

March 8, 2024

GENERAL LETTER NO. 8-D-110

ISSUED BY: Iowa Medicaid

SUBJECT: Employees' Manual, Title 8, Chapter D, **Medicaid Resources**, Contents 1-3, 5-18, 28, 34, 47, 58, 69, 98, revised.

Summary

This chapter is revised to

- Update the attribution of resources allowance amounts.
- Update the minimum community spouse resource allowance to \$30,828 and the maximum community spouse resource allowance to \$154,140.
- Update the minimum monthly maintenance needs allowance (MMMNA) to \$3,853.50.
- Update the resource limits for qualified Medicare beneficiaries (QMB), specified low-income Medicare beneficiaries (SLMB), and expanded low-income Medicare beneficiaries (E-SLMB) to \$9,430 for an individual and \$14,130 for a couple.
- Update the limit for exempting homestead property for people requesting long term care to \$713,000.
- Update the average monthly statewide cost of nursing facility services. The average monthly statewide cost of nursing facility services is used to determine the penalty period for transfer of assets. The average cost of nursing facility services for state fiscal year 2024 is \$8,581.61 per month or \$282.29 per day.

Effective Date

January 1, 2024.

Material Superseded

Remove the following pages from Employees' Manual, Title 8, Chapter D, and destroy them:

<u>Page</u>	<u>Date</u>
Contents 1-2	March 31, 2023
5-18, 28, 34, 47, 58, 69, 98	March 31, 2023

Additional Information

Refer questions about this general letter to your area income maintenance administrator.

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Count the uncompensated value of any divested resources owned by either spouse if the resource was owned on the first moment of the first day of the month. "Uncompensated value" is the fair market value of the asset minus the amount that was received for the asset.

NOTE: If either spouse transferred resources at less than fair market value to attain eligibility, see [Transfer of Assets](#) for procedures to handle such transfers when determining eligibility.

2. Add together all resources of both spouses.
3. Attribute one-half of the documented resources to each spouse. If necessary, adjust the division so that the community spouse will receive no less than \$30,828 (if there is that much) but no more than \$154,140.

Value of Combined Resources	\$0 - \$61,656	\$61,656.01 - \$308,280	\$308,280.01 or more
Amount attributed to:			
Community spouse	\$30,828	One-half	\$154,140
Institutionalized spouse	Remainder	One-half	Remainder

After the attribution is complete, send each spouse the results on form 470-2588, *Notice of Attribution of Resources*, with copies of the resource documents. The notice includes an explanation of the spouses' appeal rights. (See [If the Applicant Appeals the Attribution Amount](#).)

If a court or administrative appeal decision has ordered an amount greater than half the resources for the community spouse, or more than \$154,140, attribute the amount ordered.

1. Mr. A enters a medical institution and his wife remains at home. Mr. and Mrs. A furnish verification of a total of \$69,500 in resources. One-half of this is \$34,750. Mrs. A is attributed \$34,750 and Mr. A is attributed \$34,750.
2. Mr. B enters skilled care expecting to stay indefinitely. His wife remains at home. Their total resources are \$35,600. One-half of this is \$17,800. Since this result is less than \$30,828, the minimum amount of \$30,828 is attributed to Mrs. B. \$4,772 is attributed to Mr. B.
3. Mrs. D enters a hospital and is expected to stay over 30 days. Her husband remains at home. Their total resources are \$320,000. One-half of this is \$160,000.

The community spouse cannot be attributed more than \$154,140 without a court order or final appeal decision. Therefore, \$165,860 is attributed to Mrs. D and \$154,140 is attributed to Mr. D (\$320,000 - \$154,140 = \$165,860).
4. Mr. M enters a nursing facility and Mrs. M remains at home. The total value of their resources is \$50,000. However, the court has ordered that \$40,000 be transferred to Mrs. M for support. In this case, \$40,000 is attributed to Mrs. M, even though this amount exceeds the \$30,828 minimum; \$10,000 is attributed to Mr. M.

If the Applicant Appeals the Attribution Amount

Legal reference: 441 IAC 75 (Rules in Process)

The current minimum monthly maintenance needs allowance (MMMNA) for a community spouse is \$3,853.50. If the income available to the community spouse is less than the MMMNA, the applicant or the community spouse may file an appeal to set aside additional resources that would generate income equal to the difference between the income available to the community spouse and the MMMNA.

