Iowa Department of Human Services

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Protection of Your Resources and Income

How Medicaid Can Help Married Couples Pay the Cost of a Spouse's Care in a Medical Facility

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This pamphlet answers questions on how Medicaid may be able to help a married couple pay the cost of a spouse's care in a medical facility. The main point is that the couple may not have to spend all of their money before the spouse in the medical facility qualifies for Medicaid.

The policies in this pamphlet apply only if you or your spouse plan to stay, or have stayed, in the medical facility 30 days or more and entered after September 30, 1989.

Some of this information may be hard to understand. If you have any questions, please contact your local Department of Human Services worker.

Here is an explanation of some of the terms:

Medical Facility means a hospital or nursing facility (nursing home).

Resource Protection means that a certain amount of the things owned and the money saved by a couple can be kept by the spouse at home. Resource protection is also referred to as the "resource allowance."

Income Allowance means the amount of income that can be protected for the spouse at home.

Community Spouse is also referred to as "the spouse at home." The community spouse could live in the couples' own home, a custodial home, an apartment, with relatives, or in other non-facility settings.

Medicaid (also known as Title 19) is a program that is funded with both federal and state money and can help pay medical bills. The amount of medical bills that Medicaid pays is based on certain resource and income guidelines that will be described later.

When can Medicaid help?

Medicaid can pay up to the full facility cost depending on your resources and income. If the spouse in the facility wants to find out if he or she can qualify for the Medicaid program, an application must be filled out and given to the Department of Human Services (DHS) office in the county where the facility is located. The form is called "*Health Services Application*" and is available at your local DHS office.

Different Medicaid policies apply for persons who stay in a medical facility less than 30 days or entered before September 30, 1989. For DHS to determine your eligibility for Medicaid in these situations, you will need to complete an application.

To get Medicaid, the spouse in the medical facility must be:

- Aged (65 or older), or
- Blind or disabled.

Please see the pamphlet "*Medicaid for SSI-Related Persons*" for more information on other eligibility factors that must be met by the spouse in the medical facility. This pamphlet is available from your local DHS office.

The following pages have information on the resource and income guidelines DHS will follow to see if Medicaid can pay the cost of care in the medical facility.

What resources can be protected?

When a spouse enters a medical facility on or after September 30, 1989, there are four steps to determine the amount of resources that can be protected for the spouse at home and the date the spouse in the medical facility can qualify for Medicaid.

1. **Total Resources:** If the spouse entering a medical facility is going to need Medicaid now or in the future, the protection of resources for the spouse at home depends on the amount of the couple's combined resources as of the first day of the month in which the spouse entered the medical facility.

   Because of this, the amount of resources that can be protected should be determined as soon as possible. Your DHS worker can give you a form called "*Resources Upon Entering a Medical Facility.*" Fill out this form as soon as your spouse enters the medical facility. It is better to fill this form out as soon after entry as possible. It is easier to prove your resources for the month the spouse entered the facility than it will be to prove them at a later date.

   When you have completed the form, please turn it in to your local DHS office. DHS will request information and documents to confirm what you stated on the form. DHS will also need each spouse's social security number, which the Internal Revenue Services will match with its records. Through a "*Notice of Attribution of Resources*," DHS will inform each spouse of the decision on what resources can be protected. Otherwise this information is confidential.

2. **Countable Resources:** Resources that are owned as of the first day of the month of entry into the facility must be looked at by DHS but some resources are not counted.

However, all resources should be listed on the "*Resources Upon Entering a Medical Facility*" form.

Resources that are not counted include:

- The house that the spouse (or dependent relative) lives in,
- An automobile,
- Cash value of life insurance policies when the face value totals less than $1,500,
- An irrevocable funeral contract,
- Burial spaces, or
- Funds set aside for funeral expenses (up to $1,500).

Either spouse can use the resources that are not counted.

