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MEDICAID COMMUNICATION NO. 23-05

DATE: May 25, 2023

TO: NJ FamilyCare Eligibility Determining Agencies

SUBJECT: 2023 Community Spousal Maintenance, Shelter and Utility Allowance Adjustments (N.J.A.C. 10:71-5.7)

This serves to advise that effective July 1, 2023 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 individuals who meet an institutional level of care either in a facility or living at home with spouses in the community.

The new base allowance for a community spouse will increase from \$2,288.75 to **\$2,465.00**. The new standard for determining the excess shelter costs of the community spouse increases from \$686.63 to **\$739.50**. Therefore, in computing the community spouse allowance, the community spouse's shelter costs in excess of \$739.50 shall be added to the base allowance of \$2,465. If the community spouse is paying directly for their utilities, a utility allowance is also added as a shelter expense. The utility amount, effective October 1, 2022, remains \$730.00 per month unless a new amount is announced by the federal government later this year. 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 individuals income that may be used to maintain certain other family members residing with the community spouse, the standard of \$2,465 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 \$2,465 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 2023 for all new cases subject to redetermination.

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 family member attains age 21 and is not a federal tax dependent; the dependent family member dies; or the dependent family member is institutionalized.

Please note 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 \$29,724 or one-half of the couple's total resources, not to exceed \$148,620. The home equity maximum limit is \$1,033,000.

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 field staff for your agency at 609-588-2556.

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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, 2023, the basic community spouse deduction standard is \$2,465 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 \$739.50 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. If the community spouse directly pays for *any utility charges*, a utility allowance of \$730.00 shall be included as a shelter expense. The standard utility allowance may change annually in October and is announced in a separate Medicaid Communication.

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 \$2,465.
- 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 \$742 monthly in Social Security benefits. His father is institutionalized.

*\$2,465.00 Standard
- 742.00 David's **gross** income
\$1,723.00*

\$1,723 x 1/3 = \$574.33 allowable deduction from David's father's income