

# LONG TERM CARE ISSUES

and

# MEDICAID

Prepared by:

Adult Services  
Bureau of Assistance Programs  
State of Connecticut  
Department of Social Services  
25 Sigourney Street  
Hartford, Connecticut 06106-5033

Telephone 860-424-5250

**Deaf and hearing impaired individuals may use a TTD/TTY by calling 1-800-842-4524. Questions, concerns, complaints or requests for information in alternative formats must be directed to the Government and Public Relations Office at 860-424-5016.**



## ***Long Term Care Issues and Medicaid***

### **INTRODUCTION**

To be eligible for Medicaid in Connecticut, an institutionalized individual's countable assets cannot exceed \$1,600.00.\* An individual who entered an institution on or after September 30, 1989, and has a spouse who lives in the community, is also able to have a portion of the couple's combined assets protected for the use of the community spouse. The value of the protected assets is not counted when the eligibility of the institutionalized individual is determined. The amount that can be protected is determined by adding together the counted assets of both spouses as of the date the institutionalized individual entered the facility and dividing the amount in half to establish a spousal share. The Community Spouse Protected Amount (CSPA) is equal to the spousal share from a minimum of \$22,728.00 up to a maximum of \$113,640.00. The minimum and maximum amounts are set by federal law and the state is required to update the amounts yearly. The CSPA cannot exceed the maximum amount, except by Fair Hearing decision or through a court order.

When an institutionalized individual and his or her spouse have assets which exceed the amount established as the CSPA and the \$1,600.00 asset limit for the institutionalized individual, the excess assets are considered to be available to the institutionalized individual. This is true regardless of which spouse is the owner of the assets. The institutionalized individual is not eligible for Medicaid until the couple's combined assets are reduced to the total of the \$1,600.00 asset limit and the CSPA.\* The couple is not required to "reduce" the excess to pay for the institutionalized individual's medical expenses. As long as fair market value is received, the excess assets may be spent in any way the couple wishes.

When an institutionalized individual has a spouse who lives in the community, some of his or her income can be disregarded and used for the spouse's needs. This income, which is called a Community Spouse Allowance (CSA), is determined by subtracting the community spouse's monthly gross income from a Minimum Monthly Needs Allowance (MMNA). The MMNA is calculated according to a formula which uses the spouse's actual monthly shelter costs including an allowance to cover monthly utility costs. The MMNA amount will vary from case to case, but the minimum is \$1,838.75 and the maximum MMNA is \$2,841.00. The minimum and maximum amounts are set by federal law and the state is required to update the amounts yearly. The MMNA cannot exceed the maximum amount, except by a Fair Hearing decision.

When an institutionalized individual applies for Medicaid, the Department currently examines any transfers of assets made by the individual and the individual's spouse within the 60 month period immediately before the date the person entered an institution or applied for Medicaid. (Cross Reference: page 11) The Department will also look to see if a trust was established by either spouse within the 60 month period immediately before the date the person entered an institution or applied for Medicaid.

\* See page 3 for an exception to the asset limit rules.

## ***Long Term Care Issues and Medicaid***

### **WHAT MOST PEOPLE WANT TO KNOW**

#### ***ISN'T MEDICAID JUST ANOTHER NAME FOR MEDICARE AND MEDIGAP?***

##### **MEDICAID IS:**

- Sometimes also called "Title 19"
- "Means-Tested" - This means the use of income and asset limits to determine eligibility
- A benefit that requires an application
- A benefit that pays for most medical services, including the cost of care in a long term care facility (LTCF)

#### ***HOW DO I GET MEDICAID BENEFITS?***

- Visit or call the local regional office of the Department of Social Services
- Be prepared to answer many questions about your general situation, particularly about your income, assets, and any assets you may have transferred to others
- Bring or mail whatever available proof you have of the information you provide

#### ***WHAT ARE THE NON-FINANCIAL ELIGIBILITY REQUIREMENTS?***

##### **AN APPLICANT MUST:**

- be a citizen or a qualified non-citizen of the United States
- be a resident of Connecticut
- provide a Social Security number
- cooperate in establishing eligibility
- assign a claim to any possible source of income or resource
- not have transferred assets in order to qualify for assistance

