MEDICAID COMMUNICATION NO. 15-09          DATE: July 1, 2015

TO:       County Welfare Agency Directors
          Institutional Services Section (ISS) Area Supervisors

SUBJECT: 2015 Community Spousal Maintenance, Shelter and Utility
          Allowance Adjustments
          N.J.A.C. 10:71-5.7

This serves to advise that effective July 1, 2015 the standard for deriving the
community spouse maintenance allowance increased as a result of an annual
adjustment to the allowance. The increased standard is also applicable in the
determination of the maintenance allowance for certain other dependent family
members residing with the community spouse. These increases potentially impact
all institutionalized Medicaid Only and New Jersey Care…Special Medicaid
Program (including the Medically Needy segment) individuals with spouses in the
community.

The new base allowance for a community spouse will increase from $1,966.25 to
$1,991.25. The new standard for determining the excess shelter costs of the
community spouse increases from $589.88 to $597.38. Therefore, in computing the
community spouse allowance, the community spouse's shelter costs in excess of
$597.38 shall be added to the base allowance of $1,991.25. If the community
spouse is paying directly for their utilities, a utility allowance is also added as a
shelter expense. The utility amount has been increased effective October 1, 2014
from $454.00 per month to $491.00 per month. The community spouse's own
gross income would be subtracted from the overall allowance to ascertain the
amount that may be deducted from the institutionalized spouse's income prior to
applying that income to their cost share of institutional care.

In determining the amount of the institutionalized individual's income that may be
used to maintain certain other family members residing with the community spouse,
the standard of $1,991.25 also applies though the calculation is different from that
of the community spouse allowance. The amount of income that may be deducted
is equal to one-third of the amount by which $1,991.25 exceeds the family member's own income.

County Welfare Agencies (CWA) and Institutional Services Section (ISS) offices shall apply the new standards in the post-eligibility treatment of income beginning with the month of July 2015 for all new cases and cases subject to redetermination.

Deductions for the community spouse and any other family members shall cease in the first full-calendar month after the community spouse dies, becomes divorced, or is institutionalized. The family member deduction shall cease if the qualified member either moves from the community spouse’s home or is no longer claimed as a dependent for federal tax filing purposes. Additionally, family member deductions shall cease when: the family member attains age 21 and is not a federal tax dependent; the dependent family member dies; or the dependent family member is institutionalized.

Please note the community spouse’s share of the resources remains unchanged. The community spouse's share of the couple's countable resources is the greater of $23,844.00, or one-half of the couple's total resources, not to exceed $119,220.00.

The increased standard also changes the computations of the applicable allowances. For your convenience, attached to this Medicaid Communication is a fact sheet on post-eligibility treatment of income maintenance deductions including computation examples.

If you have any questions regarding this Medicaid Communication, please refer them to the Division’s Office of County Operations field staff for your agency at 609-588-2556.

Sincerely,

Valerie Harr
Director

VH:m
c:  Elizabeth Connolly, Acting Commissioner  
   Department of Human Services  
   
   Dawn Apgar, Deputy Commissioner  
   Division of Developmental Disabilities  
   
   Lowell Arye, Deputy Commissioner  
   Aging and Community Services  
   
   Lynn Kovich, Assistant Commissioner  
   Division of Mental Health and Addiction Services  
   
   Joseph Amoroso, Director  
   Division of Disability Services  
   
   Natasha Johnson, Acting Director  
   Division of Family Development  
   
   Allison Blake, Commissioner  
   Department of Children and Families  
   
   Mary E. O'Dowd, Commissioner  
   Department of Health
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, 2015, the basic community spouse deduction standard is $1991.25 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 $597.38 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, 2014, if the community spouse directly pays for any utility charges, a utility allowance of $491.00 shall be included as a shelter expense. The standard utility allowance may change annually in October and is announced in a separate Medicaid Communication.

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 $1991.25
- 1/3 of the remaining amount shall be the deduction authorized for that member

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*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.*

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\begin{align*}
\text{\$1991.25 Standard} \\
- \text{\$679.00 David's gross income} \\
\text{\$1312.25}
\end{align*}
\]

\[
\$ 1312.25 \times \frac{1}{3} = \$437.42 \text{ allowable deduction from David's father's income}
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