The appeal request must be filed within 90 days of the *Notice of Attribution of Resources* (NOA) or any *Notice of Decision* (NOD) regarding medical assistance. If the applicant does not file an appeal within 90 days of an NOA or NOD, the applicant loses the right to a hearing on the attribution for that application. If requested, help the applicant to complete form 470-0487 or 470-0487(S), *Appeal and Request for Hearing*.

If the appeal is filed after one or more applications has been denied, and the appeal allows a substitution of resources that result in the institutionalized spouse now being eligible, the date of approval begins with the most recent application. Only one appeal to allow a substitution of resources will be conducted.

1. Mr. Q enters a facility in January 2002. Mrs. Q remains at home. The Qs file an application for medical assistance in March 2002. An attribution of resources is completed, and the application is denied in April 2002. Another application is filed for Mr. Q in February 2003.

The worker totals all of the household resources and subtracts the community spouse resource allowance assigned in the attribution process. The remaining resources continue to exceed the resource limit. The worker issues an NOD denying the application in March 2003.

A third application is filed for Mr. Q in March 2004. The worker again totals all of the household resources and subtracts the community spouse resource allowance assigned in the attribution process. Again the remaining resources continue to exceed the resource limit. The worker issues an NOD denying benefits in March 2004.

Mr. Q files an appeal in April 2004 regarding the March 2004 NOD. A hearing is granted. Mrs. Q's income is low enough that the cost of an annuity is used to set aside additional resources for Mrs. Q. The final appeal decision attributes additional resources to Mrs. Q.

The new community spouse resource allowance exceeds the current resources owned by Mr. and Mrs. Q. The March 2004 application decision is reversed. The prior decisions on the March 2002 and March 2003 applications stand as issued.

2. Mrs. Z enters a facility in August 2013. Mr. Z remains at home. The Zs file an application for medical assistance for Mrs. Z in August 2013. An attribution of resources is completed, and the application is denied in September 2013. Another application is filed for Mrs. Z in January 2017.

The worker totals all of the household resources, and subtracts the community spouse resource allowance assigned in the attribution process. The remaining resources continue to exceed the resource limit. The worker issues an NOD denying the application in February 2017.

Mrs. Z appeals the NOD in February 2017. A hearing is granted. Mr. and Mrs. Z are unable to obtain an annuity quote. The worker assists them in getting the quote. The administrative law judge issues a decision upholding the original attribution. Once this decision becomes final, no other hearings regarding the attribution will be granted, as the Zs were granted a hearing on the attribution of resources.

3. Mr. M enters a facility in January 2016. Mrs. M remains at home. The Ms file an application for medical assistance for Mr. M in August 2016. An attribution of resources is completed. Mrs. M is attributed \$24,000. The Ms have \$6,000 in resources. The application is approved.

The review form is sent out in January 2017 and not returned. The case is canceled effective February 1, 2017. Another application is filed in March 2017. The Ms now have \$42,000 in resources.

The worker subtracts the current year's community spouse resource allowance. The remaining resources exceed the resource limit.

The worker issues an NOD denying the application in March 2017. Mr. M files an appeal regarding the NOD. A hearing is granted. The final appeal decision attributes additional resources to Mrs. M. The couple's income is low enough that the average of the annuities, \$99,424, is used to set aside additional resources for Mrs. M.

The new community spouse resource allowance exceeds the current resources owned by Mr. and Mrs. M. The March 2017 decision to deny the application based on excess resources is reversed.

Verify the couple's available gross monthly income. Do not count income that is earned by resources used in the attribution process.

When determining gross monthly income, include any income the community spouse or institutionalized spouse may be entitled to but is not receiving. When the community spouse works only part of the year and received income only during the time worked, annualize the income as directed in [8-E, Determining Income From Self-Employment](#).

For couples where one spouse entered an institution before February 8, 2006, county only the community spouse's income.

For couples where one spouse entered an institution on or after February 8, 2006, consider the institutionalized spouse's income that can be made available to the community spouse according to the facility client participation calculation. See [8-I, Deductions From Client Participation](#). Allow a \$50 personal needs allowance deduction from the gross countable income of the institutionalized spouse for facility, HCBS waiver, or PACE applicants.

1. Mrs. B enters a facility in January 2006. Mr. B remains at home. The Bs file an application for medical assistance for Mrs. B in March 2006. An attribution of resources is completed. The worker totals all of the household resources as of January 1, 2006, and subtracts the community spouse resource allowance assigned in the attribution process. The remaining resources continue to exceed the resource limit. The worker issues an NOD denying the application in April 2006.