## ***Long Term Care Issues and Medicaid***

### **HOW WILL MY FINANCIAL ELIGIBILITY BE DECIDED?**

- The Department will look at your income and compare your counted income to the income limits of the Department of Social Services. If you have too much income you will be put into a spend-down period.
- The Department will look at your assets and compare your countable assets to the asset limits of the Department of Social Services. The asset limit for an individual living at home or in LTCF is \$1,600.00. If one spouse is considered to be institutionalized, the asset limit for the institutionalized individual is \$1,600.00 and the amount of the Community Spouse Protected Amount. \*

### **INCOME ELIGIBILITY AND SPEND-DOWN PERIOD**

- If countable income is less than or equal to the allowable income level, there is eligibility for Medicaid.
- If countable income is higher than the allowable income level, incurred medical expenses are considered to determine eligibility. This process is called spend-down. If countable income exceeds the allowable level, incurred medical expenses not covered by insurance and third party payments are subtracted from the excess income.

### **RETROACTIVE PERIOD**

- An applicant may be eligible for assistance in the retroactive period which is the three months immediately preceding the month of application if he or she meets the eligibility criteria.

### **\* EXCEPTION TO ASSET LIMIT RULE - CT PARTNERSHIP FOR LONG TERM CARE**

An individual who has purchased a precertified long term care insurance policy and has used the policy to pay for services may protect additional assets under the Connecticut Partnership for Long Term Care. Under this program, the Department will disregard assets in an amount equal to the lesser of the following:

1. the amount of payments made by the precertified long term care policy; or
2. the actual cost of the services.

Example: Mr. Jones has a precertified long term care insurance policy that has paid out \$100,000 for covered services over three years. After the insurance coverage expires, Mr. Jones applies for Medicaid. He is allowed to have \$1,600.00 plus an additional \$100,000 in assets. If he were married, his spouse would also be allowed to have her CSPA.

## ***Long Term Care Issues and Medicaid***

### **WHAT ARE THE ELIGIBILITY REQUIREMENTS FOR ASSISTANCE IN A LONG TERM CARE FACILITY (LTCF)?**

- If your income which is counted by the Department is less than or equal to the private rate for the facility, the applicant meets income eligibility for Medicaid
- If the income which is counted by the Department is higher than the facility rate, other incurred medical expenses are used to determine eligibility. This is a spend-down.
- The individual must pay all of his or her monthly income to the facility, except for the following deductions:
  - \$60.00 personal needs allowance
  - an amount diverted to meet the needs of a spouse or spouse and children
  - amounts for incurred medical expenses not subject to third party payment, such as Medicare
  - other health insurance
  - under certain conditions, an amount for the maintenance of the community residence for a period of six months.
- If you are an applicant for assistance living in a LTCF and have a spouse who is still living at home, there are special rules for the determination of countable assets. An Asset Assessment will need to be completed to determine the amount of assets which may be protected for the spouse living in the community (community spouse).
- The Department will look to see if you or your spouse transferred any assets in the 60 month period prior to your application. (Cross Reference: page 11)
- The Department will look to see if you or your spouse established a trust in the 60 months prior to your application.

## ***Long Term Care Issues and Medicaid***

### **ASSESSMENT OF SPOUSAL ASSETS**

When an institutionalized applicant has a spouse living at home, an assessment of spousal assets is completed to determine a spousal share of the assets. The Department of Social Services calls this couple a MCCA couple (MCCA stands for the Medicare Catastrophic Coverage Act of 1988). The Department provides an assessment of assets as of the date one of the spouses begins an initial continuous period of institutionalization which lasts 30 or more days. An assessment of spousal assets may be completed at the request of either spouse anytime prior to application for Medicaid. If an assessment of spousal assets is not completed prior to a Medicaid application, an assessment must be completed with the Medicaid application.

For those in medical institutions or long term care facilities, the beginning of a continuous period of institutionalization is the date of admission. For those applying for home and community based services (CBS) under a Medicaid waiver who have not had an initial period of institutionalization, the beginning of a continuous period of institutionalization is the date that the Department determines the applicant to be in medical need of services provided by CBS. The assessment of spousal assets is completed using the assets which existed as of the beginning of the initial continuous period of institutionalization which started on or after September 30, 1989.

