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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 91 ADM-13

TO: Commissioners of
 Social Services

DIVISION: Medical
 Assistance

DATE: April 30, 1991

SUBJECT: Spousal Impoverishment: Increases in Income and Resource
 Amounts for 1991

SUGGESTED
 DISTRIBUTION: Medical Assistance Staff
 Income Maintenance Staff
 Adult Services Staff
 Fair Hearing Staff
 Legal Staff
 Staff Development Coordinators

CONTACT
 PERSON: MA Eligibility County Representative at 1-800-342-
 3715, extension 3-7581
 New York City Representative at 212-417-4853

ATTACHMENTS: Attachment -- Spousal Impoverishment Income and
 Resource Amounts
 (Available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
90 ADM-36		360-4.3	SSA 1924		GIS
90 ADM-35		360-4.9	SSL 366-c		90MA058
90 ADM-29		360-4.10	SSL 366.2		90MA062
89 ADM-47			Chapter 938		
90 INF-38			of the Laws		
90 INF-19			of 1990		

I. PURPOSE

This Administrative Directive (ADM) informs social services districts of January, 1991 increases in the following amounts used in determining Medical Assistance (MA) eligibility for institutionalized spouses:

- A. the maximum community spouse resource allowance (CSRA); and
- B. the minimum monthly maintenance needs allowance (MMMNA) for a community spouse.

II. BACKGROUND

Chapter 558 of the Laws of 1989 added a new Section 366-c to the Social Services Law (SSL) regarding the treatment of income and resources of institutionalized persons and their spouses. Under SSL Section 366-c, effective October 1, 1989, in determining the MA eligibility of an institutionalized spouse, the community spouse is allowed to retain as maximum CSRA of \$60,000 of the couple's countable resources, and an MMMNA of \$1,500 in monthly income. A larger resource or income amount can be established by a court order or a fair hearing. The MMMNA is also used in determining the amount of any contribution to be requested from the income of a community spouse or of a spouse living apart from an SSI-related applicant/recipient (A/R).

SSL Section 366-c requires that the \$60,000 maximum CSRA be increased annually and allows the \$1,500 MMMNA to be increased annually, by the same percentage as the percentage increase in the Consumer Price Index (CPI). Consequently, effective January 1, 1990, the maximum CSRA was increased to \$62,580 and the MMMNA was increased to \$1,565.

Based on an increase in the CPI, the CSRA and the MMMNA will also increase for 1991.

III. PROGRAM IMPLICATIONS

In accordance with the provisions of SSL Section 366-c, higher resource and income levels will be established for the community spouse of an institutionalized MA A/R. Effective January 1, 1991, the new amounts are:

- 1. \$66,480 - Maximum Community Spouse Resource Allowance
- 2. \$ 1,662 - Minimum Monthly Maintenance Needs Allowance

These increased amounts may result in more spouses becoming eligible for MA coverage for institutional care and services. In addition, the

new MMMNA provides increased income for a community spouse and will also raise the level used in determining any requested contribution from income from a community spouse or a spouse living apart from an SSI-related A/R.

Note: The increased MMMNA and CSRA amounts must be used when completing an assessment of a couple's resources and income.

IV. REQUIRED ACTION

A. Maximum CSRA and MMMNA Increases

As advised in a GIS Message dated December 3, 1990 (90MA058), social services districts must use the increased maximum CSRA and MMMNA figures when determining the MA eligibility of an institutionalized spouse (as defined in 89 ADM-47) for January, 1991 or after.

In determining the resources of an institutionalized spouse, the community spouse must be allowed to retain up to \$66,480 of the couple's total combined countable resources, unless a higher amount is established by court order or fair hearing. This updates the \$62,580 amount set forth in 90 ADM-35. When performing an assessment of a couple's resources for any month beginning January 1, 1991 or after, social services districts must use the increased maximum CSRA.

Effective January 1, 1991, the increased MMMNA must be used in determining the net available monthly income of an institutionalized spouse when an MA application is filed or when completing an assessment. All cases involving an institutionalized spouse active on or after January 1, 1991, must have their eligibility recomputed based on the new MMMNA figure of \$1,662. With the exception of no longer allowing mandatory payroll deductions, in accordance with SSL 366.2, budgeting as described in 89 ADM-47 must be followed for computing the amount of the community spouse monthly income allowance. Any increases in the amount of income available for the community spouse or changes in the institutionalized spouse's net available monthly income (NAMI) are to be made effective January 1, 1991.

Social services districts must also use the new MMMNA amount to (re)calculate the requested contribution from income of a community spouse or spouses living apart from an SSI-related A/R as set forth in Section IV.G of 89 ADM-47.

B. Notice Requirements

When there is a change in MA liability, a change in the community spouse monthly income allowance, or a change in the amount of the MMMNA used in the calculation of MA eligibility (even if the result is no change in liability), the proper notices must be sent. These include an updated "Institutionalized Spouse Budget

Worksheet", a copy of the revised MBL budget, the DSS-4021 "Notice of Intent to Change the Contribution towards Chronic Care Cost" (which has been modified as specified in 90 ADM-35) and, if appropriate, the "Notice to Spouse (Undercare)".

Social services districts are reminded that they must also send the provider a copy of any client notice reflecting an adjustment in the NAMI in order to allow providers to bill MMIS appropriately.

Districts must use Attachment I, which has been updated to reflect the January 1, 1991 increase in the maximum CSRA and MMMNA, as a replacement for the last page of the "Information Notice to Couples with an Institutionalized Spouse", contained in 90 ADM-29.

V. SYSTEM IMPLICATIONS

MBL

As of November 26, 1990 for upstate districts, and as of December 10, 1990 for New York City, MBL has supported \$1,662 as the maximum MMMNA when a Budget Effective From Date of 01/01/91 or greater has been entered.

The calculation of a couple's countable resources, the maximum CSRA, and family member allowances(s) must be done using the "Institutionalized Spouse Budget Worksheet". Any resources attributed to the institutionalized spouse should be entered on MBL using the appropriate Categorical Code (CTG) and Chronic Care Indicator (I). The total amount of the family member allowance should be entered on MBL as additional Allowance Code 23.

V1. EFFECTIVE DATE

This ADM is effective May 1, 1991, retroactive to January 1, 1991.

Jo-Ann A. Costantino
Deputy Commissioner
Division of Medical Assistance

SPOUSAL IMPOVERISHMENT INCOME AND RESOURCE AMOUNTS

Maximum Community Spouse Resource Allowance

\$60,000 - Effective October 1, 1989

\$62,580 - Effective January 1, 1990

\$66,480 - Effective January 1, 1991

Note: A higher amount may be established by court order or fair hearing.

Maximum Community Spouse Monthly Income Allowance is an amount of up to:

\$1,500 - Effective October 1, 1989

\$1,565 - Effective January 1, 1990

\$1,662 - Effective January 1, 1991

if the community spouse has no income of his/her own.*

Note: A higher amount may be established by court order or fair hearing.

Family Member Allowance - for each family member is an amount up to:

\$271 - Effective October 1, 1989

\$285 - Effective July 1, 1990

if the family member has no income of his/her own.*

* If the institutionalized spouse is receiving Medical Assistance, any change in income of the institutionalized spouse, the community spouse and/or the family member may affect the community spouse income allowance and/or the family member allowance. Therefore, the social services district should promptly be notified of any income changes.