

**TO:** Local District Commissioners, Medicaid Directors

**FROM:** Judith Arnold, Director  
Division of Health Reform and Health Insurance Exchange Integration

**SUBJECT:** Spousal Impoverishment Budgeting with Post-Eligibility Rules for Individuals Participating in a Home and Community-Based Waiver Program

**EFFECTIVE DATE:** Immediately

**CONTACT PERSON:** Local District Support Unit  
Upstate (518)474-8887 NYC (212)417-4500

The purpose of this General Information System (GIS) message is to advise local departments of social services of a change in policy concerning the use of spousal impoverishment budgeting with post-eligibility rules for married individuals who receive home and community-based waiver services under a waiver authorized under Section 1915(c) of the Social Security Act.

Pursuant to federal approval under the State's 1115 waiver program, individuals with a "community spouse," as defined in Section 366-c of the Social Services Law, who are receiving waiver services in the Nursing Home Transition and Diversion (NHTD) waiver, Traumatic Brain Injury (TBI) waiver or Long Term Home Health Care Program (LTHHCP) must have eligibility determined under spousal impoverishment budgeting with post-eligibility rules, unless it is more advantageous to budget only the waiver participant's total net income, after applying all appropriate community SSI-related income disregards, and compare it to the Medicaid income level for one.

Spousal impoverishment with post-eligibility treatment of income includes a deduction for a community spouse monthly income allowance (CSMIA), family member allowance (FMA), if applicable, and a personal needs allowance (PNA) for the waiver participant. These deductions are not available when the total net income of only the waiver participant is budgeted and compared to the Medicaid income level for one.

In order to determine whether spousal impoverishment budgeting with post-eligibility rules is more advantageous, a comparison must be made of the deductions allowed under each of the two methodologies. If the sum of the waiver recipient's PNA, CSMIA and FMA, if applicable, is less than or equal to the sum of the Medicaid income level for a household of one and the \$20 unearned income disregard, spousal impoverishment budgeting with post-eligibility rules is not more advantageous.

For example: The waiver recipient has a CSMIA of \$400. The 2012 PNA for the waiver recipient (the difference between the two-person and one-person income levels) is \$367 (\$1,159 minus \$792). Since the sum of the CSMIA and the PNA (\$400 + \$367 = \$767) is less than the Medicaid income level for one plus \$20 (\$792 + \$20 = \$812), it is more advantageous to budget only the waiver participant's total net income, after applying all appropriate community SSI-related income disregards, and compare it to the Medicaid income level for one.

In 2012, it will only be advantageous to the waiver recipient to apply the post-eligibility rules if the CSMIA, plus FMA, if applicable, exceeds \$445.

**NOTE:** In both situations, spousal impoverishment rules for treatment of resources, including a community spouse resource allowance (CSRA), apply.

The CSMIA and FMA, if applicable, can be determined offline, using the LDSS-4346, "Budget Worksheet - Medical Assistance Institutionalized Spouse Budget Worksheet," or by using the appropriate MBL budget - Chronic Care Budget Type 08, 09 or 10. If the CSMIA plus the FMA, if applicable, is greater than \$445 (for 2012), the income continues to be budgeted under the appropriate Budget Type 08, 09 or 10. If the CSMIA, plus the FMA, if applicable, is equal to or less than \$445, only the waiver spouse's income is budgeted using Budget Type 04, case count of one. Income of the community spouse is not considered available and is not included in the income calculation. Only resources attributed to the waiver spouse, after providing for any CSRA, is entered on the 04 budget.

Please direct any questions to your local district support liaison.