

FOSTER CARE HANDBOOK



REPLACES:

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PAGE NO.:  
ISSUED/REVISED: 11-19-82

AFDC-FC REQUIREMENTS  
PROPERTY

SECTION: 45-201.2  
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I. GENERAL

A. The following property rules apply to:

1. The Foster Care child's property determination, and
2. The property of the child's parent/caretaker relative when making the federal linkage determination. After the initial determination of eligibility for Foster Care has been made, only the property belonging to the child is considered.

B. Property Limit

The child's property limit is \$10,000. This is in addition to the \$1,500 vehicle property limit.

1. If the child's available property exceeds this maximum, the child is ineligible.
2. All available evidence of ineligibility must be shared with the child's Social Worker (SW)/Probation Officer (PO).

**NOTE:** The \$10,000 property limit plus the additional vehicle limit of \$1,500 also applies when making the determination of federal eligibility (linkage).

C. Property of Parents/Guardians

The personal and real property of the absent parent(s), guardian or any other person (i.e., step parent) is excluded from consideration for the Foster Care child if:

1. The child does not have access to it to meet current needs, and
2. The property is held by or in the name of the absent parent(s), guardian or other person.

**NOTE:** This exclusion applies regardless of whether the child's parents are maintaining a home together.

The personal and real property of the parent(s) is considered in the federal eligibility determination.

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D. Independent Living Skills Program (ILSP)

The cash savings and interest of a foster care child, age 16 or older, accumulated through participation in the ILSP is:

1. His/her own money and must be deposited by the child or on behalf of the child in any bank or savings and loan institution with a limit of up to \$10,000.
2. Used for purposes directly related to the emancipation of that child.
3. Kept separate from other types and sources of cash savings.
4. Withdrawn only with the written approval of the SW/PO and used for purposes directly related to the goal of emancipation.

E. Trust Funds for a Foster Care Child (EAS 42-211.256)

1. Availability to Child

Trust funds established for a Foster Care child, including court ordered trusts and non-court ordered trusts, such as savings funds established through the Uniform Gift to Minors Act/Uniform Transfers to Minors Act, must be included in the child's property limit when the funds are actually available. The individual who is in control of the trust must be requested to make the funds available to the child.

2. Trustee Must Petition the Court

If the trust has been established by court order, providing that such money be used only for and on behalf of the child and be withdrawn from the account only by order of the court, and that fund in combination with other nonexempt personal property would exceed property limits, the trustee must petition the court to make the trust fund available for the support of the child. Verification of the petition must be provided within 30 days.

3. Trustee Refuses

If the trustee refuses to make the funds available or refuses to petition the court, the county must petition the court on the child's behalf.

- a. The child's SW/PO must make a request to County Counsel.

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- b. Verification that County Counsel has been requested to petition the Court must be on file in the eligibility case.
- c. The EW must monitor the situation to ensure that the trust petition is pursued and must take appropriate action when the court decision is reached.
- d. During the time the court is being petitioned, or if the court refuses to issue a final order making the fund available for the support of the child, the fund shall NOT be considered as personal property for eligibility determination or grant computation.

F. Child's Government Benefits Account

In the event the child's income (most typically Social Security benefits) exceeds the cost of placement, a Government Benefit's Account will be established by our Department's Government Benefits Unit and the child's benefits will be sent to that account each month. The amount paid to the provider is paid from the child's Government Benefit's account and any balance is retained for the future needs of the child. These accounts are maintained by Fiscal.

The child's EW, SW and Government Benefits Clerk monitor the child's account on a monthly basis and must ensure the child's trust fund account does not exceed the property limit. The EW typically sends a reminder to the SW as an alert when the balance is approaching the property limit. The SW is responsible to determine the child's current needs and initiate a request to have funds released from the child's account. It is important to allow sufficient time for the process to disburse the funds as the account gets close to the property limit. In the event the account balance goes over the property limit the child's benefit will be returned to the Social Security Administration and will not be paid again until the balance is reduced to below the limit. The Fiscal Department disburses funds from the account as authorized by the SW.

G. Motor Vehicles

1. Determining Value of a Vehicle

The following rules apply when determining the value of a vehicle owned by the parent(s) of a child when making a federal eligibility determination (linkage) or, when the Foster Care child owns a vehicle. Due to Welfare Reform legislation, Foster Care eligibility is based on the following AFDC rules as they existed on July 16, 1996.

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Determine the net market value of each vehicle (market value minus encumbrances = net market value).

- a. Exempt up to \$1,500 of the net market value of one motor vehicle.
- b. Only one vehicle may be exempted.
- c. If the total net market value of the one motor vehicle exceeds the excluded amount, the amount over the appropriate limit is counted as a resource and included in the property limit.

2. Encumbrances

For a loan to qualify as an allowable encumbrance:

- a. The lender must be registered with the Department of Motor Vehicles (DMV) as the legal owner of the motor vehicle.
- b. There must be a copy of the loan agreement on file which specifies the terms of the loan. It must state that the motor vehicle is collateral for the loan, specify the amount and duration of the loan, and state the frequency of repayment (i.e., weekly, monthly, etc.).

Using a credit card to purchase a vehicle or other property is NOT considered a legal encumbrance.

3. Methods to Determine Value

Generally, the "Current Registration" or "Vehicle License Fee Table" method is used to establish the value of motor vehicles. However, if the "Current Registration" or "Vehicle License Fee Table" produces an inaccurate value, any of the following methods can be used to determine a fair value:

- a. Three appraisals
- b. Low wholesale Blue Book value
- c. Recent bill of sale (car purchased within last 6 months)
- d. Current newspapers/advertisements

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- e. Testimony/sworn statements from reputable individuals
4. Current Registration

Multiply the current license fee times 50, subtract the encumbrances, and the result equals the net market value.

**Example:** The current registration shows a license fee of \$17.  $\$17 \times \$50 = \$850$ . The vehicle has no encumbrances: therefore, the net market value is \$850. It is exempt (value under \$1,500.)

5. Disagreement About Value

If there is disagreement about the established value, allow an opportunity to establish the true value of the vehicle.

Evidence of value may include:

- a. Estimates of repair
- b. Photographs of the vehicle (for example: to show damage)
- c. Sworn statements as to the condition of the vehicle, or
- d. Other evidence including advertisements

If repairs are made, re-determine the car's current market value to ensure that property is within the property limit.

II. REFERENCE

EAS 42-200	Property
EAS 42-207	Property Which May Be Retained by an Applicant
EAS 42-211.256	Trust Fund Property
ACL 02-45	Property Limit
MS 31-525	Independent Living Skills Program