

Spousal Impoverishment

(Section 1924 of the Social Security Act; U.S. Code Reference 42 U.S.C. 1396r-5)

The expense of nursing home care -- which ranges from \$3,000 to \$5,000 a month or more -- can rapidly deplete the lifetime savings of elderly couples. In 1988, Congress enacted provisions to prevent what has come to be called "spousal impoverishment", which can leave the spouse who is still living at home in the community with little or no income or resources. These provisions help ensure that this situation will not occur and that community spouses are able to live out their lives with independence and dignity.

Resource Eligibility

The spousal impoverishment provisions apply when one member of a couple enters a nursing facility or other medical institution and is expected to remain there for at least 30 days. When the couple applies for Medicaid, an assessment of their resources is made. The couple's resources, regardless of ownership, are combined. The couple's home, household goods, an automobile, and burial funds are not included in the couple's combined resources. The result is the couple's combined countable resources. This amount is then used to determine the Spousal Share, which is one-half of the couple's combined resources.

To determine whether the spouse residing in a medical facility meets the State's resource standard for Medicaid, the following procedure is used:

From the couple's combined countable resources, a Protected Resource Amount (PRA) is subtracted. The PRA is the greatest of:

- o The Spousal Share, up to a maximum of \$90,660 in 2003;
- o The State spousal resource standard, which a State can set at any amount between \$18,132 and \$90,660 in 2003;
- o An amount transferred to the community spouse for her/his support as directed by a court order; or
- o An amount designated by a State hearing officer to raise the community spouse's protected resources up to the minimum monthly maintenance needs standard.

After the PRA is subtracted from the couple's combined countable resources, the remainder is considered available to the spouse residing in the medical institution as countable resources. If the amount of countable resources is below the State's resource standard, the individual is eligible for Medicaid. Once resource eligibility is determined, any resources belonging to the community spouse are no longer considered available to the spouse in the medical facility.

Income Eligibility

The community spouse's income is not considered available to the spouse who is in the medical facility, and the two individuals are not considered a couple for income eligibility purposes. The State uses the income eligibility standard for one person rather than two, and the standard income eligibility process for Medicaid is used.

Post-Eligibility Treatment of Income

This process is followed after an individual in a nursing facility/medical institution is determined to be eligible for Medicaid. The post-eligibility process is used to determine how much the spouse in the medical facility must contribute toward his/her cost of nursing facility/institutional care. This process also determines how much of the income of the spouse who is in the medical facility is actually protected for use by the community spouse.

The process starts by determining the total income of the spouse in the medical facility. From that spouse's total income, the following items are deducted:

- o A personal needs allowance of at least \$30;
- o A community spouse's monthly income allowance (between \$1,492.50 and \$2,266.50 for 2003), as long as the income is actually made available to her/him;
- o A family monthly income allowance, if there are other family members living in the household;
- o An amount for medical expenses incurred by the spouse who is in the medical facility.

The community spouse's monthly income allowance is the amount of the institutionalized spouse's income that is actually made available to the community spouse. If the community spouse has income of his or her own, the amount of that income is deducted from the community spouse's monthly income allowance. Similarly, any income of family members, such as dependent children, is deducted from the family monthly income allowance.

Once the above items are deducted from the institutionalized spouse's income, any remaining income is contributed toward the cost of his or her care in the institution.

For additional information concerning Federal rules on spousal impoverishment, contact Roy Trudel, 410-786-3417, E-Mail address rtrudel@cms.hhs.gov; or Barbara Collins 410-786-3364, E-Mail address bcollins@cms.hhs.gov.

If you have questions about how a specific State applies these rules, please contact the State directly. See the State Contact Page for a list of States and contact information.