

RESOURCES PERSONS IN MEDICAL FACILITIES

ASSESSMENT/DETERMINATION

Regardless of which spouse's name the resources are in, all countable resources are combined and considered available to the institutionalized spouse. The community spouse is permitted to retain from the couple's countable resources an amount equal to the greatest of the following amounts: (1) the State minimum community spouse resource allowance amount; (2) the spousal share up to the federal maximum resource amount; or (3) the amount established by court order or fair hearing. The minimum community spousal resource allowance amount and the federal maximum resource amount can be found in **REFERENCE MINIMUM/ MAXIMUM COMMUNITY SPOUSE ALLOWANCE**.

If the couple's combined countable resources are less than the state minimum community spouse resource allowance, the community spouse may retain all of the couple's countable resources. When the combined countable resources exceed the maximum community spouse amount, the excess is considered available to the institutionalized spouse. The institutionalized spouse is allowed the appropriate SSI-related resource level for one.

NOTE: Effective January 1, 2006 if a community spouse 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.

After the month for which the institutionalized spouse is determined eligible for Medicaid, the community spouse's resources cannot be considered available to the institutionalized spouse, even if the community spouse's resources increase. The community spouse resource allowance must actually be made available to the community spouse in order for it to be excluded when determining the continuing eligibility of the institutionalized spouse. The community spouse resource allowance must be legally transferred to the community spouse or for his/her sole benefit within 90 days of the eligibility determination. The local social services district may allow a longer period for the transfer, when required.

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When a community spouse fails or refuses to provide information concerning his/her resources, the institutionalized spouse's eligibility cannot be determined and the A/R may be denied Medicaid. However, if such a denial would result in undue hardship and an assignment of support is executed or the institutionalized spouse is unable to execute an assignment, due to physical or mental impairment, Medicaid is authorized. The case is then referred to the district's legal staff for appropriate action.

Undue hardship is a situation where:

- (1) a community spouse fails or refuses to cooperate in providing necessary information about his/her resources;
- (2) the institutionalized spouse is otherwise eligible for Medicaid;
- (3) the institutionalized spouse is unable to obtain appropriate medical care without the provision of Medicaid; and
- (4) (a) the community spouse's whereabouts are unknown; or
(b) the community spouse is incapable of providing the required information due to illness or mental incapacity; or
(c) the community spouse lived apart from the institutionalized spouse immediately prior to institutionalization; or
(d) due to the action or inaction of the community spouse, other than the failure or refusal to cooperate in providing necessary information about his/her resources, the institutionalized spouse will be in need of protection from actual or threatened harm, neglect, or hazardous conditions if discharged from an appropriate medical setting.

After a Medicaid eligibility determination for the institutionalized spouse is completed, if either spouse is dissatisfied with the determination of the community spouse resource allowance, s/he may request a fair hearing.

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If either spouse establishes, pursuant to fair hearing or court order, that the income generated from the community spouse resource allowance is inadequate to raise the community spouse's income (including any income from the institutionalized spouse) to the Minimum Monthly Maintenance Needs Allowance (MMMNA), the local district establishes a community spouse resource allowance adequate to provide the additional necessary income. (See **REFERENCE MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE (MMMNA)**)

NOTE: The policy of raising the community spouse's income to the MMMNA does not apply in instances when the institutionalized spouse is a participant in certain waiver programs. (See **INCOME PERSONS IN MEDICAL FACILITIES BUDGETING FOR INSTITUTIONALIZED SPOUSES IN SPECIFIED HOME AND COMMUNITY BASED WAIVERS (HCBS)**)

If the institutionalized spouse does not make the community spouse income allowance available to the community spouse, an additional community spouse resource allowance **cannot** be established.

NOTE: A community spouse who refuses to make his or her resources (in excess of the community spouse resource allowance) available to the cost of care for the institutionalized spouse is allowed the appropriate community spouse monthly income allowance. If the community spouse refuses to provide information concerning his/her resources, the community spouse is not entitled to a monthly income allowance, because the amount of income generated by the resources is not known.

(See **REFERENCE MINIMUM/MAXIMUM COMMUNITY SPOUSE ALLOWANCE**)

References:

- ADMs 06 OMM/ADM-4
- 05 OMM/ADM-5
- 05 OMM/ADM-2
- 04 OMM/ADM-5
- 04 OMM/ADM-2
- 03 OMM/ADM-4
- 02 OMM/ADM-7
- 02 OMM/ADM-1

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01 OMM/ADM-5
99 OMM/ADM-3
98 OMM/ADM-28
96 ADM-11
91 ADM-33
89 ADM-47

GISs 08 MA/024
 06 MA/029
 06 MA/006
 05 MA/013
 05 MA/047
 05 MA/045
 04 MA/032
 03 MA/027
 01 MA/038
 00 MA/027
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