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Holocaust Reparations

War reparation payments made by the Federal Republic of Germany to Holocaust survivors and payments made under the Austrian General Social Insurance Act are considered exempt as income and resources for purposes of Medicaid eligibility for home care and nursing home services.

Other payments made to victims of Nazi persecution are also exempt, including compensation to former slave laborers and German Social Security for those persons who worked in Germany before or during the Second World War.

Generally, it is assumed that to be exempt as a resource the accumulated payments received by survivors must be segregated from other savings such as retirement funds. This assumption, unfortunately, has led to many cases in which Medicaid was incorrectly denied to an individual. The applicable New York State regulation only requires that these exempt funds be "identifiable."

Ideally, to be exempt, the accumulated reparation payments should be kept physically apart from other funds. However, if the reparation payments have been commingled with other savings, the Medicaid applicant in New York need only verify that he was the recipient of such payments.

Medicaid is required to accept the individual's signed allegation of the amount and date of receipt if this is not evident from documents he has available. (When preparing Medicaid applications for survivors our office secures confirmation of payments by writing to the appropriate authorities in Germany and Austria.)

The state regulation on identifiability is in conformity with federal law that provides that confirmation does not require that excluded funds be kept physically apart from other funds, that is, in a separate account.

The federal rule directs the state authorities to "always assume, when withdrawals are made from an account with commingled funds in it, that non-excluded funds are withdrawn first, leaving as much of the excluded funds in the account as possible."