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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 92 ADM-18

TO: Commissioners of
 Social Services

DIVISION: Medical
 Assistance

DATE: April 30, 1992

SUBJECT: Spousal Impoverishment: Allowance Increases for 1992

SUGGESTED DISTRIBUTION:	Medical Assistance Staff Public Assistance Staff Adult Services Staff Fair Hearing Staff Legal Staff Staff Development Coordinators
CONTACT PERSON:	Questions concerning this Administrative Directive should be directed to your MA Eligibility County Representative by calling 1-800-342-3715, extension 3-7581 or your New York City Representative at (212) 417-4853.
ATTACHMENTS:	Attachment -- Spousal Impoverishment Income and Resource Amounts (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
91 ADM-33					
91 ADM-27		360-1.4			GIS
91 ADM-13		360-4.3(f)	366-c		91MA053
90 ADM-36		360-4.9	366		
90 ADM-35		360-4.10			
90 ADM-29			SSA 1924		
89 ADM-47					
90 INF-38					
90 INF-19					

I. PURPOSE

A. This Administrative Directive (ADM) informs social services districts of January, 1992 increases in the following amounts used in determining Medical Assistance (MA) eligibility for institutionalized spouses:

1. the maximum community spouse resource allowance (CSRA); and
2. the minimum monthly maintenance needs allowance (MMMNA) for a community spouse.

B. This Directive also informs social services districts of two separate increases in the family member allowance (FMA) used in determining the eligibility of institutionalized spouses, effective:

1. January 1, 1992; and
2. July 1, 1992.

II. BACKGROUND

A. CSRA AND MMMNA

Chapter 558 of the Laws of 1989 added a new Section 366-c to the Social Services Law (SSL) regarding the treatment of income and resources of institutionalized persons and their spouses. Under SSL Section 366-c, effective October 1, 1989, in determining the MA eligibility of an institutionalized spouse, the community spouse is permitted to retain the maximum CSRA of the couple's countable resources, and a maximum MMMNA in monthly income. A larger resource or income amount can be established by a court order or a fair hearing. The MMMNA is also used in determining the amount of any contribution to be requested from the income of a community spouse or of a spouse living apart from an SSI-related applicant/recipient (A/R).

SSL Section 366-c requires that the maximum CSRA be increased annually and permits the MMMNA to be increased annually, by the same percentage as the percentage increase in the Consumer Price Index (CPI). Based on an increase in the CPI, effective January 1, 1992:

1. the maximum CSRA increases from \$66,480 to \$68,700; and
2. the MMMNA increases from \$1,662 to \$1,718.

B. FAMILY MEMBER ALLOWANCE

SSL Section 366-c provides that in determining the amount of an institutionalized spouse's income to be applied toward the cost of care, an FMA must be deducted for each dependent family member living with the community spouse.

The FMA is equal to one-third of the amount by which one-twelfth of the applicable percentage of the federal income official poverty line (poverty line) for a family of two exceeds the amount of the family member's otherwise available monthly income. The applicable percentage of the poverty line is currently 133 percent.

The amounts of any FMAs also will affect the amount of income requested as a contribution from a community spouse or a spouse living apart from an SSI-related A/R.

1. January 1, 1992

The annual poverty line for a family of two increases from \$8,880 to \$9,190, effective January 1, 1992. This amount is used to calculate the FMA for all spousal impoverishment cases involving a dependent family member.

2. July 1, 1992

Pursuant to the provisions of SSL Section 366-c, the applicable percentage of the poverty line increases from 133 percent to 150 percent effective July 1, 1992.

III. PROGRAM IMPLICATIONS

A. MAXIMUM CSRA AND MMMNA INCREASES

In accordance with the provisions of SSL Section 366-c, effective January 1, 1992, the resource and income levels for the community spouse of an institutionalized MA A/R are as follows:

1. \$68,700 - Maximum Community Spouse Resource Allowance
2. \$ 1,718 - Minimum Monthly Maintenance Needs Allowance

These increased amounts may result in more spouses becoming eligible for MA coverage for institutional care and services. In addition, the new MMMNA provides increased income for a community spouse and will also raise the level used in determining any requested contribution from income from a community spouse or a spouse living apart from an SSI-related A/R.

