NORTH DAKOTA DEPARTMENT OF HUMAN SERVICES
BISMARCK, NORTH DAKOTA
April 17, 2017

IM 5298

TO:	County Social Service Directors Economic Assistance Policy Regional Representatives Economic Assistance Policy Quality Control Reviewers
FROM:	Carol Cartledge, Director, Economic Assistance
SUBJECT:	**SNAP Asset Exclusion**
PROGRAMS:	Supplemental Nutrition Assistance Program (SNAP)
EFFECTIVE:	March 7, 2017
RETENTION:	Until superseded
SECTIONS AFFECTED:	**Asset Exclusions 430-05-45-35**

In response to a Presidential memorandum, the U.S Department of the Treasury established a new retirement savings account designed for small-dollar savers and employees who do not have access to a retirement savings plan through their employers. This retirement savings program, known as *my*RA, started on December 15, 2014.

A *my*RA account is a Roth Individual Retirement Account (IRA) and is subject to 408A of the Internal Revenue Code. Since the Food and Nutrition Act of 2008, as amended, specifically excludes accounts described in sections 408A of the Internal Revenue code as an asset for the SNAP Program, *my*RA accounts are excluded as an asset in determining SNAP eligibility.

Asset Exclusions 430-05-45-35

The following list of assets are the only assets that are excluded for all household members including ineligible aliens and disqualified individuals.

1. The home and surrounding property that is not separated by property owned by others. Roads running through the property will not affect the property exemption.

   The home and surrounding property remain exempt when temporarily unoccupied because of employment, training for future employment, illness, or uninhabitability caused by casualty or natural disaster, if the household intends to return.

   Households not currently owning a home but who own or are purchasing property on which they intend to build or are building a permanent home, receive an exclusion for that value.

2. Household or personal goods (i.e. furniture, appliances, jewelry, clothing, antiques, collections, etc.).

3. The cash value of life insurance policies.

~~4.~~ ~~All tax-preferred~~ The following retirement accounts. ~~These include but are not limited to:~~

- ~~State Retirement~~
- ~~Teacher's Retirement~~
- ~~457 plans~~
- ~~401(k) plans~~
- ~~Federal employee thrift savings plans~~
- ~~403(b) plans~~
- ~~501(c)(18) plans~~
- ~~Keogh plans~~
- ~~Individual Retirement Accounts (IRA's)~~
- ~~Simplified Employer Pension Plans (SEPs)~~

Authorized	Plan/Account	What is it?
Section 401 IRS Code	Traditional Defined-Benefit Plan	Employer-based retirement plan that promises retirees a certain benefit upon retirement, regardless of investment performance.
Section 401(a) IRS Code	Cash Balance Plan	Employer-based "hybrid" plan that combines features of defined benefit and defined contribution plans. Each employee is allocated a hypothetical account, but account balances accrue at a specified rate, rather than depending on investment performance.
Section 401(a) IRS Code	Employee Stock Ownership Plan	Similar to profit-sharing plan that must be primarily invested in the employer's stock and under which distributed benefits must be offered in the form of employer's stock.
Section 401(a) IRS Code	Keogh Plan	"Informal" term for retirement plans available to self-employed people.
Section 401(a) IRS Code	Money Purchase Pension Plan	Employer-based defined contribution plan under which annual contributions are fixed by a set formula.
Section 401(a) IRS Code	Profit-Sharing Plan	Employer-based defined contribution plan under which employer contributions may, but need not be, linked to profits. Usually refers to non-matching employer contributions.
Section 401(a) IRS Code	Simple 401(k)	401(k)-type plans available only to small businesses: exempt from certain restrictions and subject to some limitations on employer contributions.
Section 401(a) IRS Code	401(k)	Defined contribution plan that allows employees to defer receiving compensation in order to have the amount contributed to the plan. Commonly referred to as a "cash or deferred arrangement" (CODA). Some 401(k) plans allow after-tax Roth 401(k) contributions.
Section 403(a) IRS Code	403(a)	Plans that are similar to 401(a) plans but are funded through annuity insurance.
Section 403(b) IRS Code	403(b)	Tax-sheltered annuity or custodial account plan offered by tax-exempt section 501(c) organizations or public schools. Many are funded by employee contributions that resemble 401(k)s.
Section 408 IRS Code	IRA	Vehicle for tax-deferred retirement savings controlled by individuals rather than employers.
Section 408(p) IRS Code	Simple retirement account IRA	Employer-based IRA (to which employers and employees contribute) available only to small businesses.
Section 408(k) IRS Code	Simplified Employee Pension Plan (SEP)	Employer-sponsored plan available only to small businesses; allows employer to contribute to employee accounts that function as IRAs and are subject mostly to IRA rules. Generally ceased to apply in 1996.

