

Health Care Finance and Administration	Section: Institutional Medicaid
Policy Manual Number: 125.015	Chapter: Resource Assessment

RESOURCE ASSESSMENT

Legal Authority: 42 USC 1396r(c)(1)(B); 42 USC 1396r-5

1. Policy Statement

The Medicare Catastrophic Coverage Act of 1998 amended Medicaid income and asset limit rules so that the community spouse of an individual applying for Institutional Medicaid does not become impoverished as a result of the spouse gaining Medicaid eligibility. When determining eligibility for the institutionalized spouse, a calculated amount of the couple's assets is allocated to the community spouse to be used for his or her own needs. The Medicaid rules that govern the special treatment of a community spouse's income and resource allocation are referred to as spousal impoverishment policy. The main purpose of the spousal impoverishment policy is to ensure that the community spouse has sufficient income and assets to remain in his or her home.

The process for determining the amount of resources that will be allocated to the community spouse begins by taking a snapshot of all of the couple's countable resources. The community spouse's share of resources is determined, and that amount is subtracted from the total resources in order to determine the institutionalized individual's resource eligibility. Any amount of resources in excess of the \$2,000 limit (after the community spouse's share has been subtracted) must be depleted prior to the applicant gaining TennCare Medicaid eligibility.

2. The Resource Assessment

a. Defined

The resource assessment is a snapshot of all countable assets owned by the couple at the time the resource assessment is requested. All of the countable resources owned individually or jointly by both spouses are counted; resources excluded under the [*ABD Countable and Excluded Resources*](#) policy are not counted in the resource assessment. Only one resource assessment will be completed for a married couple.

b. Who is Required to Have a Resource Assessment

A resource assessment is required for all individuals applying for Institutional Medicaid who have a legal spouse living in the community, whose whereabouts are known. If an estranged community spouse refuses to cooperate with providing verifications of assets owned by either spouse, the community spouse should be notified of the State's requirement to determine the applicant's resource amount and spousal allocation for resources owned by the applicant and the community spouse. Undue hardship may be requested with the [*Undue Hardship Waiver Form*](#). Please contact the Eligibility Policy Unit for further guidance in cases such as these.

If the community spouse lives out of state, the resource assessment is required if the community spouse can be located and the couple is still legally married.

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The resource assessment and Community Spouse Resource Maintenance Allowance (CSRMA) may be allowed if a couple is still legally married, but living separately and consider themselves separated, if the whereabouts of the community spouse are known or he or she can be located.

c. Request Time Frame

The resource assessment may be requested whether or not the resident is applying for TennCare Medicaid at the time of admission to a nursing facility. Generally, it may be to each spouse's benefit to have the assessment done at the time of admission, even if no concurrent application for TennCare Medicaid is made, since the availability of documentation at this time may result in the protection of a greater amount of assets for the community spouse. Under no circumstances can a resource assessment be completed prior to the date of admission to a long-term care facility (LTCF) or enrollment in a Home and Community Based Services (HCBS) waiver.

If the request for the assessment is delayed until the time of application, the assessment will be done retroactively to the time of admission, but the results may be limited by the availability of documentation. When a TennCare Medicaid application is made, the results of the assessment are used as part of a formula to determine how much of the total assets may be protected for the community spouse. The remaining resources after allocation to the community spouse are considered available to the institutionalized individual.

If it is discovered at application, or at any time after the assessment is completed, that not all resources were reported or known, the assessment is recalculated. Resources available at the beginning of the period of institutionalization, regardless of interruptions of confinement in long-term care, must be reconstructed and documented.

Transfer of assets is not considered at the time an assessment only is requested (i.e., no TennCare Medicaid application filed concurrently).

d. Longevity of the Assessment

An assessment remains in effect until a HCFA application is filed, regardless of any interruptions in long-term care.

If a resource assessment is completed and the individual applies for TennCare Medicaid, but is found ineligible, the original resource assessment is still valid if the individual applies again in the future.

e. Application Filed at Assessment Request

When an assessment is requested, advise the individual or representative that he or she must provide all necessary documentation and verification timely to ensure that an accurate assessment

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can be completed within a reasonable amount of time (i.e., 30 days from the date all required documentation is received).

Transfer of assets is considered as part of the application process whether a resource assessment has been previously requested or is requested at application.

3. Responsibilities of LTCF

LTCFs are required by law to notify all admitted residents, spouses and representatives of their right to request an assessment of the resident's assets and the assets of the community spouse.

The provider must inform all residents, spouses and representatives orally and in writing that they may request an assessment of their resources by contacting HCFA or TNHC.

