someone owns and is using as principal residence; and
2. life use which is the right of a person to occupy and/or enjoy the income proceeds of real property during the person's life time in accordance with the terms of a legal agreement.

Institutionalized Spouse

An institutionalized spouse is a spouse who resides in a medical facility or long term care facility, or who receives home and community based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services.

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4000.01 Inter Vivos Trust

| An inter vivos trust is a trust established during the lifetime of the settlor by means other than a will.

Irrevocable Burial Fund

An irrevocable burial fund is a fund held by a licensed funeral director as a result of a contractual arrangement to be released only upon the death of a recipient, but which can be transferred to another funeral director.

Irrevocable Trust

An irrevocable trust is a trust which the settlor is unable to dissolve.

Legal Owner

The legal owner of an asset is the person who is legally entitled to enjoy the benefit and use of the asset.

Long Term Care Facility (LTCF)

A long term care facility is a skilled nursing facility, intermediate care facility, or other medical institution, where the applicant is required, as a condition of receiving services in such institution under the state medical assistance plan, to spend for costs of medical care all but a minimal amount of any existing income for personal needs.

MCCA Spouses

MCCA spouses are spouses who are members of a married couple one of whom becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.

Motor Vehicle

A motor vehicle is a passenger car or other vehicle which a person owns for the purpose of providing transportation of individuals or goods.

Needs Group

Needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.

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4000.01 Non-Essential Household Item

A non-essential household item is a household item which a person or family has acquired as an investment to be sold for a profit at a later date.

Non-Home Property

Non-home property is real property which a person owns but is not using as principal residence.

Personal Effects

Personal effects are clothing, jewelry, or items used for personal care or individual education.

Personal Property

Personal property is an asset in the form of temporary or movable property as opposed to real property.

Real Property

Real property is an asset in the form of real estate - that is, land and buildings.

Record Owner

The record owner of an asset is the person who has apparent ownership interest as shown on a title, registration, or other documentation.

Revocable Trust

A revocable trust is a trust which the settlor reserves the right to dissolve when he or she desires.

Settlor

The settlor is the person whose funds are used to establish a trust.

Spousal Share

A spousal share is one-half of the total value of assets which results from the assessment of spousal assets.

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4000.01 Term Insurance

Term insurance is a form of life insurance having no cash surrender value and furnishing coverage for only a specified period of time.

Testamentary Trust

A testamentary trust is a trust established pursuant to the terms of a will.

Trust

A trust is an oral or written agreement in which someone (the trustee) holds the legal title to an asset for the benefit of another person (the beneficiary).

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4020.10 A. Home Property

Real property used as principal residence by the assistance unit is excluded.

1. Home property consists of the home itself which the assistance unit uses as its principal residency, the surrounding property which is not separated from the home by intervening property owned by others, and any related outbuildings used in the operation of the home.
2. A multi-family dwelling is considered home property in its entirety if the assistance unit is occupying at least one unit of the dwelling as principal residence.
3. A home which the assistance unit has left temporarily unoccupied for reasons of employment, training for future employment, illness, or uninhabitability caused by a catastrophic event remains excluded if the assistance unit intends to return to the home.
4. A trailer, camper, or mobile home is considered home property if the assistance unit is using it as principal residence.
5. The exclusion of home property in the MAABD program when an individual leaves the home to enter a long-term care facility is described in Section 4030.

B. Essential Household Items

All essential household items are excluded.

C. Personal Effects

All personal effects are excluded.

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4020.10 D. Burial Plots

1. For all assistance units except those units consisting of MCCA spouses, one burial plot is excluded.
2. For an assistance unit consisting of a MCCA spouse, one burial plot for the community spouse and each member of the immediate family is excluded in addition to the assistance unit member's plot.
3. Members of the immediate family of the MCCA spouse include the following family members and their spouses:
 - a. a natural, adopted, or step child of the assistance unit, regardless of age; and
 - b. a natural or adoptive parent or the assistance unit; and
 - c. a sibling of the assistance unit.