Section 408A IRS Code	**Roth IRA**	**Same as IRA, except that qualified distributions are tax exempt.**
Section 408A IRS Code	**myRA**	**Same as IRA, except that qualified distributions are tax exempt.**
Section 457(b) IRS Code	**Eligible 457(b) Plan**	**Funded plan offered by state and local government or unfunded plan offered by nonprofit organizations.**
Section 501(c)(18) IRS Code	**501(c)(18) Plan**	**Plan offered mostly by unions. Had to be set by June 1959 and are now largely obsolete.**
Section 8439 of Title 5 USC	**Federal Thrift Savings Plan**	**Plan offered by the federal government to its employees.**

If withdrawn, they become an available asset in the month received.

5. The value of one burial plot per household member.

6. **One** bona fide funeral agreement and one financial instrument, including interest accrued, per household member up to $1500. The value of a funeral agreement in excess of $1500 is counted.

Example:

An individual established a funeral agreement some years ago for $1000. Interest to date on this agreement is $600, making the agreement value $1,600. $1,500 is excluded and the remaining $100 is counted towards the household asset limit.

A funeral agreement must be in the form of a written formal contract between a household member and the funeral home/director. Funds designated for burial services/merchandise must be identifiable, accessible to the household and not commingled with other funds.

This provision applies to only formal agreements for funeral and burial expenses such as burial contracts, burial trusts, or other funeral arrangements with licensed funeral directors and does **not** apply to other assets (e.g., passbook bank accounts, savings, and cash surrender value of life insurance policies).

Examples:

a. An individual designates $2000 in a certificate of deposit (CD) payable on death to a funeral home and the bank retains the CD. Of the $2000, $1500 is excluded and $500 is counted toward the asset limit. If this individual dissolves the agreement with the funeral home, the CD becomes a countable asset for SNAP purposes.

b. An individual sets up a savings account at a savings and loan in the amount of $2000 and designates this money for funeral services. The savings and loan puts the money in a funeral trust account. Of the $2000, $1500 is excluded and $500 is counted toward the household asset limit. If the individual dissolves the agreement with the funeral home, the account becomes a countable asset for SNAP purposes.

7. Real and personal property that is directly related to the maintenance or use of an excluded vehicle.

Example:

A household which owns a semi-truck to earn its livelihood may be prohibited from parking the semi-truck in the residential area in which it lives. The household owns a one-acre piece of property at the edge of town, only one-fourth of which is used for semi-truck parking and maintenance purposes. Only the value of the one-fourth acre would be excludable under this provision.

8. Governmental payments designated for restoration of a home damaged in a disaster where the household would be subject to a legal sanction for not using the funds as they are intended. These governmental payments are excluded.

Examples:

Housing and Urban Development (HUD) payments through the individual and family grant program and Small Business Administration (SBA) disaster loans or grants.

9. Assets having cash value which are not accessible to the household.

Examples:

- Security deposits on rental property or utilities.
- Property in probate.
- Inheritances not yet received.
- Real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold.

If questionable the worker must verify that the real property is for sale and that the household has not declined a reasonable offer. Verification could include collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker.

10. Any funds in a trust or transferred to a trust, and the income produced by that trust if it is not available to the household and if **all four** items listed below are met:

    a. The trust arrangement is not likely to cease during the review period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the review period, **and**

    b. The trustee administering the funds is either:

        (1) A court, or an institution, corporation, or organization which is not under the direction or ownership of any household member.

        (2) An individual appointed by the court who has court imposed limitations placed on their use of the funds which meet the requirements of this subsection, **and**

    c. Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member, **and**

d. The funds held in irrevocable trust are either:

   (1) Established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or

   (2) Established from non-household funds by a non-household member.