The assessment of spousal assets consists of a computation of the total value of all non-excluded available assets owned by either or both spouses. The results of the assessment are retained by the Department and used to determine the eligibility at the time of application for Medicaid assistance as an institutionalized spouse. An assessment must be completed for each MCCA couple as of the date the institutionalized spouse started an initial continuous period of institutionalization which started on or after September 30, 1989. (If the institutionalized spouse started the continuous period of institutionalization prior to September 30, 1989, no assessment of spousal assets is completed.)

A spousal share is determined by adding the counted assets of both spouses together and dividing the amount in half. The spousal share is compared to the following formula to determine a Community Spouse Protected Amount (CSPA). The CSPA is the amount of assets which the community spouse may retain when the institutionalized spouse is eligible for Medicaid.

## *Long Term Care Issues and Medicaid*

### **COMMUNITY SPOUSE PROTECTED AMOUNT (CSPA) FORMULA**

The CSPA is equal to the **GREATEST** of the following amounts:

- A. \$22,728.00 (Adjusted January 1 of each year); or
- B. the **LESSER** of:
  - 1. the spousal share calculated in the assessment of spousal assets; or
  - 2. \$113,640.00 (Adjusted January 1 of each year); or
- C. the amount established through a Fair Hearing decision; or
- D. the amount established through a court order.



## ***Long Term Care Issues and Medicaid***

### **ASSESSMENT and CSPA EXAMPLES**

1) Ted is in need of LTCF services. Ted & Alice have the following countable assets:

Ted	\$00,000.00
Alice	\$125,000.00
Joint	<u>\$125,000.00</u>
Total	\$250,000.00

- a. What is the spousal share? \$ 125,000.00
- b. What is the Community Spouse Protect Amount (CSPA)? \$ 113,640.00
- c. If all of the assets belong to Alice, what is the spousal share?  
\$ 125,000.00
- d. If all of the assets belong to Alice, what is the CSPA?  
\$ 113,640.00

2) John is going into an LTCF. John and his wife Jane have the following counted assets.

John	\$45,000.00
Jane	\$55,000.00
Joint	<u>\$10,000.00</u>
Total	\$110,000.00

- a. What is the spousal share? \$ 55,000.00
- b. What is the Community Spouse Protect Amount (CSPA)? \$ 55,000.00

3) Bob is going into an LTCF. Bob and his wife Carol have the following counted assets.

Bob	\$1,000.00
Carol	\$2,000.00
Joint	<u>\$23,000.00</u>
Total	\$26,000.00

- a. What is the spousal share? \$ 13,000.00
- b. What is the Community Spouse Protect Amount (CSPA)? \$ 22,728.00

## ***Long Term Care Issues and Medicaid***

### ***EXCLUDED ASSETS***

#### **A. Home Property**

1. Real property used as principal residence by the applicant and his or her spouse is excluded.
2. For applications taken on or after January 1, 2012, property in which the individual has an equity interest of less than \$786,000.00 is excluded.

#### **B. Essential Household Items**

#### **C. Personal Effects**

#### **D. Burial Plots**

1. For an applicant who is considered to be a MCCA spouse, one burial plot for the community spouse and each member of the immediate family of either spouse is excluded in addition to each spouse's plot.
2. A burial plot is defined as the purchase of a grave site, opening and closing of a grave site, cremation urn, casket, outer burial container and a headstone or marker, including a contract for the provision of the aforementioned items. A gravesite may include a crypt or mausoleum.
3. Members of the immediate family of each MCCA spouse include the following family members and their spouses:
  - a. a natural, adopted, or step child of the MCCA spouse, regardless of age; and
  - b. a natural or adoptive parent of the MCCA spouse; and
  - c. a sibling of the MCCA spouse.
4. For all applicants except those applicants who are considered to be a MCCA spouse, one burial plot is excluded.

#### **E. Burial Funds and Arrangements**

1. For each MCCA spouse, an amount up to \$1,500.00 is excluded for a burial fund.
2. For all applicants except those applicants who are considered to be a MCCA spouse, an amount up to \$1,800.00 is excluded for a burial fund.
3. The burial fund exclusion is reduced by:
  - a. any amount in an irrevocable burial contract available to meet burial expenses; and
  - b. the face value of the applicant's or community spouse's life insurance policies if the cash surrender value of such policies is excluded.

