

# Spousal Impoverishment Protection 2022



**“Spousal Impoverishment Protection” refers to special financial provisions in Medicaid law. These provisions affect how we count income and assets for certain married couples enrolled in a long-term care program.**

Medicaid is a federally and state-funded government program that pays for health care and long-term care services for low-income people of all ages. To qualify, a person’s income and assets must be below certain levels. There are two types of Medicaid that provide long-term care services:

- Institutional Medicaid provides coverage of medical services if you reside in a medical care facility, such as skilled nursing facilities, intermediate care facilities, institutions for mental disease, and hospitals, for 30 days or more.
- Home and community-based waiver programs allow you to get long-term care services in a community setting (for example, your home) rather than in a nursing home or hospital. These waiver programs include:
  - Family Care
  - Family Care Partnership
  - IRIS (Include, Respect, I Self-Direct)
  - PACE (Program of All-Inclusive Care for the Elderly)

Spousal impoverishment protection affects legally married couples when one spouse is enrolled in Institutional Medicaid or a community-based waiver program and the other spouse is not residing in a nursing home or medical care facility for 30 days or more. The person in the nursing home or the community-based waiver program is known as the institutionalized spouse (the spouse participating in Medicaid long-term care services). The other spouse is called the community spouse.

The purpose of the spousal impoverishment protection is to prevent the community spouse from being impoverished if his or her spouse is in an institution or getting long-term care services.

## ***Signing the Application***

If you have a community spouse, both you and your spouse must sign your application for long-term care services through Medicaid or your application will be denied. If your spouse did not sign your application, you can use the Request for Community Spouse Signature form to submit your spouse’s signature and complete your application. Your spouse can also call your local county or tribal income maintenance agency to provide verbal confirmation that will be considered the same as a written signature.

## **ADRC of Brown County**

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# Assets

## Counting Assets

There are special rules for counting assets and allocating the assets between the spouses. When you or your spouse first enter a medical care facility and apply for Medicaid or ask to participate in a community-based waiver program, your agency will do an assessment of your total combined assets. You can ask for this assessment before you apply for Medicaid. The amount of your total combined assets at the time you or your spouse entered the medical care facility or started participating in a Medicaid long-term care program determines the amount of assets each spouse may keep. We only use your countable assets (described below) in this assessment.

If your combined assets are \$100,000 or less, the community spouse can keep \$50,000, and the spouse participating in Medicaid long-term care services may keep \$2,000. The amount the community spouse can keep is called the community spouse's asset share (CSAS). The asset limit is calculated by adding the CSAS to the asset share for the spouse participating in Medicaid long-term care services.

If your assets are over \$100,000, see the chart on page 4 for more information about the amount of assets you can keep.

## Assets Transferred Between Spouses

Once you and your spouse's assets are at or below the asset limit, you have one year to ensure the spouse participating in Medicaid long-term care services has no more than \$2,000 worth of assets in their name.

During this time period this spouse usually transfers all but \$2,000 of his or her assets to the community spouse.

**Example:** Bob and Carley have \$40,000 in a money market account and \$10,000 in a checking account. The accounts are in both their names. Bob is the spouse participating in Medicaid long-term care services, and Carley is the community spouse. The couple spends \$1,500 on an adjustable bed for Bob and \$20,000 on a newer used care for Carley after trading in their old car. They open a new checking account for Bob and take his name off both the money market and the couple's checking account. Bob's new account has \$1,000. Carley's accounts have the remaining \$27,500, which is only in her name.

