



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

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JOHN R. GUHL
Director

MEDICAID COMMUNICATION NO: 09-14

DATE: September 3, 2009

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

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

This is to advise you that, effective July 1, 2009, the standard for deriving the community spouse maintenance allowance has increased as a result of the annual adjustment to the allowance. Because the same standard is used in the determination of the maintenance allowance for certain other dependent family members residing with the community spouse, the computation of that allowance has also changed. These increases potentially affect all institutionalized New Jersey Care...Special Medicaid Program (including the Medically Needy segment) and Medicaid Only individuals with spouse in the community.

The new base allowance for a community spouse increased from \$1,750.00 to \$1,821.25. The new standard for determining the excess shelter costs of the community spouse increased from \$525.00 to \$546.36. Therefore, in computing the community spouse allowance, the community spouse's shelter costs in excess of \$546.36 shall be added to the base allowance of \$1,821.25 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 \$1,821.25 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 \$1,821.25 exceeds the family member's own income.

County welfare agencies and ISS offices shall apply the new standards in the post-eligibility treatment of income beginning with the month of July 2009 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 December 31, 2009. For any such case, the county welfare agency must assure that any change in the maintenance deduction be applied retroactively to July 1, 2009.

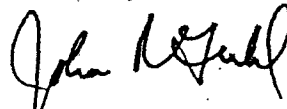
In order to assist the county welfare agencies and ISS offices in this review, we will be forwarding, under separate cover, a system generated "change" PR-1 (formerly PA-3L) form for each individual who is active in the current billing system (including those discharged to a hospital) and who currently has a maintenance deduction indicated in the record. For ease of identification, the form will contain an asterisk in the LTCF block on the first line, in the column adjacent to "effective date". 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.

You are reminded that the community spouse's share of the resources, which was revised for January 2009, remains unchanged. The community spouse's share of the couple's countable resources is the greater of \$21,912.00 or one half of the couple's total resources, not to exceed \$109,560.00.

For your convenience, attached to this Medicaid Communication is a fact sheet on post-eligibility treatment of income maintenance deductions.

Questions concerning this communication should be referred to your agency's Field Representative in the Office of Eligibility Policy at (609) 588-2556.

Sincerely,



John R. Guhl
Director

JRG:E

Attachment

c: Jennifer Velez, Commissioner
Department of Human Services

William Ditto, Executive Director
Division of Disability Services

Kevin Martone, Deputy Commissioner
Department of Human Services

Jeanette Page-Hawkins, Director
Division of Family Development

Kenneth W. Ritchey, Assistant Commissioner
Division of Developmental Disabilities

Kimberly S. Ricketts, Commissioner
Department of Children and Families

Heather Howard, J.D., Commissioner
Kathleen M. Mason, Assistant Commissioner
Patricia Polansky, Assistant Commissioner
Department of Health and Senior Services

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 the income to their cost share of institutional 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, 2009, the basic community spouse deduction standard is \$1,821.25 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 \$546.36 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, 2008:

- If the community spouse pays for heating fuel charges, a utility allowance of \$411.00 shall be included as a shelter expense.
- If the community spouse does not pay for heating fuel but does directly incur a utility expense other than telephone, water, sewerage, or garbage collection, the utility allowance is \$251.00.
- If the only separate utility charge is the telephone, the utility allowance is \$29.00. The telephone allowance cannot be used in conjunction with either of the utility allowances above.

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 \$1,821.25
- 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.

\$1,821.25 Standard
-679 David's gross income
\$1,142.25

\$ 1,142.25 X 1/3 (or 1,142.25 ÷ 3) = \$380.75 allowable deduction from David's institutionalized father's income