

Department of Public Health and Human Services	Section: RESIDENTIAL MEDICAL INSTITUTIONS
MEDICAL ASSISTANCE	Subject: Post-Eligibility Treatment of Income for Institutionalized Spouses

**Supersedes:** MA 904-2 (07/01/14)

**References:** 42 CFR 435.725 and .832; ARM 37.82.101, .1320; 42 U.S.C. 1396r-5; General Appropriations Act of 2007 (DP 22904)

GENERAL RULE—An institutionalized married spouse's gross monthly income, minus allowable deductions, must be applied toward the cost of the institutional care if Medicaid is contributing to the cost of the institutional care. This budgeting process is known as “Step 2” of the institutional budgeting process. An institutionalized married spouse's spend down is budgeted according to a different method if Medicaid is not contributing to the cost of care. (See MA 904-6) Allowable income deductions when Medicaid is contributing to the cost of institutional care may include:

**NOTE:** Total deductions may not exceed the institutionalized spouse's gross income.

1. Up to \$65 of gross earned income;

**NOTE:** Blind/disabled work expenses do not apply in post-eligibility treatment of income.

2. A personal needs allowance of \$50 (or the amount of the individual's remaining income, if less than \$50).

**NOTE:** Effective with the implementation of CHIMES, VA pension income of \$90 or less is excluded income and all nursing home residents receive \$50 personal needs allowance.

3. A community spouse income maintenance allowance;

**NOTE:** This deduction is allowed unless specifically refused by the institutionalized spouse. Funds must actually be transferred to the community spouse in order to be deducted.

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4. Family maintenance allowance;
5. Incurred medical or remedial care expenses of the institutionalized spouse, including health insurance premiums.

**NOTE:** Nursing home residents who are Medicare beneficiaries, but not QMB or SLMB eligible must have their Medicare Part B premiums entered as medical expenses in the system.

6. Court-ordered child support actually paid (MA 601-3);  
and
7. Court-ordered alimony actually paid (MA 601-3).

Tax Stimulus Rebates received by either the institutionalized person or the community spouse are excluded income in Post-Eligibility Treatment of Income calculations.

**INCURRED  
MEDICAL  
EXPENSES**

Certain medical expenses of the institutionalized spouse can be deducted from an institutionalized spouse's income when determining liability toward cost of care.

No incurred medical expense deductions are allowed for medical or remedial expenses incurred during an uncompensated asset transfer penalty period.

Life insurance premiums are not medical expenses and are not deductible.

Incurred medical expense deductions are limited to those incurred medical expenses which:

- a. were incurred during the three months immediately prior to application (or coverage request date) for Medicaid coverage of institutional care; or
- b. are current actual payments on expenses incurred more than three months immediately prior to the application for Medicaid coverage of institutional coverage.

In addition, incurred medical expenses must meet all of the following in order to be allowable deductions:

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1. were unpaid at the time of application or institutional coverage request date;
2. are recognized and regulated by State law as medical services, supplies or equipment;
3. are not payable by a third party; and
4. were not previously used to meet a spend down or to offset the individual's obligation toward cost of care in a previous month.

Incurred medical expenses are allowed until the full unpaid balance has been deducted or until expenses are paid in full, whichever comes first. Allowable medical expenses incurred prior to Medicaid application must be reported and verified within the application/coverage request processing period, or within three months of the coverage request date, whichever is later. See MA 703-1 for more detail on limitations on medical expenses.

Deductible medical expenses incurred during Medicaid eligibility periods include:

1. Health insurance premiums (including Medicare);
2. Medical expenses incurred while in the institution that are:
  - a. prescribed by a physician;
  - b. not Medicaid-covered services;
  - c. not payable by a third party; and
  - d. subject to the limitations outlined in MA 703-1.

**NOTE:** Items such as eye drops, procedure gloves, wipes, etc., are included in the Medicaid payment to the nursing facility as part of Medicaid-covered services, and cannot be billed separately to the nursing home resident, nor are they deductible if purchased by the family from a different provider and brought into the facility. Services that are covered by Medicaid but are received from a provider that is not a Medicaid-participating provider are not allowable; providers have up to a year to enroll as a Medicaid provider and up to a year to bill for services.

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Medical expenses incurred after application must be reported in a timely manner (within 10 days of knowing of the expense).