## Countable Assets

Your countable assets are used to determine whether you meet the asset limit. Examples of countable assets may include, but are not limited to:

- Cash
- Checking accounts
- Life insurance policies
- Savings accounts
- Certificates of deposit
- Real estate
- Investments
- Stocks and bonds

## Assets Not Counted

Medicaid does not count the following assets:

- Your home (as long as the community spouse or other dependent relative lives there)
- One vehicle
- Some burial assets (including insurance, some amounts in irrevocable burial trusts, and plots)
- Household items, Clothing and other personal items
- Retirement accounts of the ineligible community spouse (Example: IRAs)

## ***Reducing Assets to the Allowable Limit***

Excess assets are assets that are above the asset limit. They can be reduced to allowable limits if they are used to pay for nursing home or home care costs or for other things, such as home repairs or improvements, vehicle repair or replacement, clothing, or other household expenses. If excess assets are not reduced, the spouse participating in Medicaid long-term care services cannot enroll in Medicaid.

## ***Divestment***

Divestment is when you or your spouse:

- Give away income and/or assets for less than fair market value. This includes giving gifts to people, such as your grandchildren.
- Avoid taking income or assets you are able to get, such as a pension income or an inheritance.
- Buy certain types of assets, such as a life estate, loan, or annuity.

Excess assets usually cannot be reduced by divesting those assets. Please see the Medicaid for the Elderly, Blind, or Disabled Divestment fact sheet (P-10058) for more information on divestment.

## ***Income***

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### ***Counting Income***

There are special rules for counting income and the amount of income that can be transferred from one spouse to another. Income for only the spouse participating in Medicaid long-term care services is counted in determining enrollment. The community spouse cannot be asked to pay for the care of the spouse participating in Medicaid long-term care services except when there is a court order to do so. See the next page for information on what we subtract from the institutionalized spouse's income.

### ***Income Transferred Between the Spouses***

An institutionalized spouse who qualifies for Medicaid may be allowed to protect some of his or her income by transferring it to the community spouse, depending on the amount of income and the community spouse has. The spouse participating in Medicaid long-term care services can also transfer income to other dependent family members. To find out the amount that can be transferred, see the chart on page 5.

### ***Income and Asset Limits***

The spouse participating in Medicaid long-term care services must meet the same income and asset tests as a single person applying for Medicaid in a nursing home or community-based waiver program. The assets directly available to the spouse participating in Medicaid long-term care services are limited to \$2,000. Except for a small personal needs allowance, the spouse participating in Medicaid long-term care services must either transfer his or her income to the community spouse or use it to pay for nursing home or home care. If both you and your spouse are participating in Medicaid long-term care services and your spouse lives in a nursing home, the single individual income and asset limits apply to you.

## Spousal Impoverishment Assets (Total Amount) Effective 1/1/22

If the married couple's total countable assets are:	Then the CSAS is:	Total Wisconsin Medicaid asset limit (CSAS + \$2,000):
\$274,800 or more	\$137,400	\$139,400
Less than \$274,800 but greater than \$100,000	Half of the total countable assets of the couple	Half the couple's total countable assets + \$2,000
\$100,000 or less	\$50,000	\$52,000

## Spousal Impoverishment Income Allocation & Allowances (Monthly Amounts) Effective 7/1/21 and 1/1/22

<b>Community spouse income allocation</b>	<p>The maximum allocation is \$3,435.00, or \$2,903.34 plus an excess shelter allowance, whichever is less.</p> <p>The excess shelter allowance is calculated by adding together shelter expenses such as mortgage, rent, taxes, maintenance fees, and utility costs and subtracting \$871. Any remaining amount is considered the excess shelter allowance and is added to \$2,903.34 up to the maximum of \$3,435.00.</p>
<b>Dependent family member income allocation</b>	\$725.84 per dependent family member living with the community spouse.
<b>Institutional Medicaid personal needs allowance (effect 7/1/21)</b>	\$45 for institutionalized spouse.
<b>Community-based waiver programs allowance for the spouse participating in a community-based waiver program</b>	The community-based waiver basic needs allowance is \$1,021. The amount of this deduction can be higher if the member also has earned income (income from a job or self-employment), housing costs above \$350 a month, or both. The maximum allowance is \$2,523.

**For local information and assistance with Medicaid or other benefit questions, contact ADRC of Brown County at (920) 448-4300.**

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