

Spousal Impoverishment Protection 2024



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

Medicaid is a federal 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 such as your own home, assisted living facility, or community based residential facility. 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” refers to special financial provisions in Medicaid law. These provisions affect how income and assets are counted for certain married couples enrolled in a long-term care program.

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 the application for long-term care services through Medicaid or your application will be denied. If your spouse did not sign the application, you can use the Request for Community Spouse Signature (form F-02733) 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.

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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 assets you and your spouse can keep is based on the value of your total combined assets as of:

- The day you entered the medical care facility for a continuous period of 30 days or more, or
- The day you were first determined eligible for a community-based waiver program

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 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

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 those 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 applicant 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

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 eligibility. 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 is subtracted 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 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 next page.

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.

Please contact the ADRC of Brown County at (920) 448-4300 for further information and assistance.

Spousal Impoverishment Assets (Total Amount) Effective 1/1/24

If the married couple's total countable assets are:	Then the CSAS is:	Total Wisconsin Medicaid asset limit (CSAS + \$2,000):
\$308,280 or more	\$154,140	\$156,140
Less than \$308,280 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 7/1/24

Community spouse income allocation	<p>You can give some of your income to your community spouse to raise their income up to the maximum allowable amount of \$3,853.50 or \$3,406.66 plus an excess shelter allowance, whichever is less.</p> <p>The excess shelter allowance is only given when the spouses do not live together. It is calculated by adding together the community spouse's shelter expenses (such as mortgage, rent, taxes, insurance, maintenance fees, and a standard utility allowance) and subtracting \$1,022.00. Any remaining amount is considered the excess shelter allowance and is added to \$3,406.66 up to the maximum of \$3,853.50</p>
Dependent family member income allocation	<p>You can give some of your income to dependent family members who live with your spouse to raise their income up to the maximum allowable amount of \$821.67. The amount that can be allocated to each dependent family member is calculated by subtracting the dependent family member's income from \$2,465.00 and dividing the result by three</p>
Institutional Medicaid personal needs allowance (effective 7/1/24)	\$55 for institutionalized spouse.
Community-based waiver programs allowance for the spouse participating in a community-based waiver program	<p>The community based waiver participant may keep \$1,123 for their personal needs. The amount of this deduction can be higher if the member has earned income from a job or self-employment or housing costs above \$350 a month. The maximum allowance is \$2,829.</p>

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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