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No. 2 Vol. 3

February 24, 2006

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Resource and Income Limitations for Spouses of Medicaid Applicants

by Dana E. Bookbinder, Esquire

Now that the President has signed the Deficit Reduction Act of 2005, it is even more crucial for families to be proactive in protecting their loved one's health care options and financial savings. Often individuals are lulled into thinking that the government will not aggressively pursue their assets if they don't engage in legal planning, but the opposite is in fact true. In cases of married couples, the healthier spouse often mistakenly believes that his or her assets are safe while only the ill spouse's assets have to be paid to a nursing facility for that spouse's care. Again, this is incorrect, and early legal planning can save the family much grief in addition to substantial assets. While both married and single individuals can substantially benefit from early legal planning, under Congress' new budget saving scheme, married couples, in particular, would be passing up the opportunity to protect their savings if they failed to seek legal counsel since the asset and income limitations they would face for Medicaid eligibility are low.

The resource allowance permitted to be retained by the spouse of a benefits recipient is known as the "Community Spouse Resource Allowance" (CSRA). This allowance was established by the Medicaid Coverage Catastrophic Act (MCCA), enacted to apply to individuals institutionalized on or after September 30, 1989 to protect spouses against impoverishment.

The amount of the community spouse resource allowance is generally based on one half (1/2) of the couple's combined total countable resources as of the first period of continuous institutionalization. A resource assessment of the couple's countable assets as of the first period of continuous institutionalization of one of the spouses will be undertaken when a Medicaid application is filed. By law, it must also be done upon the request of the Medicaid applicant, the applicant's spouse, or the personal representative of the applicant or the spouse. A continuous period of institutionalization is broken by absences from the institution for thirty consecutive days. For 2006, the CSRA is subject to a maximum of \$99,540 and a minimum of \$19,908. These numbers are adjusted on an annual basis.

In addition to a resource allowance, the spouse of a Medicaid recipient is entitled to a monthly income allowance. Generally, the income of an individual who is institutionalized must be forwarded to his nursing home on a monthly basis. However, this spouse is allowed to retain her own income plus, depending on the amount of her income, a monthly allowance to be taken from the institutionalized spouse's income. This allowance is called the Minimum Monthly Maintenance Needs Allowance (MMMNA). Currently, the amount is based upon the difference between \$1,604

and the community spouse's income plus an additional amount to cover shelter expenses for the community spouse. The shelter expenses are based upon the actual mortgage and real estate taxes that must be paid plus certain allowances for utilities. These figures upon which the MMMNA calculation are based are adjusted annually.

Failure to plan ahead for the long-term care costs of a spouse can severely impact the healthy spouse's financial status. However, elder law attorneys can increase both the spouse's resource and income allowances through agency hearings. Additionally without a hearing, elder law attorneys can help their clients maintain their standards of living, enabling them to continue living independently in their homes.



Begley & Bookbinder, P.C. is an Elder & Disability Law Firm with offices in Moorestown, Stone Harbor and Lawrenceville, New Jersey and can be contacted at 800-533-7227. The firm services southern and central New Jersey and eastern Pennsylvania.

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