Mrs. B files an appeal regarding the NOD. A hearing is granted. Since Mrs. B entered the facility before February 8, 2006, only Mr. B's income is used when the Bs provide a quote for the cost of an annuity to set aside additional resources for Mr. B.

2. Mr. C enters a facility on April 19, and files an application on April 21. Mr. C has a community spouse, Mrs. C. The Cs have combined total resources that are counted in the attribution, in the amount of \$32,000. \$30,828 was attributed to Mrs. C and that left \$1,172 for Mr. C.

Mr. C has \$1,410.70 Social Security and \$1,500 pension with a total income of \$2,910.70. Mr. C has Medicare and a Medicare supplement with a monthly premium of \$150. Mr. C has total unmet medical deductions in the amount of \$.324.70 (\$174.70 Medicare premium + \$150 Medicare supplement = \$324.70). Mrs. C has \$1,100.70 Social Security.

The April application was denied since Mr. C's resources exceed the \$2,000 resource limit. Mr. C appealed the attribution and the denial.

Since Mr. C became institutionalized after February 8, 2006, Mrs. C's income, plus the income that will be made available from Mr. C is used when determining the shortfall of income between the MMMNA and Mrs. C's available income for the attribution process.

\$ 1,410.70	Social Security
+ <u>1,500.00</u>	Pension
\$ 2,910.70	
- <u>50.00</u>	Personal needs allowance
\$ 2,860.70	Total of Mr. C's income available to Mrs. C
+ <u>1,100.70</u>	Mrs. C's income
\$ 3,961.40	Total income available to Mrs. C when determining her shortfall for the annuity quote
\$ 3,853.50	MMMNA
- <u>3,961.40</u>	Total income available to Mrs. C
\$.00	Shortfall of income used to determine the cost of an annuity for the attribution

Since there is not a shortfall of income for Mrs. C, additional resources cannot be attributed to Mrs. C. Mr. C remains ineligible until he spends down his resources to \$2,000.

If Mr. C is determined eligible, calculate the CP as follows:

\$ 1,410.70	Social Security
+ <u>1,500.00</u>	Pension
\$ 2,910.70	
- 50.00	Personal needs allowance
- <u>2,752.80</u>	Mrs. C's deficit
\$ 107.90	Client participation

\$ 3,853.50	MMMNA
- <u>1,100.70</u>	Mrs. C's Social Security
\$ 2,752.80	Mrs. C's deficit of income

Since Mr. C has income left after the spousal diversion, this is when you will allow other deductions in the CP calculation, such as unmet medical needs (Medicare and health insurance premiums). Since there is only \$107.90 left, Mr. C will have \$107.90 that he can use to pay towards his Medicare premium or health insurance premium.

- Mr. D applied for waiver services in April and meets level of care for waiver services on May 5. Mr. D has a community spouse, Mrs. D. The Ds have combined total resources that are counted in the attribution, in the amount of \$78,000. \$39,000 was attributed to each spouse ($\$78,000 \div 2 = \$39,000$).

Mr. D has \$1,390.70 Social Security and \$233 pension with a total income of \$1,623.70. Mr. D has Medicare and a Medicare supplement with a monthly premium of \$100. Mr. D has total unmet medical deductions in the amount of \$274.70 (\$174.70 Medicare premium + \$100 Medicare supplement = \$274.70). Mrs. D has \$535.70 Social Security.

The April application was denied since Mr. D's resources exceed the \$2,000 resource limit. Mr. D appealed the attribution and the denial.

Since Mr. D became institutionalized after February 8, 2006, Mrs. D's income, plus the income that will be made available from Mr. D is used when determining the shortfall of income between the MMMNA and Mrs. D's available income for the attribution process.

\$ 1,390.70	Social Security
+ <u>233.00</u>	Pension
\$ 1,623.70	
- <u>50.00</u>	Personal needs allowance
\$ 1,573.70	Total of Mr. D's income available to Mrs. D
+ <u>535.70</u>	Mrs. Ds income
\$ 2,109.40	Total income available to Mrs. D when determining her shortfall for the annuity quote

\$ 3,853.50	MMMNA
- <u>2,109.40</u>	Total income available to Mrs. D
\$ 1,744.10	Shortfall of income used to determine the cost of an annuity for the attribution

If Mr. D is determined eligible, calculate the CP as follows:

\$ 1,390.70	Social Security
+ <u>233.00</u>	Pension
\$ 1,623.70	
- <u>2,829.00</u>	Mr. D's maintenance needs
\$.00	Client participation
\$ 483.00	MNIL for one-person household
- <u>535.70</u>	Mrs. D's Social Security
\$.00	Mrs. D's deficit of income

In this situation for client participation, Mrs. D does not have a deficit of income and Mr. D has no income left to allow any other deductions. If Mr. D had income left after the spousal diversion, this is when you would allow other deductions in the CP calculation, such as unmet medical needs (Medicare and health insurance premiums).

