

Spousal Income & Asset Protections

Q: What are MassHealth “community spouse” protections?

A: If someone in your family requires nursing facility care, Medicare generally only provides short-term, limited coverage. Medicaid, known in Massachusetts as “MassHealth,” will pay for care over the long-term—but you must have limited income and assets to qualify for MassHealth.

In order to be eligible for MassHealth benefits, a nursing home resident may have no more than \$2,000 in assets (not counting your house, car, pre-paid burial, and a few other expenses). But MassHealth law provides special protections for the at-home spouses of MassHealth applicants, to give the “community spouse” the minimum support needed to continue to live in the community.

If the MassHealth applicant is married, the countable assets of both the community spouse and the institutionalized spouse are totaled as of the day on which the ill spouse enters either a hospital or a long-term care facility in which he or she then stays for at least 30 days. If a married couple has \$100,000 in countable assets, for example, the applicant will be eligible for Medicaid once the couple's assets have been reduced to a combined figure of \$52,000 -- \$2,000 for the applicant and \$50,000 for the community spouse. In general, the community spouse may keep one-half of the couple's total “countable” assets up to a maximum in 2014 of \$117,240. This asset amount is called the “community spouse resource allowance.”

There are also protections for income. The community spouse can keep all of her own income, no matter how much that totals. If most of the couple's income is in the name of the institutionalized spouse and the community spouse's income is not enough to live on, the community spouse is entitled to some or all of the monthly income of the institutionalized spouse. If the community spouse's own income is below \$1,939 per month, he or she is allowed to divert income from the institutionalized spouse to get up to the \$1,939 level. This level is known as the “*minimum* monthly maintenance needs allowance.” It will go up under Federal law on July 1, 2014.

The community spouse is also allowed to keep a “*maximum* monthly maintenance needs allowance,” which for 2014 is \$2,931 per month. This is the most in monthly income that a community spouse is allowed to have if her own income is not enough to live on and she must take some or all of the institutionalized spouse's income.

If the community spouse's housing expenses are more than 30% of the minimum monthly maintenance needs allowance (30% of \$1,939 = \$582), MassHealth will provide an Excess Shelter Allowance. How much income the community spouse is entitled to is calculated for each community spouse according to a complicated formula including his or her housing costs (rent, mortgage payments, property taxes, insurance). But the income range will fall in between the low of \$1,939 and the high of \$2,931 a month.

The income of the community spouse is not counted in determining the MassHealth applicant's eligibility. Only income in the applicant's name is counted. Even if the community spouse is still working and earning, say, \$4,000 a month, she will not have to pay for the cost of caring for her spouse in a nursing facility if he is covered by MassHealth.

Here's an example: a married couple has joint income of \$4,000 a month: \$3,000 of which is in the institutionalized spouse's name and \$1,000 is in the community spouse's name. MassHealth determines that the community spouse's minimum monthly maintenance needs allowance is \$2,500 (based on housing costs). Because the community spouse's own income is only \$1,000 a month, MassHealth diverts \$1,500 monthly of the institutionalized spouse's income for the community spouse's support. This lowers what the institutionalized spouse pays the nursing facility.

If one member of a married couple has to go into a nursing facility, the community spouse should contact an elder law attorney about spousal protection laws. To obtain a list of elder law attorneys in Massachusetts, call 617-566-5640, or email: info@manaela.org