E. Trade or Business Assets essential to Self- Support

1. Tangible business assets such as equipment and supplies, inventory, cash on hand, accounts receivable are excluded if the business produces income sufficient to justify possession of the business assets.
2. Land and buildings are not excluded under this provision.

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4020.10 F. Nonbusiness Assets Essential to Self-support

1. Nonbusiness assets essential to self-support are excluded. These include any of the following:
 - a. assets used only to produce items for the individual's consumption;
 - b. tools, equipment, uniforms, and similar items required by the assistance unit member's employer;
 - c. a motor vehicle if climate, terrain, distance, or other factors require an additional or modified vehicle to be used for necessary transportation.
2. Cash, stocks or bonds, or other liquid assets are not considered to be nonbusiness assets essential to self-support.

G. Payments Excluded by Federal Law

The following payments are excluded as assets as long as they are kept separate from counted assets:

1. Any payment received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;
2. Relocation assistance provided by a State or local government that is comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 for a period of nine months beginning with the month following the month of receipt;
3. Tax exempt portions of payments made pursuant to Pub. L. 92-203, the Alaska Native Claims Settlement Act;
4. Payments received by certain Indian tribal members under Pub. L. 94-114, section 6, regarding submarginal land held in trust by the United States;
5. The total amount of any grant, loan, or work/study payment to any undergraduate student under Title IV of the Higher Education Act, the Bureau of Indian Affairs or the Carl D. Perkins Act of 1990 for educational purposes to the extent that the funds are made available for tuition, mandatory fees, or other necessary educational expenses, except payments for food, clothing, or shelter;

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4020.10 G. Payments Excluded by Federal Law (continued)

6. The total amount of any grant, loan, or work/study payment to any undergraduate student under a source other than Title IV of the Higher Education Act, the Bureau of Indian Affairs or the Carl D. Perkins Act of 1990 for educational purposes to the extent that the funds are used for tuition, mandatory fees, or other necessary educational expenses, except payments for food, clothing, or shelter;
7. Payments, including any interest earned, distributed to or held in trust for any Indian Tribe under the provisions of Public Law 98-64;
8. Assets purchased with payments distributed on a per capita basis to or held in trust for members of an Indian Tribe are excluded pursuant to Public Law 98-64;
9. Payments to volunteers under Title I of Public Law 93-113, pursuant to section 404(g) of Public Law 93-113;
10. The value of supplemental food assistance under the Child Nutrition Act of 1966 as amended, and the special food service program for children under the National School Lunch Act, as amended (Public Law 92-433 and Public Law 93-150);
11. The value of the U.S. Department of Agriculture donated foods (surplus commodities);
12. Effective October 1, 1976, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, as provided by section 2 (h) of Pub. L. 94-375 (90 Stat. 1068);
13. HUD retroactive tax and utility cost subsidy payments issued pursuant to settlement of Underwood v. Harris (Civil No. 76-0469, D.D.C.) against HUD;
14. Agent Orange Settlement Payments distributed by Aetna Life and Casualty made pursuant to Public Law 10-201 and Section 1040 of Public Law 101-239;
15. Effective January 1, 1991, reparation payments made to holocaust victims by the Federal Republic of Germany;

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4020.10 G. Payments Excluded by Federal Law (continued)

16. Japanese Restitution payments and payments made to residents of the Aleut and the Pribilof Islands made pursuant to Public Law 100-383;
17. Effective October 15, 1990, Radiation Exposure Compensation payments made pursuant to Section 6 (h)(2) of Public Law 101-426;
18. Effective September 1, 1991, reparation payments made under Section 500-506 of the Austrian General Social Insurance Act;
19. stocks, a partnership interest, land or an interest in land, an interest in a settlement trust and up to \$2,000 in total cash payments per year per person made pursuant to the Alaska Native Claims Settlement Act (Section 15 of Public Law 100-241);
20. retroactive Agent Orange Settlement payments made by the Department of Veterans Affairs pursuant to Public Law 102-4;
21. payments made to victims of Nazi persecution pursuant to Public Law 103-286;
22. payments received from a fund established by a State to as compensation for expenses incurred or losses suffered as a result of a crime for a period of nine months beginning with the month following the month of receipt;
23. payments made to offspring of Vietnam veterans who are born with spina bifida pursuant to Public Law 104-204.

