“Spousal Impoverishment Protection” refers to special financial provisions in Medicaid for the Elderly, Blind or Disabled (EBD) law. These provisions affect how we count income and assets for certain married couples receiving or applying for nursing home or community waiver services.

Home and Community-Based Waivers programs, such as Family Care, Family Care Partnership, IRIS (Include, Respect, I Self-direct), and PACE (Program of All-Inclusive Care for the Elderly) provide a home care alternative to a nursing home. These protections apply to persons who are elderly or have disabilities.

Medicaid EBD pays for health care and long-term care services for low-income people of all ages. Medicaid EBD is a federally and state-funded government program. To qualify, a person’s income and assets must be below specified levels.

Spousal impoverishment protection affects legally married couples when one spouse is in a nursing home or taking part in a community waiver program and the other spouse is not residing in a nursing home or other medical institution for 30 days or more. The person in the nursing home or the community waiver program is referred to as the “institutionalized spouse.” The other spouse is the “community spouse”.

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 institution, nursing home or request a community waiver program, your agency will, if requested, conduct an assessment of total combined assets. The amount of total combined assets at the time of institutionalization determines the amount of assets each spouse may keep.

If your combined assets are $100,000 or less, the community spouse can keep $50,000 and the institutional spouse may keep $2,000. If your assets are over $100,000, you may be able to keep additional assets, see chart on page 3. For additional information, you can contact the ADRC of Brown County at 920-448-4300. The community spouse share can be higher than the standard if a court or administrative hearing officer orders a higher amount.

Assets Transferred Between the Spouses
Once the couple’s assets are at or below their asset limit, they have one year in which to assure the institutionalized spouse has no more than $2,000 worth of assets in his/her name. During this time period, the institutionalized spouse usually transfers all but $2,000 of his/her assets to the community spouse.
For 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 institutionalized spouse, and Carley is the community spouse. The couple spends $1,500 on an adjustable bed for Bob and $20,000 on a newer used car 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
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 EBD does not count some assets. Those not counted include:

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

Reducing Assets to the Allowable Limit
"Excess" assets (assets which are above the asset limit) can be reduced to allowable limits if they are used to pay for nursing home or home care costs, home repairs or improvements, vehicle repair or replacement, clothing or other household expenses. If excess assets are not reduced, the institutionalized spouse cannot be enrolled in Medicaid.

Divestment
Divestment is when you or your spouse:

- Give away income and/or assets for less than fair market value.
- Avoid taking income or assets you are entitled to, 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

Counting Income
There are special rules for counting income and the amount of income that can be transferred from one spouse to another. Only the institutionalized person’s income is counted in determining enrollment. The community spouse cannot be required to pay for the institutionalized spouse’s care except when there is a court order to do so.

Income Transferred Between the Spouses
An institutionalized person who qualifies for Medicaid may be allowed to protect some of his/her income by transferring it to the community spouse, depending on the amount of income the community spouse has. The institutionalized person can also transfer income to other dependent family members. To find out the amount the current limits that can be transferred, contact ADRC of Brown County (920-448-4300).
Income & Asset Limits

The institutionalized spouse must meet the same income and asset tests as a single person applying for Medicaid for the Elderly, Blind or Disabled in a nursing home or community waiver program. The assets directly available to the institutionalized spouse are limited to $2,000. Except for a small personal needs allowance, the institutionalized spouse must either transfer his/her income to the community spouse or use it to pay for nursing home or home care.

The spousal impoverishment protection applies only when one spouse is institutionalized and the other is not. If both spouses are institutionalized, the single individual income and asset limits apply. The purpose of the spousal impoverishment protection is to prevent the community spouse from being impoverished by his or her spouse’s institutionalization.

### Spousal Impoverishment Assets (Total Amount)

<table>
<thead>
<tr>
<th>If the total countable assets of the couple are</th>
<th>THEN the Community Spouse Asset Share is:</th>
<th>Medicaid Eligibility Limit (CSRA + $2,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$257,280 or more</td>
<td>$128,640</td>
<td>130,640</td>
</tr>
<tr>
<td>Less than $257,280 but greater than $100,000</td>
<td>½ of the total countable assets of the couple</td>
<td>½ + $2,000</td>
</tr>
<tr>
<td>$100,000 or less</td>
<td>$50,000</td>
<td>$52,000</td>
</tr>
</tbody>
</table>

### Spousal Impoverishment Income Allocation & Allowances (Monthly Amounts)

**Community Spouse Allocation (Effective 1/1/20)**

The maximum allocation is the lesser of $3,216.00 or $2,818.34 plus any excess shelter allowance. (The lower allocation limit does not change with the COLA increases. This amount changes on 7/1.)

"Excess shelter allowance" means shelter expenses above $845.50 per month. Shelter expenses include: mortgage, rent, taxes, insurance, maintenance fees, and a utility allowance. (This amount changes on 7/1.)

$845.50 is subtracted from the community spouse’s shelter costs. If there is a remainder, it is added to $2,818.34 to increase the allowable allocation, not to exceed the maximum allocation.

**Dependent Family Member Allocation**

$704.58 per dependent family member living with the community spouse. (This amount changes on 7/1.)

**Personal Needs Allowance**

$45 for institutionalized individuals (This amount changes on 7/1.)

**Community Waivers Allowance**

$963 to $2,349 for a person in Community Waivers

For local information & assistance with Medicaid or other benefits questions, contact ADRC of Brown County.

Updated 01/6/2020, with limit changes effective 01/01/2020.

Source: State of Wisconsin, Department of Health Services, Division of Health Care Access & Accountability. This document is being issued pursuant to 42CFR § 447.205—Public notice of changes in Statewide methods and standards for setting payment rates.

Reprint provided courtesy of the ADRC of Brown County (920-448-4300, www.adrcofbrowncounty.org).

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