## ***Long Term Care Issues and Medicaid***

### ***EXCLUDED ASSETS*** (Continued)

4. Interest earned on excluded burial funds and appreciation on the value of excluded burial arrangements is also excluded if the interest or appreciation is left to accumulate and becomes part of the excluded burial fund.

#### **F. Irrevocable Burial Funds**

The applicant and his or her spouse may each have an irrevocable burial fund. These funds if established in Connecticut, are limited to \$5,400.00 per individual.

#### **G. Non-Home Real Property**

1. Non-home real property is excluded for as long as a written agreement is made to sell the property and any offer which approximates fair market value is not refused. However, in some situations a lien may be placed upon the property.
2. Property previously used as a primary residence becomes non-home property when the individual enters a long term care facility and no relative of acceptable relationship is lawfully residing in the home and the individual cannot reasonably be expected to return to the home. (Cross Reference: page 8, A)

#### **H. Motor Vehicles**

1. For all applicants except an applicant with a MCCA spouse, one motor vehicle is totally excluded if the applicant or the applicant's spouse:
  - a. needs the motor vehicle for employment; or
  - b. needs the motor vehicle for the medical treatment of a specific or ongoing medical problem; or
  - c. has modified the motor vehicle for operation by or transportation of a handicapped person.
2. For an applicant with a MCCA spouse, one motor vehicle owned by either is excluded.
3. If no motor vehicle is totally excluded, up to \$4,500.00 of the fair market value of one motor vehicle is excluded.

#### **I. Life Insurance Policies**

1. The cash surrender value of life insurance policies for each spouse is excluded if the total face value of all such policies does not exceed \$1,500.00. In computing the face value of life insurance, the Department does not consider term insurance and irrevocable burial funds.
2. Life insurance policies such as term insurance policies, which provide temporary coverage but have no cash surrender value, are totally excluded, regardless of their face value.

## ***Long Term Care Issues and Medicaid***

### **HOME EQUITY LIMITATIONS**

#### **A. General Statement**

An individual applying for LTC services under Medicaid on or after January 1, 2012, is ineligible for payment of LTC services if his or her equity interest in the home property exceeds \$786,000.00.

#### **B. Individuals Affected**

1. An individual with an equity interest in his or her home of greater than \$786,000.00 is ineligible for the payment of nursing facility and other long-term care services unless any of the following persons is lawfully residing in the home:
  - a. the individual's spouse; or
  - b. the individual's child who is under 21; or
  - c. the individual's child who is considered blind or disabled under the criteria for SSI eligibility.

The excess home equity limit is \$786,000.00 effective January 1, 2012, \$758,000.00 effective January 1, 2011 – December 31, 2011 and \$750,000.00 effective January 1, 2006 – December 31, 2010.

2. The following individual may be eligible to receive Medicaid payment for long-term care services, notwithstanding possessing home equity in excess of \$786,000.00:
  - a. individuals who demonstrate, to the satisfaction of the Department, that they cannot obtain a reverse mortgage, home equity loan or similar instrument; and
  - b. individuals eligible for a Long-Term Care Insurance disregard in an amount greater than or equal to the amount of home equity in excess of \$786,000.00, plus the amount of any other counted assets.
3. The Department may waive application of the home equity provision if the denial of payment of nursing facility and other long-term care services would result in an undue hardship.

## ***Long Term Care Issues and Medicaid***

### ***TRANSFER OF ASSETS - BASIC PROVISIONS***

#### **A. General Statement**

There is a period established, subject to the conditions described below, during which institutionalized individuals are not eligible for certain Medicaid services when they or their spouses dispose of assets for less than fair market value within certain time limits. This period is called the penalty period.

#### **B. Individuals Affected**

An individual is considered institutionalized if he or she is receiving:

1. LTCF services; or
2. services provided by a medical institution which are equivalent to those provided in a long term care facility; or
3. home and community-based services under a Medicaid waiver or Connecticut Health Care program (CHC).