Note: The increased MMMNA and CSRA amounts must be used when completing an assessment of a couple's resources and income.

B. FMA INCREASES

Under the provisions of SSL section 366-c and 18 NYCRR 360-4.10, an FMA is established for a minor child, a dependent child, dependent parent, or dependent sibling of the institutionalized spouse or community spouse, who is residing with the community spouse and who has over 50 percent of his or her maintenance needs met by the community spouse and/or the institutionalized spouse.

A higher FMA also will affect the amount of income which may be requested as a contribution from a community spouse or from a spouse living apart from an SSI-related A/R.

1. January 1, 1992

The poverty line for a family of two is \$9,190 effective January 1, 1992. As advised by the Health Care Financing Administration, when calculating the FMA, the poverty line amounts cannot be rounded down. Therefore, one-twelfth of 133 percent (applicable percentage) of \$9,190 equals \$1,018.56, which rounded up to the nearest dollar equals \$1,019. The maximum FMA for a family member with no other available income is calculated as follows:

$$\frac{\$1,019}{3} = \$340 \text{ (rounded up to nearest dollar)}$$

2. July 1, 1992

The applicable percentage of the poverty line increases from 133 percent to 150 percent effective July 1, 1992. One-twelfth of 150 percent (applicable percentage) of \$9,190 equals \$1,148.75, which rounded up to the nearest dollar equals \$1,149. Therefore, effective July 1, 1992, the maximum FMA for a family member with no other available income is calculated as follows:

$$\frac{\$1,149}{3} = \$383$$

IV. REQUIRED ACTION

A. MAXIMUM CSRA AND MMMNA INCREASES

As advised in a GIS Message dated December 2, 1991 (91MA053), social services districts must use the increased maximum CSRA and MMMNA figures when determining the MA eligibility of an institutionalized spouse (as defined in 89 ADM-47) for January 1, 1992 or after.

In determining the resources of an institutionalized spouse, the community spouse must be permitted to retain up to \$68,700 of the

couple's total combined countable resources, unless a higher amount is established by court order or fair hearing. This updates the \$66,480 amount set forth in 91 ADM-13. When assessing a couple's resources for any month beginning January 1, 1992 or after, social services districts must use the increased maximum CSRA.

Effective January 1, 1992, the increased MMMNA must be used in determining the Net Available Monthly Income (NAMI) of an institutionalized spouse when an MA application is filed or when completing an assessment. All cases involving an institutionalized spouse active on or after January 1, 1992, must have eligibility recomputed based on the new MMMNA figure of \$1,718. The budgeting methodology contained in 89 ADM-47, with the exception of no longer allowing mandatory payroll deductions in accordance with 91 ADM-27, must be followed for computing the amount of the community spouse monthly income allowance. Any increases in the amount of income available for the community spouse or changes in the institutionalized spouse's NAMI are to be made effective January 1, 1992.

Social services districts must also use the new MMMNA amount to calculate the requested contribution from income of a community spouse or spouses living apart from an SSI-related A/R as set forth in Section IV.G of 89 ADM-47.

B. FMA

1. January 1, 1992

The poverty line for a family of two is \$9,190, effective January 1, 1992. One-twelfth of 133 percent of \$9,190 equals \$1,018.56, which rounded up to the nearest dollar equals \$1,019. Therefore, effective January 1, 1992, to calculate the FMA:

- a. Subtract the otherwise available income of the family member from \$1,019;
- b. Divide the result by three, and round up to the nearest dollar.

As advised in GIS 91MA053, all spousal impoverishment cases involving a family member which are active on or after January 1, 1992, must be recomputed using the new FMA formula. Any increases in the FMA, or changes in the NAMI of the institutionalized spouse as a result of any increase in the FMA, are to be made effective January 1, 1992.

