

Nursing Home Medicaid Spousal Impoverishment

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Spousal Impoverishment Rules

- The first consideration: There must be a spouse that remains at home.
- If no spouse, spousal impoverishment rules will not apply. They must be married to each other.

What are These Rules?

They are what allow the spouse at home to

- Buy groceries
- Pay utilities at home
- Continue to make the car payment and the expenses that go with it
- Continue to maintain the family home
- Etc. etc. etc.

Where to Find Them

- Federal law §1924 of the Social Security Act contained in 42 United States Code
- Texas Administrative Code (TAC)
- Medicaid for the Elderly and Persons with Disabilities (MEPD) Handbook Chapter J

Who Can Use Them?

- ✓ Applicants for nursing home Medicaid in a Medicaid-certified long term care facility
- ✓ Applicants who receive services under a §1915(c) waiver program, Community Based Alternative
- ✓ Applicants who receive services under the Program of All-Inclusive Care for the Elderly (PACE)

When to Start

- The request for and assessment of the couple's resources may be made any time from the beginning of the continuous period in an institutional setting to the date of application for Medicaid.
- The earlier the better for requesting the assessment.

When to Start

- Assessment date. HHSC assesses the couple's combined countable resources as of 12:01 a.m. on the first day of the month in which the first continuous period in an institutional setting began.
- Now we can calculate the Spousal Protected Resource Amount (SPRA).

SPRA?

Spousal protected resource amount (SPRA)—
That portion of a couple's combined countable resources reserved for the community spouse and deducted from the couple's combined countable resources in determining eligibility.

Count ALL Resources?

- When determining the SPRA, HHSC excludes the following resources regardless of value:
 - (1) one automobile; and
 - (2) a home, if:
 - (A) the community spouse or dependent family member continues to live in the home while the person is in the institutional setting;
 - (B) the community spouse lives in another state on out-of-state property, whether or not the institutionalized spouse has ownership interest; or
 - (C) the community spouse had been living in the out-of-state property as a home but is not residing there during the assessment and initial eligibility period and the community spouse signs a statement of intent to return to the home.

Next Steps...

- The SPRA is the greater of:
- (1) one-half of the couple's combined countable resources, not to exceed the maximum resource amount set by federal law and changes every year, in 2015, \$119,220; or
- (2) the minimum resource amount set by federal law, in 2015 it is \$23,844.

Next Steps...

Upon receiving an application for Medicaid, HHSC calculates the couple's combined countable resources, without regard to community or separate property laws or the spouses' respective ownership interests, as of 12:01 a.m. on the first day of the month in which eligibility is being determined.

Next Steps...

- At home spouse is entitled to the monthly minimum maintenance needs allowance (MMMNA) or spousal allowance of \$2,980.50.
- Each dependent, if any, is entitled to a dependent allowance of \$1,967.

Continue...

- Once we have half of the couple's resources attributed to each one, what happens if there aren't sufficient resources to produce or generate the income the spouse and any dependents need monthly?
- The SPRA can be expanded.

SPRA Expanded

If the total amount of the community spouse's own income plus the amount of available income diverted from the institutionalized spouse is equal to or greater than the MMMNA, then HHSC does not expand the SPRA.

Income < MMMNA

If the total amount of the community spouse's own income plus the amount of available income diverted from the institutionalized spouse is less than the MMMNA, then HHSC determines an expanded SPRA.

Continue...

If, after adding resident spouse's available income, the community spouse's total income is less than the MMMNA, the couple can protect an amount of resources equal to the dollar amount that must be deposited in a one-year certificate of deposit (CD), at current interest rates, to produce interest income equal to the difference between the MMMNA in effect at the time of the request and other countable income not generated by either spouse's countable resources.

Division of Resources

- In other words, move more assets to the community spouse's column. The division of assets is no longer 50-50.
- If community spouse earns more than MMMNA, \$2,980.50 and dependent earns more than \$1,967 monthly, skip this step.

Resources of...

- There are no restrictions on transfers between spouses for a period called the initial eligibility period (first annual redetermination date set by the automated system).
- Transfers between spouses are also permitted before institutionalization.

Transfers to Spouse

- Remember: Resources of the resident spouse cannot be more than \$2,000 to qualify for Medicaid.
- To remain eligible at the end of the initial eligibility period, the resident spouse must reduce resources to which he has access at least to the resource limit. If the resident spouse chooses, he may, during the initial eligibility period, transfer resources from his name to the community spouse's name with no penalty applied to the transfer. --MEPD J-3100

SPRA in a Nutshell

- J-4400 SPRA Calculation
- J-5000 Spousal Initial Application
- J-6000 SPRA Expansion
- J-8000 After Initial Eligibility Period