H. Burial Funds and Arrangements

1. For all assistance units except units consisting of MCCA spouses, an amount up to \$1,200 per assistance unit member is excluded.
2. For an assistance unit consisting of a MCCA spouse, an amount up to \$1,500 each for the assistance unit member and for his or her spouse is excluded.
3. The exclusion is reduced by:
 - a. any amount in an irrevocable burial contract available to meet burial expenses; and
 - b. the face value of the assistance unit member's life insurance policies if the cash surrender value of such policies is excluded.

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H. Burial Funds and Arrangements (continued)

4. Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements are also excluded if the interest or appreciation is left to accumulate and becomes part of the excluded burial fund.

I. Irrevocable Burial Funds

Irrevocable burial funds are totally excluded.

J. Non-Home Property

Non-home property which would render the assistance unit ineligible is excluded for as long as the assistance unit is making a bona fide effort to sell the property and:

1. agrees in writing to dispose of the property; and
2. immediately lists the property for sale; and
3. does not refuse any offer which approximates fair market value; and
4. in AABD, grants the Department a security mortgage on the property pending its sale.

K. Motor Vehicles

1. For all assistance units except units consisting of MCCA spouses, one motor vehicle is totally excluded if the assistance unit or spouse:
 - a. needs the motor vehicle for employment; or
 - b. needs the motor vehicle for the medical treatment of a specific or ongoing medical problem; or
 - c. has modified the motor vehicle for operation by or transportation of a handicapped person.
2. For an assistance unit consisting of a MCCA spouse, one motor vehicle owned by either the institutionalized spouse or the community spouse is excluded.

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4020.10 K. Motor Vehicles (continued)

3. If no motor vehicle is totally excluded, up to \$4,500 of the fair market value of one motor vehicle is excluded.

L. Life Insurance Policies

1. The cash surrender value of life insurance policies on any assistance unit member is excluded if the total face value of all such policies does not exceed \$1,500. In computing the face value of life insurance, the Department does not consider term insurance and irrevocable burial funds.
2. Life insurance policies such as term insurance policies, which provide temporary coverage but have no cash surrender value, are totally excluded, regardless of their face value.

M. Assets Necessary to Fulfill an Approved Plan for Self-support

1. Assets which are set aside in a separate account by the applicant or recipient to fulfill a component of a plan to achieve self-support are excluded when the plan is:
 - a. designed especially for the individual; and
 - b. in writing; and
 - c. approved by the Social Security Administration.
2. The exclusion is allowed for the same period that the Social Security Administration uses the PASS deduction in calculating the individual's Supplemental Security Income.
3. The amount of the exclusion is equal to the amount allowed by the Social Security Administration in the individual's self-support plan.

N. Replacement of Lost, Damaged, or Stolen Excluded Assets

Cash (including any interest earned on the cash) or in-kind replacement received from any source to repair or replace an excluded asset is excluded.

1. The cash (and the interest) must be used to repair or replace the asset within nine months from the date the individual receives the cash.
2. Any of the cash not so used is counted as an asset beginning the first quarter after the nine month period.

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- 4020.10 N. Replacement of Lost, Damaged, or Stolen Excluded Assets (continued)
3. The nine month exclusion is extended an additional nine months if the individual proves that he or she had good cause for not repairing or replacing the asset.
- O. Disaster Assistance
1. Disaster received under the Disaster Relief Act of 1974, as amended including the Individual and Family Grant (IFG) program, and comparable disaster assistance provided by states, local government and private organizations is excluded for nine months.
 2. The exclusion is extended for up to nine additional months if the individual proves that he or she had good cause for not having completed necessary repairs or replacement of damaged or destroyed property.
- P. Indian Lands
- Restricted, allotted lands which the individual cannot sell, transfer, or otherwise dispose of without permission of other individuals, the tribe, or an agency of the federal government are excluded.
- Q. Energy Payments
- Payments or allowances made under any federal, state, or local laws for the purpose of energy assistance are excluded.
- R. Bank Accounts Earmarked for Payment of Employment Taxes for Household Employees
- Bank accounts that have been earmarked for payment of employment taxes such as FICA, FUTA, and/or State Unemployment Compensation for household employees provided that:
1. the funds in these accounts were provided by the Department of Social Services as part of payments made for the expenses of essential services such as companion, homemaker, personal assistant, etc., and