4. Resource Assessment Procedure

The resource assessment process is completed offline. When a resource assessment is requested, the Eligibility Specialist gathers appropriate documentation to verify countable resources included in the resource assessment. The *Resource Assessment* form is completed by the Eligibility Specialist. The Eligibility Specialist thoroughly documents the resources used for the resource assessment, the CSRMA amount and any spend down amount determined by the assessment in case notes. Once the form is completed and the amount of CSRMA is determined, a copy of the form, notice of the CSRMA determination and any spend down amount are sent to the individual. The signed Resource Assessment form, which should include the spouse's signature, is returned to HCFA and a copy is maintained for the case.

5. CSRMA

a. CSRMA Amount

The CSRMA is based on the spouses' combined countable resources documented in the resource assessment. The amount of the CSRMA is the greater of:

- One-half (1/2) of the total countable resources, but not less than \$23,844 or greater than \$119,220 (as of January 2015)
- One-half (1/2) of the total countable resources, but not less than \$23,448 or greater than \$117,240 (January – December 2014);
- The court-ordered amount; or
- The amount determined by an appeals officer due to a hardship situation (extreme financial duress).

When an application is filed by or on behalf of the spouse seeking LTSS, the CSRMA amount determined in the resource assessment is the amount allocated to the community spouse. This amount is deducted from the combined resources of both spouses as of the first day of the first

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month for which assistance is requested. None of the community spouse's share of the resources is considered available to the individual when determining his or her TennCare Medicaid eligibility.

b. Refusal of CSRMA

A community spouse who receives Families First (FF), Supplemental Nutrition Assistance Program (SNAP) benefits, Supplemental Security Income (SSI), TennCare Medicaid, Veterans Affairs (VA) pension, Qualified Medicare Beneficiary (QMB) benefits or other needs-based assistance may accept or decline all, some or none of the CSRMA if the allocation would cause the loss of or decrease in those program benefits. If the community spouse accepts only a portion of the CSRMA, the remainder amount is counted as part of the institutionalized spouse's resources.

c. CSRMA Examples

Example 1: The combined resources of Mr. and Mrs. Smith total \$25,000. The total divided by 2 equals \$12,500. Mr. Smith's, the community spouse's, share of the total resources is the required minimum (\$23,844). This leaves \$1,156 available to the institutional spouse. Mrs. Smith is resource-eligible for Institutional Medicaid.

If the resources determined available to the institutionalized spouse exceed the \$2,000 resource limit, plus the allowable burial resource (see *ABD Countable and Excluded Resources* policy), the institutionalized individual is not eligible until resources are within allowable limits.

Example 2: The combined resources of Mr. And Mrs. Revco totals \$50,000. The total divided by 2 equals \$25,000. Since one-half of the total is above the required minimum, Mrs. Revco's share equals \$25,000. This leaves \$25,000 available to the institutional spouse. Mr. Revco must decrease his share of the resources to \$2,000 in order to be resource-eligible. When total resources do not exceed \$27,000 (\$25,000 + \$2,000), then Mr. Revco will be resource eligible.

6. Resource Transfer as a Result of Assessment

a. CSRMA "Grace Period"

Sometimes a legal transfer of resources must occur to effectuate the results of a Resource Assessment. Following a resource assessment and initial approval of eligibility, resources must be transferred within 12 months of the approval. Both spouses must agree to the transfer in order to use the institutionalized spouse's share in determining his or her eligibility. The transfer may require conveyance of resources from the institutionalized individual to the community spouse, or vice versa. The community spouse who receives SSI, FF, VA pension, TennCare Medicaid or

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other needs-based benefits is not required to accept the total allocation if it will reduce or terminate his or her benefits.

b. Transfer Refusal

When the community spouse refuses to transfer resources to the institutionalized individual, the institutionalized spouse may still be eligible if the Eligibility Appeals Unit finds that undue hardship circumstances exist.

c. Hardship

Hardship may be determined when the institutionalized spouse and/or his or her spouse have resources in excess of the resource limit, the institutionalized spouse is otherwise eligible, and for whom TennCare Medicaid ineligibility will result in loss of essential nursing care which is not available from any other source.

If the community spouse has available assets, he or she is legally obligated to provide support. Hardship cannot be determined to exist unless assets have been reallocated as the result of an appeal decision or a court order.

7. CSRMA Appeals

a. When the Individual and/or Spouse Has Appeal Rights

Appeal rights are considered only after an HCFA application has been filed and either spouse alleges that the assessment or eligibility determination decision is not correct. An assessment completed exclusive of a filed application cannot be appealed. Revisions to the spousal allowance of resources can be made by the appeals officer or by court order (or by a HCFA Eligibility Specialist ONLY if additional verification/documentation is provided).

b. CSRMA Revisions

The amount of the community spouse’s resource maintenance allowance may only be revised by the appeals officer, by court order or by a HCFA Eligibility Specialist ONLY if additional verification/documentation is provided.