Examples of resources that are counted include:

- Cash,
- Savings and checking accounts,
- Certificates of deposit,
- Stocks and bonds,
- Contracts for the sale of real estate,
- Cash value of life insurance when the face value is more than $1,500.

3. **Resources for Each Spouse:** The amount of resources that can be protected for the spouse at home is the total amount of your countable resources as a couple divided by two. The spouse at home can protect half of the total resources or $24,000, whichever is greater. However, if half of the resources are more than $119,220*, the spouse at home can only protect $119,220*.

   * These amounts are indexed for inflation and change when the federal government releases the annual inflation rate.

   The amount of protected resources for the community spouse may be increased by a court order, or by an appeal decision, in order to increase income for the community spouse.

Resources given away by either spouse may affect the Medicaid eligibility.

4. **Medical Eligibility:** To determine if Medicaid can help pay the facility costs for the spouse in the facility, the resource allowance for the spouse at home is subtracted from the couple's total resources. If the result is $2,000 or less, the spouse in the medical facility meets the resource test for Medicaid.

   If the spouse in the medical facility has resources of more than $2,000, Medicaid cannot help pay the facility costs. But the spouse may still qualify for other Medicaid help.

An application must be made for Medicaid before DHS can determine eligibility. Your DHS worker will follow these guidelines to determine the amount of your protected resources and see if the requirements are met to qualify for Medicaid. Here are some examples that may help you better understand resource protection:

Example: Mr. Erickson entered a nursing home on March 27, 2016. He and his wife have total countable resources of $300,000. One half of their countable resources is $150,000. Mrs. Erickson, living at home, is able to keep $119,220* and the remaining $180,780 go to Mr. Erickson. Since Mr. Erickson's resources exceeded the $2,000 resource limit, he does not qualify for Medicaid at this time.

Example: Mr. Roth entered a nursing home on May 1, 2016. Mr. and Mrs. Roth have countable resources of $11,000. All of the resources are protected for Mrs. Roth since total resources are less than $24,000. Mr. Roth is eligible for Medicaid as his countable resources are less than $2,000.

Note: Medicaid can still be granted in certain cases of hardship. This can happen when there is estrangement and the spouse in the facility has used all legal means to access the resources of the estranged spouse.

Does it matter whose name the resources are in?

Yes. After DHS determines that the spouse in the medical facility is eligible for Medicaid, resources must be counted for the spouse who actually owns the resources. Any resources owned by the spouse in the medical facility that are more than the resource limits must be transferred to the spouse at home (please see the pamphlet "*Medicaid for SSI-Related Persons*" for information on resource limits for individuals). This must be done so the spouse in the facility can remain eligible for Medicaid.

Here is an example of resource protection and resource ownership:

> **Example: Mr. Johnson entered a nursing home June 2, 2016. He and his wife together have countable resources of $25,000. Mrs. Johnson is able to keep $24,000. The remaining $1,000 is counted as a resource to Mr. Johnson and he can qualify for Medicaid. However, Mr. Johnson owns a $5,000 Certificate of Deposit (CD). In order to remain eligible for Medicaid, he must transfer ownership of at least $4,000 of the CD to his wife so his resources will be within the $2,000 limit. He could transfer all the value of the CD to his wife. This transfer must be made within 90 days.**

What is the Long-Term Care Partnership Program?

The Iowa Long-Term Care Partnership program is a cooperative effort between private long-term care insurers and Medicaid to encourage individuals to plan ahead and provide for their long-term health needs.

People who purchase long-term care partnership policies may be able to qualify for Medicaid before spending all of their assets.

Partnership policies must meet state and federal requirements. They are only marketed by licensed insurance professionals who have completed eight hours of training required by the state of Iowa Insurance Division.

How does Medicaid asset protection work?