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4020.10 R. Bank Accounts Earmarked for Payment of Employment Taxes for Household Employees (continued)

2. the recipient continues to be eligible for such payments or has been eligible for such payments at some time during the current calendar year for which taxes are still owed, and
3. the balance in the account is commensurate with the amount of taxes for which the recipient is currently obligated.

S. Payments Made to Certain Hemophilia Patients Who Contracted HIV from Blood Transfusions

1. Payments made under the settlement to the lawsuit entitled "Factor VIII or IX Concentrate Blood Products Litigation" MDL 986 (No. 93-C-7452, Northern District of Illinois) are excluded pursuant to Section 4735 of the Balanced Budget Act of 1997 (BBA).
2. Payments received under the Ricky Ray Hemophilia Relief Fund Act of 1998 (the Ricky Ray Act), Public Law 105-369 are excluded.

T. Assets Excluded for Working Individuals with Disabilities (MAABD Only)

An individual formerly receiving Medicaid under the "Working Individuals with Disabilities" coverage group has the following assets excluded if such assets were excluded while the individual was a Medicaid recipient under that coverage group:

1. retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the individual or his or her spouse; and
2. accounts held by the individual or spouse and designated by such person as being held for the purpose of buying goods or services that will increase the employability of the individual. Such accounts are subject to the approval of the Department.

(Cross References: 2540.85, 4020.11)

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Excluded Assets - Working Individuals with Disabilities

- 4020.11 A. In addition to the assets listed at 4020.10, the following assets are excluded in determining the eligibility of working individuals with disabilities (Cross Reference: 2540.85):
1. retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the individual or his or her spouse; and
 2. accounts held by the individual or spouse and designated by such person as being held for the purpose of buying goods or services that will increase the employability of the individual. Such accounts are subject to the approval of the Department.
- B. The assets excluded under paragraph A above retain their exclusion in the Medicaid program for the lifetime of the individual, even if he or she loses eligibility for Medicaid under this coverage group.

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Asset Disregards

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4022 This chapter describes the conditions under which the Department disregards certain assets held by the assistance unit in the determination of the unit's eligibility for Medicaid.

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Community Spouse Disregard

4022.05 A. General Provisions

1. The Community Spouse Disregard (CSD), as defined at UPM 1500.01, is subtracted from an institutionalized spouse's (IS') counted assets in determining the IS' eligibility for Medicaid.
2. The CSD is used to allow the IS to transfer a specific amount of his or her counted assets to the community spouse (CS) when such assets are needed to raise the CS' assets to the Community Spouse Protected Amount (cross reference: 1500.01).
3. Except as provided in paragraph 7 below, the CSD is used for the initial eligibility determination for each continuous period of institutionalization for an assistance unit consisting of a MCCA spouse.
4. After eligibility is established for the institutionalized spouse, the CSD amount must be transferred to the community spouse as soon as practical.
5. Except in the event of good cause, any portion of the CSD which is not transferred by the next determination of eligibility is not subtracted from the institutionalized spouse's assets. This results in the ineligibility of the IS if his or her counted assets total more than the Medicaid asset limit of \$1600.00.
6. After the amount of the CSD is transferred as part of the initial eligibility determination, no more assets may be subtracted from the institutionalized spouse's assets as a CSD for the remainder of that continuous period of institutionalization.
7. No CSD is used when an assessment of spousal assets has not been completed. (Cross Reference 1507.05). In such a case, the IS may be eligible only if:
 - a. his or her counted assets do not exceed the asset limit at the time of application; and
 - b. he or she has executed an assignment of support rights against the community spouse (cross reference: 7520).

