

**INCOME
PERSONS IN MEDICAL FACILITIES**

**CHRONIC CARE BUDGETING METHODOLOGY
FOR INSTITUTIONALIZED SPOUSES**

Policy: Chronic care budgeting procedures are used for institutionalized spouses in permanent absence status.

References:

Dept. Reg.	360-4.9 360-4.10
ADMs	95 ADM-19 92 ADM-32 89 ADM-47
GIS	01 MA/021

Interpretation: An institutionalized spouse as defined in the Glossary is in permanent absence status as of the month of institutionalization or the month s/he begins receiving home and community-based waived services. Chronic care budgeting begins the first day of the first month following the establishment of permanent absence.

An institutionalized spouse's eligibility for Medicaid and the amount of his/her income applied to the cost of his/her medical care are determined by making the appropriate deductions from his/her available monthly income.

The local district may not require that the following income of the A/R be applied toward the cost of care:

BLOOD PLASMA SETTLEMENTS - Payments received as a result of a federal class action settlement with four manufacturers of blood plasma products on behalf of hemophilia patients who are infected with human immunodeficiency virus (HIV).

CASH ASSISTANCE INCOME - SSI benefits paid under Section 1611(e)(1)(E) of the Social Security Act.

INSURANCE PAYMENTS - Moneys from insurance payments for the purpose of repairing an exempt resource, which was lost, damaged or stolen, are exempt in the month received and for six (6) months following the month of receipt. Any interest received from such payments is also exempt. If the A/R uses the insurance money to purchase a countable resource prior to the expiration of the six months, the value of the countable resource is considered immediately.

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MONEY FROM RESIDENTIAL HEALTH CARE FACILITY LEGAL ACTION - Money received as the result of a legal action against a residential health care facility because of improper and/or inadequate treatment.

PERSECUTION PAYMENTS - Benefits received by eligible Japanese-Americans, Aleuts, or Pribilof Islanders under the Civil Liberties Act of 1988, the Wartime Relocation of Civilians Law, and the Aleutian and Pribilof Islands Restitution Act.

Payments made to individuals because of their status as victims of Nazi persecution, including: German Reparation Payments; Austrian Reparation Payments made pursuant to sections 500-506 of the Austrian General Social Insurance Act; and Netherlands Reparation Payments based on Nazi, but not Japanese, persecution.

PLAN TO ACHIEVE SELF SUPPORT - Income necessary to achieve a plan of self support (see page 200 for details);

RADIATION EXPOSURE COMPENSATION TRUST FUND PAYMENTS - Payments for injuries or deaths resulting from exposure to radiation from nuclear testing and uranium mining;

VETERANS - Payments to veterans for Aid and Attendance (A&A) or payments for Unusual Medical Expenses (UME).

VIETNAM VETERANS - Agent Orange Settlement Fund - Payments from the Agent Orange Settlement Fund or any other fund established pursuant to the Agent Orange product liability litigation, and payments from court proceedings brought for personal injuries sustained by veterans resulting from exposure to dioxin or phenoxy herbicide in connection with the war in Indochina in the period of January 1, 1962 through May 7, 1975.

Children - Monthly allowances paid to certain Vietnam Veterans' Children with Spina Bifida.

To determine the institutionalized spouse's eligibility for Medicaid and the amount of his/her income to be applied to the cost of care, deductions are made in the following order:

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- (a) An amount to meet the personal needs (PNA) of the institutionalized spouse.

The first month or partial month of permanent absence, determine the institutionalized spouse's income and subtract SSI-related disregards from income to arrive at the countable monthly income. Subtract the medically needy income level for one or the Public Assistance Standard of Need for one, whichever is higher.

The month following the month in which permanent absence is established, subtract the appropriate Personal Needs Allowance (PNA) from the institutionalized spouse's income. The A/R is no longer allowed the SSI-related income disregards.

When the A/R has no earned income and resides in a medical facility as defined by Article 28 of Public Health Law, deduct \$50.00 for the PNA.

When the A/R has no earned income and resides in a medical facility regulated by Article 31 of Mental Hygiene Law, deduct \$35.00 for the PNA.

When the A/R has no earned income and is receiving home and community-based waiver services **or is a non-institutionalized participant in the Program of All Inclusive Care for the Elderly (PACE)**, deduct **\$308 (effective January 1, 2005)** for the PNA. **(See pages vii and ix for a definition of PACE.)** This amount equals the difference between the medically needy income level for a household of two and the level for one.

When the A/R has earned income, the PNA consists of \$50.00, \$35.00 or **\$308 (effective January 1, 2005)** as applicable, plus the SSI-related earned income disregards listed on page 174. The total PNA amount may not exceed the medically needy income level for one.

When a **waiver or non-institutionalized PACE participation** recipient is not living with his/her spouse and does not make his/her income and resources

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available to the spouse, the local district uses community budgeting procedures to determine the waiver recipient's Medicaid eligibility.

- (b) When the community spouse's otherwise available monthly income is less than the minimum monthly maintenance needs allowance (MMMNA), deduct the amount required to bring the community spouse's otherwise available monthly income up to the MMMNA (see page 238 for the current amount) from the institutionalized A/R's income. See Glossary for the determination of otherwise available income. This deduction is only allowed if the A/R is or will be actually making the income available to his/her community spouse.
- (c) When the A/R has a dependent family member(s) (see Glossary), deduct a family member allowance for each family member. The family member allowance is deducted for each dependent whether or not the income is actually made available to the family member. The family member allowance is first deducted from any excess income of the community spouse. If the community spouse's income is insufficient to cover a family member allowance then the remainder is deducted from the income of the institutionalized individual.
- (d) Deduct any expenses incurred for health insurance, medical care, services or supplies and/or remedial care for the institutionalized spouse, not paid by Medicaid or a third party.

Any remaining available income of the institutionalized spouse and any amount actually contributed from the community spouse is applied to the cost of care on a monthly basis.

A community spouse or family member who is also applying for Medicaid may not refuse to accept his/her monthly income allowance or family member allowance in order to qualify for Medicaid. However, an otherwise eligible community spouse or family member who is under 21, pregnant, SSI-related or ADC-related and a legally responsible relative of the institutionalized spouse may achieve Medicaid eligibility by contributing any excess income to the cost of the institutionalized spouse's care.

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NOTE: If an institutionalized spouse is in a nursing home and fails to provide documentation of resources for the past 36 months (60 months for trusts), Medicaid eligibility must be determined for coverage of ancillary services (services not included in the nursing home rate) by using a combination of community and spousal impoverishment budgeting. Eligibility is determined as it is the first month or partial month of institutionalization (see page 230). The community spouse is entitled to a Minimum Monthly Maintenance Allowance (MMMNA), a family member allowance if applicable, and a community spouse resource allowance.

If an applicant for home and community-based waiver services does not provide documentation of resources for the past 36 months (60 months for trusts), the applicant with a spouse in the community is not entitled to spousal impoverishment budgeting.