



Date: July 1, 2025

DMS Operations Memo 25-11

Amended May 19, 2026

To: Income Maintenance Supervisors
Income Maintenance Lead Workers
Income Maintenance Staff

Affected Programs:

- | | |
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| ☐ BadgerCare Plus | ☐ Caretaker Supplement |
| ☐ FoodShare | ☐ FoodShare Employment and Training |
| ☒ Medicaid | |
| ☐ SeniorCare | |

From: Autumn Arnold, Bureau Director
Bureau of Enrollment & Eligibility Policy
Division of Medicaid Services

Jonelle Brom, Bureau Director
Bureau of Eligibility Operations & Training
Division of Medicaid Services

Changes to Treatment of Annuities for Medicaid

CROSS REFERENCE

- Medicaid Eligibility Handbook, [Section 16.11 Retirement Funds](#) and [Section 16.12 Annuities](#)
[Section 16.7.4.4 Availability of Annuities That Cannot Be Surrendered \(Irrevocable Annuities\)](#) and
[Section 16.7.20 Retirement Benefits](#)
- [42 U.S.C. §1396r-5\(b\)\(2\)\(A\)\(i\)](#)
- [20 CFR § 416.1202\(b\)\(i\)](#)

EFFECTIVE DATE

July 1, 2025, except where noted.

PURPOSE

This memo announces Medicaid policy changes related to the treatment of individual retirement annuities owned by an ineligible spouse. It also announces changes related to the treatment of irrevocable annuities purchased on or after March 1, 2004, that are currently paying out.

This memo is being amended to clarify, effective immediately, that:

- As long as the ineligible spouse is the owner of an individual retirement annuity, the asset is exempt. It is not necessary to verify the original funding if the ineligible spouse is the current owner.

- Inherited IRAs are not considered retirement funds, for purposes of this exemption.

BACKGROUND

Prior to the changes announced in this memo, IM agencies were given guidance that individual retirement annuities owned by an ineligible spouse should be treated as potentially countable assets rather than exempt retirement funds for an ineligible spouse. This policy is being changed due to several DHA appeal decisions that have provided legal clarification on the treatment of individual retirement annuities owned by a spouse who is not requesting Medicaid.

Prior to the changes announced in this memo, irrevocable annuities that were purchased on or after March 1, 2004, and currently paying out were treated as countable assets if the IM agency determined that the annuity income stream could be sold on the secondary market. This policy is being updated because of significant changes to the annuities market and the legal process for selling irrevocable annuities.

POLICY

INDIVIDUAL RETIREMENT ANNUITIES OWNED BY AN INELIGIBLE SPOUSE

An individual retirement annuity is a financial contract issued by an insurance company that allows people to invest or convert their retirement funds into annuities designed to provide an income stream during retirement.

Individual retirement annuities owned by an ineligible spouse (defined as an EBD or LTC applicant or member's spouse who is not requesting full-benefit Medicaid) are not counted as assets.

Inherited individual retirement arrangements (IRAs) (including inherited individual retirement annuities) are not considered retirement funds for purposes of this exemption.

~~Effective July 1, 2025, individual retirement annuities owned by an ineligible spouse (defined as an EBD or LTC applicant or member's spouse who is not requesting full-benefit Medicaid) are not counted as assets. If the individual who funded the individual retirement annuity and the annuitant are the same individual. If the person who funded the individual retirement annuity is not listed as the annuitant, the spouse's individual retirement annuity is not considered an exempt retirement fund. It is treated as an annuity and may be a countable asset (see [Medicaid Eligibility Handbook Section 16.7.4 Annuities](#) and the next section of this memo).~~

For long-term care cases, exempt individual retirement annuities owned by an ineligible community spouse are not counted for the asset assessment or the eligibility determination, but the annuities are still subject to LTC annuity disclosure and remainder beneficiary designation requirements. They are not considered in divestment determinations for the LTC spouse if they meet the long-term care remainder beneficiary designation requirements.

There are no changes to policy regarding the treatment of annuity income.

Example 1: Diane has been admitted to a nursing home and her stay is expected to be over 30 days. Her husband, Tom, is an ineligible community spouse who funded an individual retirement annuity in 2020 using his own retirement funds. The individual retirement annuity names Tom as the annuitant. Tom's annuitization of his retirement benefits are not considered a divestment because he met the long-term care remainder beneficiary designation requirements. Tom's individual retirement annuity is not counted for the couple's asset assessment or for Diane's eligibility determination for institutional Medicaid because it is considered a retirement asset. Income from the individual retirement annuity is countable for Tom and may impact spousal impoverishment income allocation calculations.

~~Example 2: George is applying for Waiver Medicaid. His wife Debra is an ineligible community spouse, and she is not applying for Medicaid. In 2023, Debra was named the annuitant of an individual retirement annuity, which was originally funded from George's retirement assets. The individual retirement annuity is not considered a retirement benefit for Debra, because it was funded with the retirement assets of another person. It is considered an annuity subject to regular annuity income and asset availability policies because George's retirement benefits funded the annuity (not Debra's). This annuity must be evaluated for divestment because it was purchased or substantively changed on or after January 1, 2009.~~

AVAILABILITY OF IRREVOCABLE ANNUITIES

An annuity is considered irrevocable if the terms of the contract do not allow the annuity to be surrendered for cash.

Effective for applications filed on or after July 1, 2025, irrevocable annuities currently paying out are counted as income to the annuitant rather than available assets for Medicaid, regardless of when the annuity was purchased. It is no longer a requirement to determine whether an irrevocable annuity currently paying out (purchased on or after March 1, 2004) can be sold on the secondary market to determine whether it is treated as an asset or as income.

For long-term care cases, the purchase, creation, or substantive change (on or after January 1, 2009) of an irrevocable annuity during the couple's lookback period or after eligibility is established must still be evaluated for divestment using the criteria in [Medicaid Eligibility Handbook, Section 17.2.6.14 Irrevocable Annuities](#).

Example 2: George is applying for Waiver Medicaid. His wife Debra is an ineligible community spouse, and she is not applying for Medicaid. In 2023, Debra was named the annuitant of an individual retirement annuity, which was originally funded from George's retirement assets. The individual retirement annuity is not considered a retirement benefit **asset** for Debra, **but income she receives from the annuity is countable income**, because it was funded with the retirement assets of another person. It is considered an annuity subject to regular annuity income and asset availability policies because George's retirement benefits funded the annuity (not Debra's). This annuity must be evaluated for divestment ~~because it~~ **the annuity** was purchased or substantively changed on or after January 1, 2009, **it is** evaluated for divestment. The agency determines the annuitization is an allowable divestment because it is an individual retirement annuity and the couple met the remainder beneficiary designation requirements.

Example 3: Ellen funded an annuity using funds from a life insurance beneficiary payout in 2010. In 2014, she annuitized the asset and it became irrevocable. She receives income from the annuity monthly. When Ellen applies for long-term care Medicaid in August 2025, income from her annuity is countable, and the annuity is not considered an asset. The agency determined the annuitization was not a divestment because it occurred prior to her look back period and she met the remainder beneficiary designation requirements.

CONTACTS

DHS CARES Problem Resolution Team

DHS/DMS/BEEP/ND

DHS/DMS/BEOT/JN