MA-3322 – COMMUNITY SPOUSE RESOURCE PROTECTION
ISSUED 05/01/11 – CHANGE NO. 07-11

I. INTRODUCTION

Community Spouse Resource Protection is a reserve procedure used when a legally married individual needs Medicaid help with the cost of care when institutionalized for more that 30 days. This includes help with the cost of hospital stay. An assessment is done to determine how much of the couple's assets can be kept by the spouse at home. Whenever the individual is institutionalized for more than 30 days, community spousal resource protection should be explained to the representative and the record documented. Policy for this program is contained in MA-2231, Community Spouse Resource Protection of the Aged, Blind, and Disabled Medicaid Manual.

II. DEFINITIONS

A. Continuous period of institutionalization (CPI)

CPI is 30 consecutive days in medical facility or combination of two or more medical facilities. If the individual in one of these facilities is discharged home or to an adult care home during the first 30 days, there is no CPI. The CPI continues if the a/r is discharged from a medical facility but returns within 30 days.

B. Institutionalized Spouse (ISP)

An individual applying for or receiving Medicaid who

1. Is in a long term care living arrangement;

    a. SNF, ICF, ICF-MR, state mental hospital, swing bed or inappropriate level of care bed, or approved for a CAP waiver program, or

    b. General hospital (acute care) after 30 days, and

2. Is married to someone who is not in long term care, and

3. Began his first continuous period of institutionalization (CPI) on or after October 1, 1989.

(II.)

C. Community Spouse (CUSP)

The non-institutionalized spouse of an institutionalized spouse (home or in domiciliary). A community spouse who is approved for CAP remains a community spouse.

D. Community Spouse Resource Allowance (CSRA)

A portion of the total of all countable assets on the first day of month that the a/r began his first CPI):

1. Owned and available to either spouse or both spouses according to the rules in MA-3320, Resources.

2. Owned jointly with someone outside of the budget unit, when available. (i.e. consent/participation of all owners not required to access, or consent/participation given by other owners.)

E. Protection Period

Period of time assets are protected for the Community Spouse (CUSP). Approved recipients are allowed a period of time during which assets in the amount of the CSRA are excluded from reserve of the a/r regardless of who hold assets in their name. See MA-2231, Community Spouse Resource Protection, for instructions on determining the protection period for a Community Spouse.

III. POLICY PRINCIPLES

A. Availability Rules

From the point of institutionalization through approval of the ISP for Medicaid coverage of cost of care, all assets available to either spouse or jointly owned by the couple are available to the institutionalized spouse regardless of who actually holds the assets.

1. Follow rules in MA-3320, Resources to determine whose assets are counted.

2. These assets must be considered for the purpose of determining what portion may be protected for the CUSP and reserve eligibility for the institutionalized spouse.

(III.)

B. Assessment Rules

An assessment for spousal resource protection is a formal estimation of how much of the couple's savings or other assets can be kept by the CUSP. The purpose of the assessment is to determine:

1. Total countable reserve of the couple on the first day of the month that institutionalized spouse begins first CPI, and

2. Amount of the Community Spouse Resource Allowance (CSRA) (how much of the total reserve is protected for the CUSP).

IV. PROCEDURES FOR SPOUSAL RESOURCE PROTECTION

There are five procedural steps to determining how much of the couple assets can be protected. See MA-2231, Community Spouse Resource Protection of the Aged, Blind, and Disabled Medicaid Manual for further details.

A. Step One: Determine Total Countable Reserve for Month That first CPI Began.

1. Determine the date that one spouse began his Continuous Period of Institutionalization (CPI). See II.A. above.

2. Verify value of all assets in which either or both spouses have ownership interest as of the first moment of the first month of the first CPI that began on or after October 1, 1989.

3. List every item of reserve, its value, how verified, and who owns it.

4. Exclude any assets that are not countable based on rules in MA-3320, Resources.

5. Exclude any assets which are not available to either spouse based on rules in MA-3320, Resources.

B. Step Two: Determine Amount Protected for CUSP.

1. The protected share is called the Community Spouse Resource Allowance (CSRA).

2. If the total countable /available reserve for the month of the CPI began is:

   a. $21,912 or less, protect all assets.

(IV.B.2.)

b. More than $21,912, but no more than $43, 824, protect $21,912.

c. More than $43, 824 but not more than $219,120 protect one half.

d. More than $219,120, protect $109,560.

3. The CSRA does not change unless a different amount is established.

4. If an assessment is completed, but no application is made, provide the couple/representative with a copy of the documentation and file the original in a special file, "Assessments for Spousal Resource Protection."

C. Step Three: Determine Total Countable Reserve at Application.

1. Verify reserve total of the budget unit at application.

2. Repeat tasks 2-5 in II.A., Step One above, verifying the total countable assets owned by the couple and/or either spouse individually at the first moment of each period for which assistance is requested.

