

NURSING FACILITY SERVICES

agency has developed a statement concerning the availability of asset assessments. Nursing facilities provide this "Patient's Bill of Rights" as part of their admission package. See Appendix C.

1. Calculation Of The Spouses' Shares

The spouses' shares are computed as follows:

- Step 1: Determine the FMV of the couple's combined countable assets, as of the beginning of the first continuous period of institutionalization.
- Step 2: Compare the amount from Step 1 to **\$21,912**. If the Step 1 amount is equal to or less than **\$21,912**, all assets are attributed to the community spouse. If not, go to Step 3.
- Step 3: Divide the Step 1 amount by 2 and compare to **\$21,912**. If one-half of the Step 1 amount is equal to or less than **\$21,912**, the community spouse is attributed **\$21,912** and the remainder belongs to the institutionalized spouse. If not, go to Step 4.
- Step 4: When one-half of the Step 1 amount is greater than **\$21,912**, one-half of the total assets (Step 1 amount) is attributed to the community spouse, not to exceed **\$109,560**.
- Step 5: The amount not attributed to the community spouse is attributed to the institutionalized spouse.

If an application for nursing facility services is not made when the assessment is completed, the spouse retains the amount attributed to him at the assessment, regardless of the couple's combined assets at the time of application.

2. Notification Requirements

When the assessment is complete, the Worker must provide each member of the couple with a copy of the RAPIDS asset assessment or the IM-NL-AC-1. A copy of the IM-NL-AC-1 is retained in the case record. See item 7 below for the RAPIDS asset assessment.

The Worker must also notify the community spouse using form ES-NL-D or RAPIDS form AEL3 that the assessment may not be appealed until a Medicaid application is made.

NURSING FACILITY SERVICES**3. Revisions To The Asset Assessment**

The asset assessment may be revised when the client, his spouse, the Hearings Officer or the Worker determine, with supporting documentation, that the initial determination was incorrect or based on incorrect information.

4. Additional Asset Exclusions For Institutionalized Spouses

The institutionalized individual is not ineligible for Medicaid due to the assets determined above, if he lacks the ability to or is legally prevented from assigning the assets which would otherwise make him ineligible. In addition, when denial of Medicaid eligibility will work an undue hardship, his assets may be excluded. See Chapter 11 for the definition of undue hardship.

5. Transfers Of Assets To The Community Spouse

Once initial eligibility has been established, assets that were not counted for the institutionalized spouse must be legally transferred to the community spouse. Assets cannot merely be attributed to the community spouse, but must actually be transferred to the community spouse, if they are to be excluded in determining continuing Medicaid eligibility of the institutionalized spouse. Assets legally transferred to the community spouse are not treated as uncompensated transfers of resources.

To exclude assets attributed to the community spouse, the institutionalized spouse must indicate his intent to transfer the assets to the community spouse, and the transfer must take place within 90 days, unless a longer period is required to take the action.

NOTE: Once Medicaid eligibility is established, the assets of the community spouse are not counted for the institutionalized spouse. In addition, when assets such as the home and attributed assets legally transferred to the community spouse are subsequently transferred by him, no penalty is applied to the institutionalized spouse.

6. Additional Asset(s) Received/Obtained

When the institutionalized spouse obtains an additional asset(s) after the community spouse's share has been calculated and initial Medicaid eligibility is established, the additional asset(s) is excluded when one of the following conditions exist: