

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Betty Rice, Director  
Division of Consumer & Local District Relations

**SUBJECT:** Treatment of Community Spouses' Retirement Funds

**EFFECTIVE DATE:** January 1, 2006

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This GIS informs districts of an amendment to Section 360-4.10(a)(9) of Department regulations, regarding the treatment of a community spouse's (CS's) retirement fund for purposes of determining an institutionalized spouse's Medicaid eligibility.

Retirement funds are annuities or work-related plans for providing income when employment ends (e.g., pension, disability, or other retirement plans administered by an employer or union). Additional examples are funds held in an individual retirement account (IRA) and plans for self-employed individuals (e.g., Keogh plans).

In accordance with recent federal notification regarding the Medicare Catastrophic Coverage Act of 1988, retirement funds are not excludable resources for purposes of determining an institutionalized spouse's Medicaid eligibility. Therefore, effective January 1, 2006, if a CS is NOT receiving periodic payments from his/her available retirement fund, the fund is considered a countable resource for purposes of determining the community spouse resource allowance (CSRA) and the institutionalized spouse's Medicaid eligibility. This includes situations where the retirement fund of the CS exceeds the CSRA. Prior to the regulation change, it had been the Department's policy to count the resource amount of any retirement fund belonging to the CS first toward the CSRA and to disregard any amount which exceeded the CSRA. The excess will no longer be disregarded.

This change applies to Medicaid eligibility determinations with a budget "From Date" of January 1, 2006 or after. Undercare cases are not affected by this change.

**NOTE:** If the community spouse has elected to receive periodic payments from his/her retirement account, the retirement account is not a countable resource in determining the institutionalized spouse's eligibility. However, the periodic payments are countable income for the community spouse.

For purposes of determining Medicaid eligibility for SSI-related individuals who are not subject to spousal impoverishment budgeting, a retirement fund owned by a non-applying or ineligible spouse continues to be excluded as a resource.