



**State of New Jersey**

DEPARTMENT OF HUMAN SERVICES  
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*Director*

**MEDICAID COMMUNICATION NO: 08-12 DATE: September 19, 2008**

**TO:** County Welfare Agency Directors  
Institutional Services Section Area Supervisors

**SUBJECT:** Post-Eligibility Treatment of Income - Adjusted Utility Allowances for 2009  
N.J.A.C. 10:71-5.7

In determining the amount that may be deducted from the income of an institutionalized Medicaid eligible individual for the maintenance of a community spouse, consideration is given to the excess shelter expenses of the community spouse. When calculating the amount of the shelter expenses, standard utility allowances are to be used when the community spouse directly incurs utility charges.

As you are aware, these utility allowances are the same as those applicable in determining eligibility for the Food Stamp program. The Division of Family Development has announced the new allowances that will be effective October 1, 2008. Therefore, effective on that date, the new figures are to be used in the determination of the community spouse's excess shelter costs.

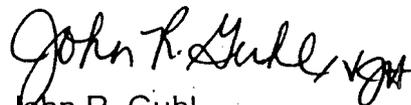
- If the community spouse pays for heating fuel charges, a utility allowance of **\$411.00** shall be included as a shelter expense. (This is an **increase** from last year's allowance.)
- If the community spouse does not pay for heating fuel but does directly incur a utility expense other than telephone, water, sewerage, or garbage collection, the utility allowance is **\$251.00**. (This is an **increase** from last year's allowance.)
- If the only separate utility charge is the telephone, the utility allowance is **\$29.00**. (There is **no change** from last year's allowance.) The telephone allowance cannot be used in conjunction with either of the utility allowances above.

Please apply the appropriate standard utility allowance for all new cases and cases subject to redetermination. Note that the standard utility allowance has **increased** since last year. All other cases in which there is a community spouse shall be reviewed for the potential of **increased** maintenance deductions no later than December 1, 2008. For any such case, the county welfare agency must assure that any change in the maintenance deduction be applied retroactively to October 1, 2008.

In order to assist the county welfare agencies in this review, we will be forwarding, under separate cover, a system-generated "change" PR-1 (formerly PA-3L) form for each individual who is active in the current billing system (including those discharged to a hospital) and who currently has a community spouse deduction indicated in the record. For ease of identification, the form will contain an asterisk in the LTCF block on the first line, in the column adjacent to "effective date."

For your convenience, attached to this Medicaid Communication is a fact sheet on post-eligibility treatment of income maintenance deductions. If you have any questions, please contact DMAHS Office of Policy Development field staff assigned to your county at 609-588-2556.

Sincerely,



John R. Guhl  
Director

JRG:F

Attachment

c: Jennifer Velez, Commissioner  
Department of Human Services

William Ditto, Executive Director  
Division of Disability Services

Kevin Martone, Assistant Commissioner  
Division of Mental Health Services

Jeanette Page-Hawkins, Director  
Division of Family Development

Kenneth W. Ritchey, Assistant Commissioner  
Division of Developmental Disabilities

Christine Moses, Director  
Division of Youth and Family Services  
Department of Children and Families

Heather Howard, J.D., Commissioner  
Kathleen M. Mason, Assistant Commissioner  
Department of Health and Senior Services

## POST-ELIGIBILITY TREATMENT OF INCOME MAINTENANCE DEDUCTIONS

### SPOUSAL DEDUCTION

A deduction may be made from an eligible institutionalized individual's income, prior to the application of income to the cost of care, for the maintenance of the community spouse.

- A community spouse for purposes of this deduction is a person who is legally married (under provisions of State law) to the institutionalized spouse. A community spouse will not include an individual who is holding himself or herself out to the community as a spouse of the institutionalized individual when, in fact, the couple is not legally married.
- In order to qualify for the community spouse maintenance deduction, the community spouse must have resided with the institutionalized individual immediately prior to the institutionalization and cannot be institutionalized himself or herself.

Effective July 1, 2008, the basic community spouse deduction standard is \$1,750 monthly.

- In determining the amount of the community spouse maintenance deduction, the maintenance allowance is reduced by the community spouse's *gross income (both earned and unearned)*. (Note: In determining the amount of the community spouse's earned income, mandatory payroll deductions *are not* subtracted from the gross earnings.)

To the extent that the community spouse's shelter expenses exceed \$525.00 monthly, the community spouse maintenance deduction limit shall be increased.

Shelter expenses include

- rent and mortgage (including principal and interest)
- taxes
- insurance
- monthly maintenance charge for a condominium or cooperative
- a standard utility allowance

The standard utility allowance can only be used if the community spouse directly incurs charges for utilities. If such charges are included in the rent or maintenance charge, no utility allowance may be used. Effective October 1, 2008:

- If the community spouse pays for *heating fuel charges*, a utility allowance of *\$411.00* shall be included as a shelter expense.
- If the community spouse does not pay for heating fuel but does directly incur a utility expense *other than* telephone, water, sewerage, or garbage collection, the utility allowance is *\$251.00*.
- If the only separate utility charge is the telephone, the utility allowance is *\$29.00*. The telephone allowance cannot be used in conjunction with either of the utility allowances above.

If either member of the couple alleges that the community spouse maintenance deduction is insufficient, the couple can file for a fair hearing. If the couple can demonstrate that because of exceptional circumstances the amount of the community spouse deduction is inadequate, a higher deduction can be authorized for as long as is specified in the final agency decision.

#### **FAMILY MEMBER DEDUCTION**

A family member deduction shall be authorized beyond the community spouse deduction for the following family members *AS LONG AS THEY RESIDE WITH THE COMMUNITY SPOUSE*. If the family member(s) do not reside with the community spouse or if the community spouse is deceased, no maintenance allowance may be made.

- Children under the age of 21
- Children over the age of 21 who are claimed as dependents for federal tax purposes by either member of the couple.
- Parents of either member of the couple who are claimed as dependents for federal tax purposes.
- Siblings of either member of the couple who are claimed as dependents for federal tax purposes. Siblings include:
  - brothers or sisters
  - half-brothers or half-sisters
  - siblings through adoption

The family member deduction is calculated individually for each family member.

- subtract the family member's *gross income* from \$1,750.00
- 1/3 of the remaining amount shall be the deduction authorized for that member.

*Example: David, who is disabled, resides with his mother and is claimed by her as a tax dependent. David receives \$679 monthly in Social Security benefits. His father is institutionalized.*

*\$1,750 Standard  
-679 David's **gross** income  
\$1,071*

*\$ 1,071 X 1/3 = \$357.00 allowable deduction from David's father's income*