B. Calculation of Community Spouse Disregard (CSD)

1. The CSD is equal to the amount which results from subtracting the community spouse's total available non-excluded assets from his or her Community Spouse Protected Amount (CSPA).

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Community Spouse Disregard

4022.05 B. Calculation of Community Spouse Disregard (CSD) (Continued)

2. Effective January 1, 2005, the CSPA is equal to the greatest of the following amounts:
 - a. \$19,020.00 or
 - b. the lesser amount of:
 - (1) the spousal share calculated in the assessment of spousal assets (Cross Reference 1507.05); or
 - (2) \$95,100.00 or
 - c. the amount established through a Fair Hearing decision (Cross Reference 1570); or
 - d. the amount established pursuant to a court order for the purpose of providing necessary spousal support.
3. For the purpose of calculating the CSD, the community spouse total available non-excluded assets include only those assets which are:
 - a. owned solely by the community spouse; and
 - b. owned jointly with any other person except the institutionalized spouse. Assets owned jointly with the IS are treated as being owned by the IS, as described in UPM 4010.
4. If the calculation of the CSD results in a zero or a lesser amount, no disregard is used.

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UNIFORM POLICY MANUAL**

Date: 4-1-96

Transmittal: UP-96-9

4022.10

Section:

Treatment of Assets

Type:

POLICY

Chapter:

Asset Disregards

Program:

MAABD

Subject:

Long-Term Care Insurance Disregard

4022.10 A. General Statement

The Department disregards an individual's assets, subject to the conditions described in paragraphs B and C, in an amount equal to the lesser of the following:

1. payments made by the individual's long-term care insurance policy precertified by Connecticut's Insurance Department pursuant to Section 38a-475 of the Connecticut General Statutes for services covered under the policy; or
2. the actual charge for such services.

B. Conditions Under Which Assets are Disregarded

The Department disregards a portion of an individual's assets only if all of the following conditions are met:

1. The individual has purchased a precertified long-term care insurance policy described in paragraph A; and
2. The individual meets the "Insured Event" criteria defined by the Connecticut Department of Insurance in Regulation 38a-475-2; and
3. The individual has had payments made on his behalf by the precertified long-term care insurance policy for services covered under the policy; and
4. Costs paid by precertified long-term care insurance policies for home health services and for home and community-based services are provided in accordance with a plan of care approved by an Access Agency approved by the Office of Policy and Management and the Department of Social Services according to criteria established by the Department pursuant to Section 17b-342 of the Connecticut General Statutes; and
5. Services received by the individual and paid for by the precertified long-term care insurance policy are not delivered by a member of the individual's family, unless:
 - a. the family member is a regular employee of an organization which is providing the services; and
 - b. the organization receives the payment for the services; and

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4022.10 B. 5. Conditions Under Which Assets are Disregarded (continued)

c. the family member receives no compensation other than the normal compensation for employees in his or her job category.

C. Amount of Assets to be Disregarded

1. The Department disregards assets in an amount equal to the lesser of the following:

a. the amount of payments made by the precertified insurance policy for services covered under the policy; or

b. the actual charge for the services.

2. In determining the actual charge for a service, the Department subtracts an amount equal to any benefits payable toward the cost of the service under any other public or private health, or long-term care insurance policy covering the individual.

D. Duration of Disregard

The amount of the individual's assets properly disregarded under these provisions continues to be disregarded throughout the lifetime of the individual.

E. Recovery Provisions

1. The Department does not recover Medicaid payments made on behalf of the individual from the individual's assets properly disregarded under the provisions of the long-term care insurance disregard (Cross Reference: 7520 and 7525).

2. If the individual's assets are improperly disregarded because the individual's insurance company overstates the amount of covered services paid by a precertified long-term care insurance policy, the Department considers the insurer a third party payor and:

a. suspends Medicaid payments until the insurance company pays for additional covered services on behalf of the individual in an amount equal to the amount of the insurer's overstatement; or

b. if the individual is deceased or no longer receiving Medicaid, recovers directly from the insurance company.