The Iowa partnership policy includes a feature known as Medicaid asset protection. This feature provides dollar-for-dollar asset protection. Each dollar that your partnership policy pays out in benefits entitles you to keep a dollar of your assets if you ever need to apply for Iowa Medicaid long-term care services. Protected assets are not considered in determining Medicaid eligibility.

> **Example: If you have a long-term care partnership policy that paid $200,000, you would be able to protect $200,000 in assets and still qualify for Medicaid. The amount of assets you are able to protect under the partnership policy is in addition to the $2,000 Medicaid allows an individual to keep.**

Are the protected assets under the Long-Term Care Partnership program subject to Medicaid estate recovery?

No. The asset adjustment is exempt from estate recovery for the member and the member's spouse.

What is the income limit?

The income of the spouse in the medical facility cannot be more than three times the SSI benefit (which currently is $2,199* per month) for Medicaid to help pay the cost of the facility. If the income of the spouse in the facility is more than three times the SSI benefit, Medicaid will not pay for the facility costs but may be able to pay for other medical services.

What income can be protected?

Once the spouse living in the medical facility qualifies for Medicaid, income can be protected for the spouse at home. These guidelines determine what income can be protected.

A. **Monthly Income:** The spouse in the medical facility can keep $50 of monthly income for personal needs, plus an additional $65 from earned income. The spouse in the facility can allow the spouse and certain dependent relatives at home to use the income that is above $50, or above $115 if there is earned income.

B. **Income Allowance:** The amount of income that can be allowed for the spouse at home, unless there is a court order or an appeal decision, is $2,980.50* per month. This is called “income allowance.” The income of the spouse at home is subtracted from the income allowance of $2,980.50 to determine the amount of income the spouse in the facility can give to the spouse at home.

An amount of income can also be allowed for certain dependent relatives living with the spouse at home. This amount is determined by subtracting the gross monthly income of each dependent from $2,003* and dividing that amount by three. Remember, the spouse in the medical facility must first provide income for the spouse at home before any income can be made available to the dependents.

C. **Remaining Income:** The remaining income of the spouse in the facility is used to pay for any unmet medical needs and toward payment of the cost of care in the facility. Payment to the facility is called client participation.

Your DHS worker will follow these guidelines to determine the protected income for the spouse at home and any dependents that qualify. Here are some examples that may help you better understand income protection:

Example: Mrs. Rogers lives in a skilled nursing facility with $900 gross monthly income and Mr. Rogers lives at home with $1,200 gross monthly income. The amount of income protected for Mr. Rogers is determined as follows:

Mrs. Rogers (in facility)

$ 900.00	**monthly income**
- 50.00	**personal needs**
$ 850.00	**is available for Mr. Rogers**

Mr. Rogers (at home)

$ 2,980.50	**income allowance**
- 1,200.00	**monthly income**
$ 1,780.50	**could be allowed from Mrs. Roger's income for Mr. Rogers, but she can only give the $850 from her income.**

Example: Mr. Smith lives in a nursing home and Mrs. Smith is living at home. Mr. Smith has gross monthly income of $1,800. Mrs. Smith has gross monthly income of $1,300. The amount of income from Mr. Smith to protect for Mrs. Smith is determined as follows:

Mr. Smith (in facility)

$ 1,800.00	**monthly income**
- 50.00	**personal needs**
$ 1,750.00	**is available for Mrs. Smith**

Mrs. Smith (at home)

$ 2,980.50	**income allowance**
- 1,300.00	**monthly income**
$ 1,680.50	**can be allowed from Mr. Smith's income for Mrs. Smith.**

Mr. Smith has remaining income of $69.50 after giving the $1,680.50 to Mrs. Smith ($1,750.00 minus $1,680.50 leaves $69.50). The remaining income goes to the facility as "client participation."

"Client participation" means a spouse in a medical facility shares in the cost of care by paying some of his or her own income to the medical facility. DHS determines the amount of client participation. The income of the spouse at home is NOT used to pay for the cost of care of the spouse in the facility.