#### **C. Time Frame for Transfers**

On or after February 8, 2006, transfers of assets which affect eligibility are those which are made by the same individuals listed above during the 60 month period immediately:

- a. before the date the individual becomes institutionalized; or
- b. before the date the individual applies for Medicaid while institutionalized; or
- c. after the date the individual applies but before the first month of Medicaid eligibility has ended.

#### **D. Time Frame for Transfers Involving Trusts**

1. The Department considers the conversion of an asset into the form of a trust or similar asset to be a transfer to the extent that it is no longer available to the individual.
2. The Department considers payments made from trusts other than those made to or for the individual to be a transfer of assets.
3. The look-back period for payments from a revocable trust other than those to or for the benefit of the individual who established the trust and for transfers that create an irrevocable trust in which no payments can be made to the individual who established the trust under any circumstances goes back to the 60 month period prior applying for Medicaid.

## ***Long Term Care Issues and Medicaid***

### **TRANSFER OF ASSETS - BASIC PROVISIONS** (continued)

#### E. Penalty Period

1. Prior to February 8, 2006, the penalty period begins as of the first of the month in which the transfer is made unless that month is part of a penalty period from an earlier transfer.
2. On or after February 8, 2006, the penalty period begins as of the date the individual is eligible for Medicaid and would otherwise be eligible for payment of LTC services under the Medicaid program based on an approved application and which does not occur during any other period of ineligibility.
3. The penalty period for each transfer is the number of months which results from dividing the uncompensated value of the transferred assets by the average monthly cost to a private patient for LTCF services in Connecticut.
  - a. For applicants, the average monthly cost for LTCF services is based on the figure as of the month of application.
  - b. For recipients, the average monthly cost for LTCF services is based on the figure as of the month of institutionalization.
4. The penalty period pertains only to payment for medical services described in paragraph B. An individual who is not eligible under Medicaid for payment of such services is eligible under Medicaid for payment of all other covered services if he or she meets all other Medicaid requirements.
  - a. During the penalty period, the following Medicaid services are not covered:
    - (1) LTCF services; and
    - (2) services provided by a medical institution which are equivalent to those provided in a long term care facility; and
    - (3) home and community-based services under a Medicaid waiver and the Connecticut Home Care program.(CHC).
  - b. Payment is made for all other Medicaid services during a penalty period if the individual is otherwise eligible for Medicaid.

## ***Long Term Care Issues and Medicaid***

### **TRANSFER OF ASSETS - CALCULATING AND IMPOSING THE PENALTY PERIOD**

1. Determine the fair market value of the transferred asset.
2. From the fair market value deduct any compensation received which is acceptable per Department of Social Services policy.
3. From the remainder determined in step 2, divide the average monthly cost of LTCF care of a private patient. The average cost of care is \$10,586.00 effective July 1, 2011, \$10,366.00 effective July 1, 2010 – June 30, 2011, \$9,959.00 effective July 1, 2009 – June 30, 2010, \$9,464.00 effective July 1, 2008 - June 30, 2009, and \$9,096.00 effective July 1, 2007 – June 30, 2008.
  - a. For applicants, base the cost on the appropriate figure as of the month of application;
  - b. For recipients, base the cost on the appropriate figure as of the month of institutionalization.
4. For two or more transfers:
  - a. start the computation with the month of the first transfer;
  - b. follow steps 1 and 2 for each succeeding transfer in chronological order;
  - c. determine the correct factor amount for each succeeding month from step 3 above;
  - d. start the penalty period for the second transfer after the penalty period for the first transfer expires.
5. Prior to February 8, 2006, make sure to begin the penalty period as of the month the individual makes the transfer for less than fair market value. If the individual makes the transfer to his or her spouse, who then transfers the asset to a third party for less than fair market value, start the penalty period with the month in which the spouse makes the transfer to the third party.
6. On or after February 8, 2006, make sure to begin the penalty period as of the date the individual is otherwise eligible.
7. The result of calculation above will be the number of whole months of the penalty period plus a partial amount of uncompensated value.
8. Determine the last day of the penalty period by multiplying the fractional amount from step 7 by the number of days in the month in which the penalty period expires.

