



State of New Jersey

DEPARTMENT OF HUMAN SERVICES

DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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Lt. Governor

VALERIE HARR
Director

MEDICAID COMMUNICATION NO. 12-11

DATE: July 3, 2012

TO: County Welfare Agency Directors
Institutional Services Section (ISS) Area Supervisors

SUBJECT: Community Spousal Maintenance Allowance
N.J.A.C. 10:71-5.7

This serves to advise you that, effective July 1, 2012, the standard for deriving the community spouse maintenance allowance increased as a result of an annual adjustment to the allowance. The increased standard is also applicable in the determination of the maintenance allowance for certain other dependent family members residing with the community spouse. These increases potentially impact all institutionalized New Jersey Care...Special Medicaid Program (including the Medically Needy segment) and Medicaid Only individuals with spouses in the community.

The new base allowance for a community spouse will increase from \$1,838.75 to \$1,891.25. The new standard for determining the excess shelter costs of the community spouse increases from \$551.63 to \$567.38. Therefore, in computing the community spouse allowance, the community spouse's shelter costs in excess of \$567.38 shall be added to the base allowance of \$1,891.25 to determine his or her overall standard. The community spouse's own gross income would be subtracted from the overall allowance to ascertain: the amount that may be deducted from the institutionalized spouse's income prior to applying that income to their cost share of institutional care.

In determining the amount of the institutionalized individual's income that may be used to maintain certain other family members residing with the community spouse, the standard of \$1,891.25 also applies though the calculation is different from that of the community spouse allowance. The amount of income that may be deducted is equal to one-third of the amount by which \$1,891.25 exceeds the family member's own income.

County Welfare Agencies (CWA) and Institutional Services Section (ISS) offices shall apply the new standards in the post-eligibility treatment of income beginning with the month of July 2012 for all new cases and cases subject to redetermination. All other cases in which there is a community spouse shall be reviewed for the potential of increased maintenance deductions no later than October 31, 2012. For any such case, the CWA must assure that any change in the maintenance deduction be applied retroactively to July 1, 2012.

In order to assist the CWA and ISS Offices with this review, we will be forwarding, under separate cover, a systemic report of those Long Term Care (LTC) cases which currently have a PR-1 on file with the Department of Health and Senior Services (DHSS) and have spousal maintenance deductions indicated in such records.


Deductions for the community spouse and any other family members shall cease in the first full-calendar month after the community spouse dies, becomes divorced, or is institutionalized. The family member deduction shall cease if the qualified member either moves from the community spouse's home or is no longer claimed as a dependent for federal tax filing purposes. Additionally, family member deductions shall cease when the community spouse remains eligible but the family member attains age 21 but is not a federal tax dependent, the dependent family member dies or the dependent family member is institutionalized.

You are reminded that the community spouse's share of the resources remains unchanged. The community spouse's share of the couple's countable resources is the greater of \$22,728.00 or one half of the couple's total resources, not to exceed \$113,640.00.

The increased standard also changes the computations of the applicable allowances. For your convenience, attached to this Medicaid Communication is a fact sheet on post-eligibility treatment of income maintenance deductions including computation examples.

If you have any questions regarding this Medicaid Communication, please refer them to the Division's Office of Eligibility Policy field service staff for your agency at 609-588-2556.

Sincerely,

A handwritten signature in blue ink that reads "Valerie Harr".

Valerie Harr
Director

VH:s
Attachment

c: Jennifer Velez, Commissioner
Department of Human Services

Dawn Apgar, Deputy Commissioner
Division of Developmental Disabilities

Lowell Arye, Deputy Commissioner
Aging and Community Services

Lynn Kovich, Assistant Commissioner
Division of Mental Health and Addiction Services

Joseph Amoroso, Director
Division of Disability Services

Raquel Jeffers, Deputy Director
Division of Mental Health and Addiction Services

Kathleen M. Mason, Director
Division of Aging Services

Jeanette Page-Hawkins, Director
Division of Family Development

Allison Blake, Commissioner
Department of Children and Families

Mary E. O'Dowd, Commissioner
Department of Health

POST-ELIGIBILITY TREATMENT OF INCOME MAINTENANCE DEDUCTIONS

SPOUSAL DEDUCTION

A deduction may be made from an eligible institutionalized individual's income, prior to the application of income to the cost of care, for the maintenance of the community spouse.

- A community spouse for purposes of this deduction is a person who is legally married (under provisions of State law) to the institutionalized spouse. A community spouse will not include an individual who is holding himself or herself out to the community as a spouse of the institutionalized individual when, in fact, the couple is not legally married.
- In order to qualify for the community spouse maintenance deduction, the community spouse must have resided with the institutionalized individual immediately prior to the institutionalization and cannot be institutionalized himself or herself.

Effective July 1, 2012, the basic community spouse deduction standard is \$1891.25 monthly.

- In determining the amount of the community spouse maintenance deduction, the maintenance allowance is reduced by the community spouse's *gross income (both earned and unearned)*. (Note: In determining the amount of the community spouse's earned income, mandatory payroll deductions are not subtracted from the gross earnings.)

To the extent that the community spouse's shelter expenses exceed \$567.38 monthly, the community spouse maintenance deduction limit shall be increased.

Shelter expenses include

- rent and mortgage (including principal and interest)
- taxes
- insurance
- monthly maintenance charge for a condominium or cooperative
- a standard utility allowance

The standard utility allowance can only be used if the community spouse directly incurs charges for utilities. If such charges are included in the rent or maintenance charge, no utility allowance may be used. Effective October 1, 2012, if the community spouse directly pays for *any utility charges*, a utility allowance of \$435.00 shall be included as a shelter expense.

If either member of the couple alleges that the community spouse maintenance deduction is insufficient, the couple can file for a fair hearing. If the couple can demonstrate that because of exceptional circumstances the amount of the community spouse deduction is inadequate, a higher deduction can be authorized for as long as is specified in the final agency decision.

FAMILY MEMBER DEDUCTION

A family member deduction shall be authorized beyond the community spouse deduction for the following family members AS LONG AS THEY RESIDE WITH THE COMMUNITY SPOUSE. If the family member(s) do not reside with the community spouse or if the community spouse is deceased, no maintenance allowance may be made.

- Children under the age of 21
- Children over the age of 21 who are claimed as dependents for federal tax purposes by either member of the couple.
- Parents of either member of the couple who are claimed as dependents for federal tax purposes.
- Siblings of either member of the couple who are claimed as dependents for federal tax purposes. Siblings include:
 - brothers or sisters
 - half-brothers or half-sisters
 - siblings through adoption

The family member deduction is calculated individually for each family member.

- subtract the family member's *gross* income from \$1891.25
- 1/3 of the remaining amount shall be the deduction authorized for that member.

Example: David, who is disabled, resides with his mother and is claimed by her as a tax dependent. David receives \$679 monthly in Social Security benefits. His father is institutionalized.

$$\begin{array}{r} \$1891.25 \text{ Standard} \\ - \quad 679 \text{ David's gross income} \\ \hline \$1212.25 \end{array}$$

$$\$ 1212.25 \times 1/3 = \$400.05 \text{ allowable deduction from David's father's income}$$