2. July 1, 1992

Effective July 1, 1992, the applicable percentage of the poverty line increases from 133 percent to 150 percent. Therefore, effective July 1, 1992, to calculate the FMA:

- a. Subtract the otherwise available income of the family member from \$1,149;
- b. Divide the result by three, and round up to the nearest dollar.

All spousal impoverishment cases involving a family member which are active on or after July 1, 1992, must be recomputed using the new FMA formula. Any increases in the FMA, or changes in the NAMI of the institutionalized spouse as a result of any increase in the FMA, are to be made effective July 1, 1992.

A higher FMA also will affect the amount of income which may be requested as a contribution from a community spouse or from a spouse living apart from an SSI-related A/R.

NOTE: The new FMA must be used when completing an assessment of a couple's resources and income.

C. Notice Requirements

1. When a social services district changes the amount of one of the items used in the calculation of MA eligibility (even if the result is no change in liability), the district must send to the A/R or authorized representative and the community spouse:
 - a. an updated "Institutionalized Spouse Budget Worksheet" detailing current income information;
 - b. a copy of the revised MBL budget;
 - c. the DSS-4021 "Notice of Intent to Change the Contribution Toward Chronic Care Costs," (revised as specified in 90 ADM-35); and,
 - d. if appropriate, the "Notice to Spouse (Undercare)."
2. Social services districts are reminded that they must also send the provider a copy of any client notice reflecting an adjustment in the NAMI to permit the provider to bill MMIS appropriately.
3. Districts must use Attachment I, which has been updated to reflect the 1992 increases in the maximum CSRA, maximum MMMNA, and FMA, as a replacement for the last page of the "Information Notice to Couples with an Institutionalized Spouse," contained in 90 ADM-29.

V. SYSTEM IMPLICATIONS

A. MBL

As of December 2, 1991, MBL has supported \$1,718 as the maximum MMMNA when a Budget Effective From Date of 01/01/92 or greater has been entered.

The calculation of a couple's countable resources, the maximum CSRA, and Family Member Allowances(s) must be done using the "Institutionalized Spouse Budget Worksheet." Any resources attributed to the institutionalized spouse should be entered on MBL using the appropriate Categorical Code (CTG) and Chronic Care Indicator (I). The total amount of the Family Member Allowance should be entered on MBL as additional Allowance Code 23.

B. MBL REPORT

To request a report identifying MBL budgets with Additional Allowance Code 23, contact your MA Eligibility County Representative.

V1. EFFECTIVE DATE

This ADM is effective May 1, 1992, retroactive to January 1, 1992.

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance

SPOUSAL IMPOVERISHMENT INCOME AND RESOURCE AMOUNTS

Maximum Community Spouse Resource Allowance

- \$60,000 - Effective October 1, 1989
- \$62,580 - Effective January 1, 1990
- \$66,480 - Effective January 1, 1991
- \$68,700 - Effective January 1, 1992

Note: A higher amount may be established by court order or fair hearing.

Maximum Community Spouse Monthly Income Allowance is an amount of up to:

- \$1,500 - Effective October 1, 1989
- \$1,565 - Effective January 1, 1990
- \$1,662 - Effective January 1, 1991
- \$1,718 - Effective January 1, 1992

if the community spouse has no income of his/her own.*

Note: A higher amount may be established by court order or fair hearing.

Family Member Allowance - for each family member is an amount up to:

- \$271 - Effective October 1, 1989
- \$285 - Effective July 1, 1990
- \$329 - Effective July 1, 1991
- \$340 - Effective January 1, 1992
- \$383 - Effective July 1, 1992

if the family member has no income of his/her own.*

* If the institutionalized spouse is receiving Medical Assistance, any change in income of the institutionalized spouse, the community spouse and/or the family member may affect the community spouse income allowance and/or the family member allowance. Therefore, the social services district should promptly be notified of any income changes.