

**NURSING FACILITY SERVICES**

The assessment is completed on form IM-NL-AC-1 or in RAPIDS. See the RAPIDS User Guide. The purpose of the Asset Assessment is to allow the spouse of an institutionalized individual to retain a reasonable portion of the couple's assets and to prevent the impoverishment of the community spouse.

When requested, the Worker must advise the individual(s) of the documentation required for the assessment. Verification of ownership and the FMV must be provided. When it is not provided, the assessment is not completed.

The Worker documents the total value of all non-excluded assets.

Nursing facilities are required to advise all new admissions and their families that an Asset Assessment is available upon request from the local office.

**NOTE:** The accessible pension of a community spouse counts in the Asset Assessment, minus any penalty for early withdrawal.

**EXAMPLE:** An institutionalized individual's wife has a \$75,000 pension through her employer from which she can withdraw without incurring a penalty. The pension is counted in the Asset Assessment as an available resource to the couple.

**EXAMPLE:** An institutionalized individual's husband has a \$100,000 pension through his employer from which he can withdraw but incurs a ten percent early withdrawal penalty. The pension of \$100,000, minus the early withdrawal penalty of \$10,000, is counted in the Asset Assessment as an available resource of \$90,000 to the couple.

The 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 \$22,728. If the Step 1 amount is equal to or less than \$22,728, all assets are attributed to the community spouse. If not, go to Step 3.

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- .Step 3: Divide the Step 1 amount by 2 and compare to \$22,728. If one-half of the Step 1 amount is equal to or less than \$22,728, the community spouse is attributed \$22,728 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 \$22,728, one-half of the total assets (Step 1 amount) is attributed to the community spouse, not to exceed \$113,640.
- Step 5: The amount not attributed to the community spouse is attributed to the institutionalized spouse.

Certain individuals who meet the gross income test but are ineligible for Medicaid due to being over the allowable asset limit, may be eligible for the LTCIP Asset Disregard.

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.

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

Certain individuals who meet the gross income test but are ineligible for Medicaid due to being over the allowable asset limit, may be eligible for the LTCIP Asset Disregard.

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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 based on the Asset Assessment 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 based on the Asset Assessment 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:

- The new asset(s), combined with the other assets the institutionalized spouse intends to retain, does not exceed the asset limit for one person; and/or

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about resource transfers and is told about the refusal of the inheritance. This is a transfer of resources. A penalty period is determined to be 12 months. Mr. J continues to serve his 10-month penalty. The other penalty period begins the month after the 10-month period ends. His second penalty lasts 6 months ( $\frac{1}{2}$  of the 12-month period for his wife's transfer of their resource). Mrs. J receives a 6-month penalty period which begins the month she is otherwise eligible to receive an institutional level of care.

If the penalty period is not equally divisible, the extra month in the penalty period is assigned to the spouse who actually transferred the resource.

When the penalty period is divided between spouses, the total penalty period applied to both spouses must not exceed the total penalty which remained at the time the penalty was divided.

When, for any reason, one spouse is no longer subject to a penalty, such as, when the spouse no longer receives nursing facility services, or dies, the penalty period which was remaining for both spouses must be served by the remaining spouse.

a. Application of the Penalty

The only penalty for transferring resources is total ineligibility for nursing facility, ICF/MR and Home and Community Based Waiver care. The client is approved, if otherwise eligible, for any other applicable Medicaid coverage group.

C. HOMESTEAD PROPERTY EXCLUSION

When a nursing facility resident indicates his intention to return to his homestead property when/if discharged, the homestead property is excluded as an asset. The property to which the person intends to return must be the principal place of residence in which he resided. See Section 11.4 when an individual does not have intent to return due to domestic abuse. See definition of Principal Place of Residence in Section 11.1. If the client is incapable of indicating his intent, his Committee, legal representative or the person handling his financial matters will make the determination on his behalf. When the client's spouse or dependent relative resides there, the homestead property remains excluded, regardless of the client's intent to return.

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For purposes of the homestead exclusion only, a dependent relative is one who is dependent financially, medically or as otherwise determined dependent upon the institutionalized person. The following are considered relatives of the institutionalized person: child, stepchild or grandchild; parent, stepparent or grandparent; aunt, uncle, niece or nephew; brother or sister, including relations of step or half; cousin or in-law.

It is not necessary that the client be medically able to return home to apply the exclusion. The exclusion is based solely on the client's intended action, should he be discharged from the facility. See Section 11.4 when an individual does not have intent to return due to domestic abuse. The Worker must record the client's statement of intent in the case record. A written statement may be requested, but no action may be taken to deny or stop benefits for failure to provide a written statement when the client has expressed his intent verbally or by gesture.

If the client's homestead is a multi-unit dwelling, such as an apartment building, the entire property is excluded, not just the portion of the value which corresponds to the portion of the property in which he actually lived.

The homestead property may not be in West Virginia. The homestead exclusion applies, regardless of the state in which it is located. The client's expressed intent to return to the homestead property does not necessarily affect his West Virginia residency. See Chapter 8.

**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.

**D. HOME EQUITY**

When the equity value of an individual's home exceeds \$525,000, he is ineligible for Medicaid payment for nursing home care or HCB Waiver Services, unless his spouse, child under 21 or disabled adult child resides in the home.

**E. LONG-TERM-CARE INSURANCE PARTNERSHIP (LTCIP) ASSET DISREGARD****1. Introduction and Purpose**

West Virginia's participation in the Long-Term-Care Insurance Partnership (LTCIP) is established by §9, Article 4E-1 of the WV Code. The LTCIP Asset Disregard results from a combined effort between Federal Medicaid,