## ***Long Term Care Issues and Medicaid***

### **TRANSFERS OF ASSETS NOT RESULTING IN A PENALTY**

#### **A. Transfer of Home Property**

An individual or his or her spouse may transfer property which he or she used as a primary residence immediately before the date the individual was institutionalized without penalty to his or her:

1. spouse; or
2. child under age 21; or
3. child of any age if the child is considered to be blind or disabled under the Department's criteria; or
4. sibling if the sibling:
  - a. has an equity interest in the home; and
  - b. was residing there for a period of at least one year immediately before the date the individual is institutionalized; or
5. son or daughter, other than one described in sub-paragraphs 2 and 3, who:
  - a. was residing in the home for a period of at least two years immediately before the date the individual is institutionalized; and
  - b. provided care to the individual which avoided the need of institutionalizing him or her during those two years.

#### **B. Transfers Made to or for the Benefit of Spouses**

1. Subject to the provisions in paragraph 2 below, an individual may transfer assets of any type without penalty to his or her spouse, or to a third party for the sole benefit of such spouse.
2. Subject to the provisions in subparagraphs a and b below, in or after the month of initial Medicaid eligibility, an institutionalized spouse may transfer assets without penalty to his or her community spouse, or to a third party for the sole benefit of such spouse.
  - a. The amount of the assets transferred must be no greater than that amount needed to raise the community spouse's assets up to the CSPA.
  - b. The transfer must be made as soon as practicable, allowing for such time as necessary for the community spouse to obtain a court order for support
3. The individual's spouse may transfer assets of any type without penalty to a third party for the sole benefit of himself or herself.

#### **C. Transfers to a Disabled Child**

An individual may transfer assets of any type without penalty to his or her child who is considered to be blind or disabled under the Department's criteria.



## ***Long Term Care Issues and Medicaid***

### **COMMUNITY SPOUSE ALLOWANCE (CSA)**

The CSA is an income deduction allowed from the income of the institutionalized individual to provide for the needs of any spouse living in the community regardless of when his or her spouse entered long term care. This calculation was effective October 1, 1989.

The CSA is determined by subtracting the community spouse's monthly gross income from the community spouse's Minimum Monthly Needs Allowance (MMNA).

The MMNA is calculated by:

1. Determining the monthly housing cost of the spouse in community by adding:
  - a. rental costs or mortgage payment, including principle and interest; and
  - b. real estate taxes; and
  - c. real estate insurance; and
  - d. required maintenance fees charged by condominiums or cooperatives except those amount for utilities; and
  - e. the Standard Utility Allowance (SUA) used in the Food Stamp program which is \$683.00 per month.
2. From the housing costs determined in step 1, subtract \$551.63 (adjusted each July 1), (this is 30% of \$1,838.75, the least amount the MMNA can be).
3. If the amount determined in step 2 is greater than zero, add the amount determined in step 2 to \$1,838.75 (adjusted each July 1).
4. If the amount calculated in step 3 is \$2,841.00 (adjusted each January 1) or less use this as the MMNA.
5. If the amount calculated in step 3 is greater than \$2,841.00, use \$2,841.00 as the MMNA. Either spouse may request a Fair Hearing for a MMNA to be greater than \$2,841.00.

**Long Term Care Issues and Medicaid**

**CSA EXAMPLES**

**MMNA = Total Monthly Housing Costs**  
- \$ 551.63 (30% of \$1,838.75)  
  \$ XXX.XX  
+ \$1,838.75 (minimum MMNA)

**CSA = MMNA**  
- Community Spouse Gross Monthly Income

A) Alice's husband Ted is receiving long term care. Her income is \$400.00 per month, and her total housing costs are \$751.63 per month.

1. The amount of the excess housing costs is: \$ 200.00
2. The amount of her MMNA is: \$ 2,038.75
3. The amount of her CSA is: \$ 1,638.75

B) Carol's husband Bob is in an LTCF. Her gross income is \$1,838.75 per month. Her housing costs are \$200.00 per month.

1. The amount of the excess housing costs is: \$ 0.00
2. The amount of her MMNA is: \$ 1,838.75
3. The amount of her CSA is: \$ 0.00

## ***Long Term Care Issues and Medicaid***

### ***FAIR HEARINGS***

An impartial Fair Hearing is held at the request of an applicant when he or she feels that Department of Social Services policy is not being applied correctly to his or her case. Additionally, an applicant or a MCCA spouse may request a Fair Hearing under the following conditions.

1. A Department of Social Services Fair Hearing official may adjust or modify the results of the assessment of spousal assets when:
  - a. either MCCA spouse requests a hearing regarding the assessment; and
  - b. the Fair Hearing official determines the results of the assessment were incorrectly determined.
2. A Fair Hearing official may increase the Minimum Monthly Needs Allowance (MMNA) of a community spouse which was previously determined by the Department:
  - a. if it is established by the community spouse that the community spouse needs a higher monthly income than permitted by the MMNA calculation; and
  - b. if this need for a higher income is due to exceptional circumstances resulting in significant financial duress including, but not limited to, the financial burden of caring for a disabled child, sibling, or other immediate relative.
  - c. without limiting his or her consideration to:
    - (1) the shelter expenses indicated; or
    - (2) the limitations placed on the MMNA.
3. The Fair Hearing official may increase the Community Spouse Protected Amount when the official determines that additional assets need to be protected to produce income to meet an MMNA.

## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### **Assessment of Spousal Assets**

An Assessment of Spousal Assets is a determination of the total value of all non-excluded available assets owned by both MCCA spouses which is done upon the request of an institutionalized spouse or a community spouse or upon the filing of an application for medical assistance and is used to calculate the Community Spouse Protected Amount.

#### **Asset Limit**

The asset limit is the maximum amount of equity in counted assets which an applicant or recipient may have and still be eligible for a particular program administered by the Department.

#### **Assignment**

An assignment is the act of transferring one's interest in an asset or a claim to another person or to an organization.

#### **Available Asset**

An available asset is cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.

#### **Burial Fund**

A burial fund is a revocable burial contract that is, a fund held by a licensed funeral director to be used for funeral and burial expenses, but which can be released prior to death by mutual agreement.

#### **Burial Plot**

A burial plot is a grave site, opening and closing of a grave site, cremation urn, casket, outer burial container and a headstone or marker, including a contract for the provision of the aforementioned items. A gravesite may include a crypt or mausoleum.

#### **Cash Surrender Value**

The cash surrender value of a life insurance policy, annuity or similar instrument is the amount of money the owner of the instrument may obtain by surrendering such instrument.

#### **Community Spouse**

A community spouse is an individual who resides in the community, who does not receive home and community based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long term care facility or who receives home and community based services (CBS) under a Medicaid waiver.

## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### Community Spouse Disregard (CSD)

A community spouse disregard is the amount of the institutionalized spouse's available non-excluded assets which is excluded in determining the institutionalized spouse's eligibility for Medicaid.

#### Community Spouse Protected Amount (CSPA)

A community spouse protected amount is the amount of the total available non-excluded assets owned by both MCCA spouses which is protected for the community spouse and is not counted in determining the institutionalized spouse's eligibility for Medicaid.

#### Compensation

Compensation is all money, notes, real or personal property, food, shelter, or services received in exchange for something of value.

#### Continuous Period of Institutionalization

A continuous period of institutionalization is a period of 30 or more consecutive days of residence in a medical institution or long term care facility, or receipt of home and community based services (CBS) under a Medicaid waiver.

#### Counted Asset

A counted asset is an asset which is not excluded and either available or deemed available to the applicant or recipient.

#### Deemed Asset

A deemed asset is an asset owned by someone who is not an applicant or recipient but which is considered available to the applicant or recipient.

#### Deemor

A deemor is a person from whom income or assets are deemed available to the applicant or recipient.

#### Encumbrance

Encumbrance is a legal claim against an asset which a person must pay off in order to convert the asset to cash.

## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### Equity Value

Equity value is the fair market value of an asset minus encumbrances.

#### Essential Household Item

An essential household item is furniture, furnishings, and equipment found in or about a house which is used in connection with the operation, maintenance, and occupancy of the home, as well as an item used in the functions and activities of home and family life or for comfort and accommodation.

#### Exceptional Circumstances

Exceptional circumstances are conditions that are unusual or extreme for a community spouse, and which either directly threaten the community spouse's ability to remain in the community, or pose some other type of unusual or extreme hardship for the community spouse, such as caring for a disabled child, sibling or other immediate relative.