If there is income remaining after the diversion to the spouse and dependents, some of the remaining income can be used to pay for private health insurance for the institutionalized spouse.

Does it matter whose name the income is in?

Usually when income is issued in the name of an individual, it is considered income to that individual. If the income is in the names of both spouses, the income is considered as one-half for each spouse. If there is trust property, the income shall be considered according to the trust document. Other examples of income include Social Security and Veteran's benefits, pensions from employment, etc. The income of each spouse must be established and any changes in income of either spouse must be reported to the local DHS office within 10 days of the change. If there is a dependent receiving protection of income, any changes in the dependent's income must also be reported within 10 days.

For a more complete explanation of Medicaid policies (including client participation) for people who live in a medical facility, please see pamphlet "*Medicaid Information for People in Nursing Homes and Other Facilities*."

What are my rights?

If you are dissatisfied with the actions or lack of action by DHS, you should discuss the matter with your DHS worker. If a satisfactory agreement cannot be reached, you have the right to file an appeal and ask for a hearing.

If you believe more resources should be protected for the community spouse to raise the community spouse's income to the monthly income allowance level, you have the right to file an appeal and ask for a hearing.

You can appeal in person, by telephone or in writing for Medicaid. To appeal in writing, do one of the following:

- Complete an appeal electronically at https://dhssecure.dhs.state.ia.us/forms/, or
- Write a letter telling us why you think a decision is wrong, or
- Fill out an Appeal and Request for Hearing form. You can get this form at your county DHS office.

Send or take your appeal to the Department of Human Services, Appeals Section, 5th Floor, 1305 E Walnut Street, Des Moines, Iowa 50319-0114. If you need help filing an appeal, ask your county DHS office.

You have 90 calendar days to file an appeal from the date on the *Notice of Decision* or *Notice of Attribution of Resources*. **Discussions with your worker or other DHS staff do not extend this time limit.**

You may keep your benefits until an appeal is final or through the end of your certification period if you file an appeal within 10 calendar days of the date the notice is received or before the date the decision goes into effect. A notice is considered to be received five calendar days after the date on the notice.

If a hearing is allowed, it will be an informal meeting before an Administrative Law Judge from the Department of Inspections and Appeals, in which you can present your complaint. All the facts will be reviewed to see if the decision was correct or should be changed.

What are my responsibilities?

Present your Medical Assistance Eligibility Card each time you request services from a health care provider.

Inform your local DHS office of changes in your address, income, resources or household size (marriages, births, deaths) and any other changes that may affect your eligibility or amount of benefits (this includes the income and resources of a spouse, dependents or other persons who may affect your Medicaid eligibility). Please report any changes within 10 days for someone currently receiving benefits and within 5 days for an applicant.

Inform your health care providers of any medical resources that you have (Medicare, insurance, damage suits, etc.).

Notify your local DHS office within 10 days of any changes in your medical resources or health care coverage. You may be required to provide information and proof of any medical resources available to you.

File a claim or application for any income or medical resource that may be available to you. If required, you must also cooperate in the processing of any such claim or application.

Refund to DHS any money that you receive from a person or company to pay medical expenses which would otherwise be paid by Medicaid.

Failure to comply with your responsibilities can result in denial or cancellation of Medicaid. It may also result in the establishment of overpayments for which you will be responsible to pay back or possible prosecution for fraud.

Policy on Nondiscrimination

It is the policy of the Iowa Department of Human Services (DHS) to provide equal treatment in employment and provision of services to applicants, employees and clients without regard to race, color, national origin, sex, sexual orientation, gender identity, religion, age, disability, political belief or veteran status.

If you feel DHS has discriminated against or harassed you, please send a letter detailing your complaint to:

Iowa Department of Human Services, Hoover Building, 5th Floor – Policy Bureau, 1305 E Walnut, Des Moines, IA 50319-0114 or via e-mail contactdhs@dhs.state.ia.us

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