   Please submit complete copies of all trust agreements to the Legal Advisory Unit of the Department of Human Services for review along with the following information:

   a. Who is applying for benefits and what benefits they are applying for.

   b. Verification of all asset(s) owned by the trust including the value of each asset, when the asset was transferred to the trust, and who transferred the asset to the trust.

   c. Any other documents or information that you think may be relevant.

11. Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Bureau of Indian Affairs.

12. Any amount necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act (SSI) is excluded.

13. 529 Qualified Tuition Program Plans and 530 Coverdell Education Savings Accounts. In North Dakota, 529 Program Plans are administered through the Bank of North Dakota and are called College Save.

    These funds remain exempt as long as they are used for the intended purpose at the time withdrawn. If withdrawn and not used for the intended purpose, they are considered income in the month withdrawn and an asset in the month following the withdrawal.

14. An asset is excluded, if, as a practical matter, the household is unable to sell the asset for any significant return because the household’s

interest is relatively slight or the costs of selling the household's interest would be relatively great.

Exception:

This provision does not apply to financial instruments such as stocks, bonds, and negotiable financial instruments.

Significant return means any return after estimating costs of sale or disposition and taking into account the ownership interest of the household that is more than $1,500.

Any significant amount of funds means funds amounting to more than $1,500.

Verification of the value of an excluded asset is required if the information provided by the household is questionable.

If a household member states that consent of co-owners is required for a sale of the household member's share of jointly held property, the statement must be verified by documents that demonstrate **both** the co-owners' authority to prevent the sale and the co-owners' unwillingness to agree to the sale.

15. The following is a **partial listing** of assets that are excluded by federal statute. Contact the Regional Representative if assistance is needed in determining whether an asset is excluded.

    a. The value of assistance to children under the Child Nutrition Act of 1966 (child care nutrition programs).

    b. The Domestic Volunteer Services Act of 1973, Titles I and II, as amended.

    Payments under Title I of that Act, including payments from such Title I programs as VISTA, to volunteers for those individuals receiving SNAP or TANF at the time they joined the Title I program.

    Payments to volunteers under Title II, including the Retired Senior Volunteer Program (RSVP), Foster Grandparents Program and Senior Companion Program.

    c. Payments paid as a result of an emergency or major disaster as defined in the Disaster Relief Act of 1974 or the Disaster Relief & Emergency Assistance Amendments of 1988.

A major disaster is any natural catastrophe or regardless of fault, any fire, flood, or explosion which the President determines causes damage of sufficient severity and magnitude to warrant major disaster assistance. An emergency is an occasion or instance for which the President determines that federal assistance is needed to save lives and protect property and public health and safety.

Federal Emergency Management Assistance (FEMA) payments.

Exception:

Payments made when there is no major disaster or emergency are not excluded.

d. Agent Orange Compensation Exclusion Act payments or all payments from the Agent Orange Settlement fund which are distributed by the Aetna Insurance Company.

Exception:

Payments from Veteran's Administration for service connected disabilities resulting from exposure to agent orange are not excluded.

e. Federal Tax refunds, including Earned Income Tax Credits, are excluded as an asset for a period of 12 months from the month of receipt.

f. Allowances paid to children of Vietnam veterans who are born with Spina Bifida.

g. Allowances paid directly or indirectly on behalf of a household by LIHEAP.

h. When an exclusion applies because of use of an asset by or for a household member, the exclusion also applies when the asset is being used by or for an ineligible alien or disqualified individual.

Assets that are excluded by express provision of federal statute for American Indians or Alaska Natives. Usually a law will specify payments to members of a tribe or band, and the law will apply to the members enrolled in the tribe or band wherever they live. The individuals should have documentation showing where the payments originate. These payments include, but are not limited to the following:

a. Indian per capita payments distributed from judgment awards and trust funds up to $2,000 per person per payment. Amounts in excess of $2,000 are considered a countable asset.

b. Interests of Indians in trust or restricted lands.

c. Up to $2,000 per year of Individual Indian Monies (IIM) received by individual Indians which is derived from leases or other uses of individually owned trust or restricted lands.

Exception:

The $2000 exemption does not apply to inheritance, bonuses, and other income that is not derived from leases, trust or restricted land.

Client statement is acceptable verification of the amount in an IIM account unless:

1. The amount is more than $2000 for the year;

2. The client's statement is questionable;

3. The IIM account includes countable income such as inheritance, bonuses, and other income that is not derived from leases, trust or restricted land.