

**OTHER ELIGIBILITY REQUIREMENTS  
LEGALLY RESPONSIBLE RELATIVES**

**SPOUSE**

**Description:** A spouse is an A/R's legal husband or wife. (See definitions in the **GLOSSARY**) A spouse is a legally responsible relative (LRR). A spouse may be of either sex.

**Policy:** The spouse of an individual in need of Medicaid, if of sufficient financial ability, is responsible for that person's medical needs. (See **RESOURCES THIRD PARTY RESOURCES** for utilization of third party health insurance benefits.)

**References:**

SSL Sect.	101 366(3)(a)
Dept. Reg.	360-1.4(h) 360-4.3(f) 360-4.10 360-7.11(b)(ii)
ADMs	OMM/ADM 97-2 91 ADM-37 91 ADM-31 90 ADM-29 89 ADM-47 82 ADM-20 82 ADM-6
GISs	08 MA/024 08 MA/023

**Interpretation:** Spouses Living Together

When an A/R is **living with** his/her spouse, the spouse's income and resources are generally considered available to the A/R (See **OTHER ELIGIBILITY REQUIREMENTS HOUSEHOLD COMPOSITION and OWNERSHIP AND AVAILABILITY** for budgeting methodologies and availability).

When the spouse asserts that his/her income/resources are not available to the A/R, the eligibility determination depends on whether: (a) the spouse provides financial information; or (b) the spouse refuses to provide the requested financial information. In both instances, at a minimum, a notation is entered into the case record. (See **OTHER ELIGIBILITY REQUIREMENTS LEGALLY RESPONSIBLE RELATIVES** for general treatment of legally responsible relatives.

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**Spouses Living Apart in the Community**

When an A/R is residing in the community apart from his/her spouse who is also residing in the community, the spouse may be requested to contribute toward the cost of medical care provided to the A/R. The amount of the requested contribution depends on the spouse's financial ability to support and the category of the A/R.

To determine the amount of the requested contribution from a spouse residing in the community, but not in the A/R's household:

- when there is a child in the household under the age of 21, the case is referred to the Child Support Enforcement Unit (IV-D);
- when the A/R is S/CC, local district Public Assistance procedures determine the contribution; or
- when the A/R is SSI-related, the spouse is requested to contribute twenty-five percent (25%) of his/her otherwise available income which exceeds the minimum monthly maintenance needs allowance (MMMNA), plus any family member allowance(s). (See **RESOURCES PERSONS IN MEDICAL FACILITIES COMMUNITY SPOUSE** and **FAMILY MEMBER ALLOWANCE**)

The local district requests the LRR other than a community spouse to contribute any excess resources, as appropriate, to the support of the Medicaid A/R. Only the income/resources, as appropriate, actually received from a spouse not residing in the A/R's household are counted when determining eligibility.

When the spouse asserts that his/her income/resources are not available to the A/R, at a minimum, a notation is entered into the case record.

**Institutionalized Spouse with a Community Spouse**

When an A/R is an institutionalized spouse and his/her spouse is a community spouse, spousal budgeting rules determine the