**SPOUSAL INCOME MAINTENANCE ALLOWANCE**



The community spouse income maintenance allowance is the lesser of:

1. \$2981 less the community spouse's own total gross monthly income (see "Income Attribution" in MA 500); or

**NOTE:** The community spouse's total gross income is the total of all income received by the community spouse from all sources; no income is exempted, excluded, or disregarded and no deductions apply, with few exceptions. Exceptions include only those payments which are excluded from all public assistance determinations by other laws; exclusions include Native American income and tax stimulus payments. Total gross income will include income such as SSI.

2. A combination of:

- a. Shelter expenses for the community spouse's principal residence which exceed the basic shelter allowance of \$598; **plus**



- b. The basic needs standard of \$1992; **less**



- c. The community spouse's own total gross income (see "NOTE" under #1).

**NOTE:** The institutionalized spouse or authorized representative is required to report changes to the community spouse's income within ten (10) days.

Example: The community spouse's gross income is \$600, the mortgage payment is \$450 (including taxes and insurance), plus there are heating expenses.

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	Calculation 1:	
▶	Maximum spousal standard	\$ 2981
	Spouse's gross income	- 600
	Maximum spousal allowance	\$ 2381
	Calculation 2:	
	Shelter expenses	\$ 450 (mortgage)
▶ (10/01/15)		+ 517 (utilities)
▶	Basic shelter allowance	- 598
	Excess shelter expense	369
	Basic needs standard	+ 1992
	Community Spouse Maintenance needs	\$ 2361
	Spouse's gross income	- 600
	Spousal allowance	\$ 1761

Since the spousal allowance in Calculation 2 (\$1761) is less than the spousal allowance in Calculation 1 (\$2381), the community spouse is entitled to \$1725 per month in spousal income maintenance allowance.

**NOTE:** The CSIMA is countable income to the community spouse in determining the community spouse's own eligibility for other Medicaid programs (such as MSP or medically needy).

#### SHELTER EXPENSES

Allowable shelter expenses (see "Spousal Income Maintenance Allowance" above) include:

1. Rent or mortgage (including principal and interest) payments.
2. Real estate taxes and homeowner's insurance.

**NOTE:** Real estate taxes and homeowner's insurance may be prorated as a monthly amount. If prorated, this information must be included on the notice.

3. Maintenance charges for a condominium or cooperative, or homeowners' association fees. AND,
4. Utilities (if paid separately).

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## UTILITY EXPENSES

When the community spouse is responsible for major heating/cooling costs, allow the same standard utility allowance (SUA) of an amount used for the SNAP program in 2013 (see MA 005). The SUA allowed is the allowance for all utilities, including garbage, phone, water, lighting, heating, cooling, etc.

If the community spouse is not responsible for a major heating/cooling cost, but does have a telephone, the SNAP telephone standard allowance from 2011 may be used (see MA 005).

Actual utility expenses cannot be used in any case, regardless of whether the community spouse is or is not responsible for a major heating/cooling cost. If, for example, the community spouse is responsible for electric (not related heating or cooling) and water, but not for heating/cooling or telephone, there is no utility expense allowed.

## ► FAMILY ALLOWANCE

The maximum maintenance needs allowance for each additional dependent family member is equal to one-third of the difference between the basic needs standard of \$1992 and the family member's gross income.

Dependent family members who are potentially eligible for family maintenance allowance are limited to children, parents or siblings of the institutionalized spouse or the community spouse who continue to reside with the community spouse and can be claimed as dependents for tax purposes. Family maintenance allowance cannot be allowed for family members who are receiving Medicaid HCBS waiver services or are institutionalized.



Example: The community spouse's dependent mother has gross income of \$600 per month.

Basic needs standard:	\$ 1992
Income:	<u>- 600</u>
	\$ 1392

Calculation:	\$ 1392
	<u>÷ 3</u>

Family maintenance allowance:	\$ 464
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The system will calculate and apply family maintenance allowance.

A person can be claimed as a dependent family member by only one institutionalized, or waiver recipient for purposes of a family maintenance allowance.

**FAMILY  
CONTRIBUTION  
TO FACILITY**

If a Medicaid applicant/recipient's family (or anyone else) pays an additional amount directly to the institution to upgrade the person from a semi-private to a private room, the additional payment is not considered in-kind income for shelter. Expenses paid to a residential medical facility are medical expenses.

**NOTICE**

The husband and wife must each receive notice of the institutionalized spouse's applicable deductions. Each spouse has the right to appeal the allowance determination. The institution must receive notice of the patient's obligation toward cost of care only.

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