3. From the total countable/available reserve of the couple, deduct the CSRA (determined in Step Two).

4. The remainder is the total amount of reserve available to the applicant and used to determine the applicant's eligibility.

5. There are specific rules relating to spousal protection and burial exclusion.

a. Do not exclude countable burial assets or liquid assets for the burial of either spouse at assessment.

b. Irrevocable burial assets are unavailable and are not included in the assessment.

c. When determining reserve eligibility for the institutionalized applicant, burial exclusion applies to applicant and the spouse.

D. Step Four: Determine Applicant's Reserve Eligibility.

1. Remaining Assets (Step Three) are available to the applicant regardless of which spouse actually has ownership interest, or in whose name the asset is held.

(IV.D.)

2. Compare this amount to the reserve limit for 1. Refer to MA-3320, Resources for reserve limits.

   a. If it is at the reserve limit or less, the a/r is reserve eligible. Proceed to Step Five below.

   b. If it is over the reserve limit, if applicable, apply the qualified Long Term Care Partnership program resource disregard to those assets owned solely by the individual and his/her share of jointly owned assets, if applicable.

      If it is still over the reserve limit, the a/r is not eligible until it is reduce to the reserve limit.

   c. Apply reduction/rebuttal procedures located in MA-2231, Community Spouse Resource Protection of the Aged, Blind, and Disabled Medicaid Manual.

      (1) If reduction/rebuttal options have been thoroughly reviewed and either pursued or refused by the couple, and the applicant's reserve total exceeds the limit for one on the 45th day, deny for excess reserve.

3. Establish protection period for the CSRA, once reserve has been reduced to the CSRA plus the allowable limit for 1.

   a. Resources equal to the CSRA excluded through the end of the protection period regardless of which spouse has the resources in his name.

   b. The protection period ends on the last day of the 6th month of the first or second certification period, whichever is appropriate.

      (1) If application approved by the end of the fourth month of the first certification period:

          Protection period ends at the end of the first c.p.

      (2) If application approved in the 5th or 6th month of first certification period or if held and not approved until second certification period:

          Protection period ends at end of second certification period.

   c. If protected resources (in the amount of the CSRA) are not transferred to the community spouse's name/control by end of the protection period:

(IV.D.3.c.)

(1) The resources become countable/available to the Medicaid recipient;

(2) Propose termination if this causes the LTC recipient's reserve to exceed the allowable limit.

4. Whenever there is an application for Medicaid help with cost of care and a community spouse, notify the a/r, his representative, and the community spouse of the results of the assessment and protection period.

a. At minimum, notification at disposition of an application must include the following information:

(1) Total value of all countable resourced and how the value was established at the point a/r began his first CPI and the point at application.

(2) The amount of resources (CSRA) which are protected for the community spouse and the notice of the right to a fair hearing.

(3) That the a/r may retain countable resources up to the reserve limit for 1.

b. If the application was approved, the notification must also include;

(1) The amount of assets that must be transferred to the name of the community spouse.

(2) The date the protection ends.

(3) The following rules about the protection period:

(a) Verification must be provided on all transfers from the couple (or from the recipient's name only) to the community spouse's name only; and

(8) All resources remaining in the recipient's name become countable and available again.

(4) The amount of income protected for the community spouse, if applicable.

c. Attach the notification regarding the results of assessment and protection to the appropriate eligibility notices.

(IV.)

E. Step Five: Determine Recipient's Total Countable Reserve at End of Protection Period.

1. Before the end of the protection period, the recipient or the recipient's representative must provide verification that ownership of an amount of assets equal to the CSRA were transferred from the a/r's name (or both names) to the name of the community spouse only.

   a. In order to remain eligible, assets in the name of the a/r must be reduced to the reserve limit for one.

   b. Any countable assets remaining in the recipient's name at the end of the protection period are countable to the recipient.

2. Either spouse may transfer any amount of resources at any time to the other spouse without penalty.

3. Propose termination following timely notice requirements if:

   a. Verification has not been provided by the end of the protection period that the protected amount has been transferred; and

   b. Countable assets remaining in the recipient's name exceed the reserve limit for 1.

4. Administratively reopen a terminated case and redetermine ongoing eligibility if the recipient later provides verification those assets was transferred prior to the end of the protection period.

F. Changes Affecting Spousal Resource Protection

There are certain changes to Medicaid cases that may affect the spousal resource protection. These changes include, but are not limited to:

1. Community spouse dies; or

2. Deinstitutionalization of Medicaid recipient; or

3. Ongoing PLA recipient enters Long Term Care; or

4. Transfer of resources.

Refer to MA-2231, Community Spouse Resource Protection of the Aged, Blind, and Disabled Medicaid Manual for procedures when a change in situation has occurred.