The CSRMA may be only be revised when:

- i. The initial assessment was alleged to be incorrect and the appeals officer confirms the allegations; or

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- ii. The community spouse's income, including the Community Spouse Income Maintenance Amount (CSIMA), is inadequate to meet the basic standard maintenance amount. See Section 8, Allocation of Additional Resources to the Community Spouse.

8. Allocation of Additional Resources to the Community Spouse

a. When Additional Resources May be Allocated to Community Spouse

An appeals officer may determine a larger CSRMA is necessary to offset a CSIMA that is below the required Standard Maintenance Amount (\$1,991.25). See CSIMA in the *Post-Eligibility Treatment of Income* policy. In the event that the institutionalized spouse does not have enough income to provide the community spouse with the SMA, and the couple has additional resources above the community spouse's protected amount (CSRMA), some or all of the institutionalized individual's resources can be allocated to the community spouse.

The Deficit Reduction Act (DRA) of 2005 requires all States to allocate the maximum amount of available income of the institutionalized spouse to the community spouse before granting an increase in the CSRMA. This is referred to as the "income-first" method.

b. Procedure

HCFA uses the Single Fixed Annuity model to address appeals when there is insufficient income to provide the community spouse with the minimum required CSIMA and the couple has additional resources. A single fixed annuity can turn a portion of an individual's savings in to income payments made for the rest of the individual's life. The procedure for establishing a single fixed annuity is listed below.

- i. Additional resources may be allocated to the community spouse through the administrative appeals process to make up any shortfall between the amount of income allocated from the IS to the community spouse and the Standard Maintenance Amount (SMA), if determined appropriate.
- ii. The amount of additional resources that are necessary to cover the income shortfall shall be determined in reference to the purchase of a Single Premium Annuity as follows:
 - 1. By calculating the shortfall between the amount of income allocated and the SMA, and then determining the amount of additional resources that must be invested in a single premium annuity in order to generate the income necessary to cover the shortfall.
 - 2. The amount of resources needed to cover the shortfall shall be determined in reference to an annuity calculator as adopted by the HCFA.
- iii. The additional resource allocation to the community spouse does not require the actual purchase of a Single Premium Annuity that is used for purposes of calculating the amount of the additional resource allocation.

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- iv. The amount of the community spouse's protected resources shall be excluded from this calculation.
- v. If a single premium annuity is actually purchased pursuant to these rules, the annuity must comply with all other relevant requirements of state and federal law. See *Annuities in ABD Countable and Excluded Resources* policy.
- vi. The amount of additional resources that are necessary to cover the shortfall in the SMA shall not be determined in references to any investment which contemplates the return of the entire principal at maturity.

Example: Mr. Smith enters a nursing facility on January, 2015, requests a resource assessment and submits an application for Institutional Medicaid. Mrs. Smith lives in the home and is not applying for or receiving Medicaid. Mr. Smith has an approved PAE in TPAES. Mr. Smith receives \$800/month in Social Security benefits and \$200/month in pension. Mrs. Smith has no income. Mrs. Smith's total shelter cost is \$500 per month and she receives the Standard Utility Allowance (\$335). Her calculated CSIMA is \$2,212. Mrs. Smith is allocated all of Mr. Smith's income (less \$50 PNA), which is \$950. Given that the income allocation is less than the Standard Maintenance Amount of \$1,991.25, there is an income shortfall of \$1,041.25.

The Smiths have \$260,000 in combined countable resources. Mrs. Smith receives the maximum resource allocation of \$119,220. The remaining \$140,780 is available to Mr. Smith. Given that Mr. Smith's resources exceed the \$2,000 resource limit, Mr. Smith is resource-ineligible for TennCare Medicaid.

The Smiths appeal the TennCare Medicaid denial on the basis of Mrs. Smith's income shortfall as the Community Spouse. The Eligibility Appeals Unit (EAU) determines that additional resources are needed in order to make up the shortfall in Mrs. Smith's CSIMA. The CSIMA can then be overridden by the EAU.

9. Transfer of Assets for Less than Fair Market Value (FMV)

A transfer of assets for less than FMV is not considered to have occurred when resources are transferred from the institutionalized individual to the community spouse or vice versa in accordance with a completed resource assessment. This also holds true for any spouse-to-spouse transfers that take place after 9-30-89. There will be no penalty applied for transfers between spouses after that date.

Should the transferred-to spouse then transfer the resource to someone else for less than FMV, the transfer will be treated as a transfer of assets by the institutionalized individual.

Transfer of assets for less than FMV is considered part of the application process whether or not a resource assessment has been requested previously or is requested at application. Transfer of assets is not considered if ONLY a resource assessment (no TennCare Medicaid application filed concurrently) is requested.

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See *Transfer of Assets and Penalty Periods* policy.

10. Inactive Individuals

Assessments completed for individuals not currently applying are filed in individual case folders and kept secure. A master file of resource assessments is maintained at HCFA for access.