#### Excluded Asset

An excluded asset is an asset which is not counted by the Department in the determination of eligibility for assistance.

#### Face Value

The face value of a life insurance policy is the basic amount of insurance purchased on the insured's life, as listed on the policy.

#### Fair Market Value

Fair market value is the amount at which an asset can be sold on the open market in the geographic area involved at the time of the sale as a result of reasonable, bona fide efforts to gain the highest possible price in an arm's-length transaction.

#### Home Property

Home property is:

1. real property which someone owns and is using as principal residence; and
2. life use which is the right of a person to occupy and/or enjoy the income proceeds of real property during the person's lifetime in accordance with the terms of a legal agreement.

## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### Institution

An institution is an establishment that furnishes food, shelter and some treatment or services to four or more persons unrelated to the proprietor.

#### Institutionalized Spouse

An institutionalized spouse is a spouse who resides in a medical facility or long term care facility, or who receives home and community based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services.

#### Inter Vivos Trust

An inter vivos trust is a trust established during the lifetime of the settlor by means other than a will.

#### Irrevocable Burial Fund

An irrevocable burial fund is a fund held by a licensed funeral director as a result of a contractual arrangement to be released only upon the death of a recipient, but which can be transferred to another funeral director.

#### Irrevocable Trust

An irrevocable trust is a trust which the settlor is unable to dissolve.

#### Legal Owner

The legal owner of an asset is the person who is legally entitled to enjoy the benefit and use of the asset.

#### Legally-Enforceable Agreement

A legally-enforceable agreement is a binding and credible arrangement, either oral or written, wherein two or more parties agree to an arrangement in consideration of the receipt of money, property, or services and in which all parties can be reasonably expected to fulfill their parts of the agreement.

#### Long Term Care Facility (LTCF)

A long term care facility is a skilled nursing facility, intermediate care facility, or other medical institution, where the applicant is required, as a condition of receiving services in such institution under the state medical assistance plan, to spend for costs of medical care all but a minimal amount of any existing income for personal needs.

## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### MCCA Spouses

MCCA spouses are spouses who are members of a married couple one of whom becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.

#### Motor Vehicle

A motor vehicle is a passenger car or other vehicle which a person owns for the purpose of providing transportation of individuals or goods.

#### Non-Home Property

Non-home property is real property which a person owns but is not using as principal residence.

#### Personal Effects

Personal effects are clothing, jewelry, or items used for personal care or individual education.

#### Personal Property

Personal property is an asset in the form of temporary or movable property as opposed to real property.

#### Real Property

Real property is an asset in the form of real estate - that is, land and buildings.

#### Record Owner

The record owner of an asset is the person who has apparent ownership interest as shown on a title, registration, or other documentation.

#### Revocable Trust

A revocable trust is a trust which the settlor reserves the right to dissolve when he or she desires.

#### Settlor

The settlor is the person whose funds are used to establish a trust.

#### Significant Financial Duress

Significant financial duress is a severe expense or set of expenses to be paid by the community spouse as a direct result of exceptional circumstances, and are those for which the community spouse could not reasonably be expected to pay from his or her monthly income or assets.



## ***Long Term Care Issues and Medicaid***

### **DEFINITIONS**

#### **Spend-Down of Income**

Spend-down is the process by which income which exceeds a Medicaid Applicant's Medically Needy Income Limit (MNIL) is offset by incurred medical expenses.

#### **Spousal Share**

A spousal share is one-half of the total value of assets which result from the assessment of spousal assets.

#### **Transfer of an Asset**

A transfer of an asset is the conveyance of interest in property, the disposal of an asset in some other way or the failure to exercise one's right to property.

#### **Transferee**

A transferee is an individual to whom ownership of an asset is conveyed by another individual.

#### **Transferor**

A transferor is an individual of any age who conveys the ownership of an asset to another individual.

#### **Trust**

A trust is an oral or written agreement in which someone (the trustee) holds the legal title to an asset for the benefit of another person (the beneficiary).

#### **Uncompensated Value**

Uncompensated value is the difference between the fair market value of an asset and the compensation received.

#### **Undue Influence**

Undue influence is causing another party through misrepresentation, deceit, fraud, or any other improper means to do something that would otherwise not be done.