NOTE: Do not annualize the community spouse's income when determining the diversion to the community spouse in the client participation calculation.

The appellant must obtain one estimate of the cost of a single-premium lifetime annuity, based on the community spouse's age at the time of appeal, that would generate income equal to the difference between:

- The couple's available gross income and
- The MMMNA in effect when the appeal was filed.

Neither the applicant nor the community spouse has to purchase an annuity as a condition of Medicaid eligibility.

If the applicant is unable to obtain one estimate, assist the couple by contacting financial institutions. If the institution requires the identity of the applicant, obtain a release of information from the applicant.

If the financial institution is unable to provide an estimate, determine the shortfall between the couple's available gross income and the MMMNA. Multiply the shortfall by 12. Multiply this amount by the community spouse's "Life Expectancy in Years" row from the *Table for an Annuity for Life* from the Mortality Table issued by the Iowa Department of Revenue. (See next page.)

Formula: $(\text{MMMNA} - \text{couple's available gross monthly income}) \times 12 \times \text{community spouse's life expectancy in years} = \text{single-premium lifetime annuity quote.}$

Complete form [470-3144, Attribution of Resources Appeal Summary](#), according to instructions in [6-Appendix](#). Report the verified available income of the couple. Note and estimate the amount of any benefits for which the community spouse is eligible but is not receiving. Attach copies of the annuity bid to the form.

Send the form to the Appeals Section, 1305 E Walnut Street, 5th Floor, Des Moines, Iowa 50319-0114.

If the annuity quote is greater than the original attribution amount, the administrative law judge will order that the annuity quote be used instead of the original amount. Send a new *Notice of Attribution of Resources* reflecting the revised amount. (The 90-day transfer policy applies as of the date of Medicaid approval. See [Transfers to Establish Ongoing Eligibility](#).)

If the annuity quote is equal to or less than the original attribution amount, the original attribution is left as is.

TABLE FOR AN ANNUITY FOR LIFE

2001 CSO-D mortality table based on blending 50% male-50% female (pivotal age 45) age nearest birthday **Source:** Iowa Department of Revenue

Age In Years	Life Expectancy In Years	Age In Years	Life Expectancy In Years	Age In Years	Life Expectancy In Years
0	78.65	26	53.49	52	29.15
1	77.73	27	52.53	53	28.27
2	76.78	28	51.58	54	27.4
3	75.81	29	50.63	55	26.54
4	74.84	30	49.67	56	25.68
5	73.86	31	48.72	57	24.84
6	72.87	32	47.76	58	24.01
7	71.89	33	46.81	59	23.19
8	70.91	34	45.85	60	22.38
9	69.92	35	44.9	61	21.57
10	68.94	36	43.95	62	20.78
11	67.95	37	43	63	20
12	66.97	38	42.05	64	19.24
13	65.99	39	41.11	65	18.49
14	65.01	40	40.16	66	17.75
15	64.04	41	39.22	67	17.02
16	63.07	42	38.28	68	16.31
17	62.11	43	37.35	69	15.6
18	61.15	44	36.42	70	14.91
19	60.19	45	35.49	71	14.23
20	59.23	46	34.57	72	13.56
21	58.27	47	33.65	73	12.91
22	57.32	48	32.74	74	12.28
23	56.36	49	31.84	75	11.66
24	55.4	50	30.94	76	11.06
25	54.45	51	30.04	77	10.47

Age In Years	Life Expectancy In Years	Age In Years	Life Expectancy In Years	Age In Years	Life Expectancy In Years
78	9.91	93	3.94	108	1.35
79	9.36	94	3.67	109	1.25
80	8.83	95	3.43	110	1.16
81	8.32	96	3.21	111	1.08
82	7.84	97	3.03	112	1
83	7.38	98	2.88	113	0.93
84	6.94	99	2.71	114	0.86
85	6.52	100	2.53	115	0.79
86	6.13	101	2.35	116	0.73
87	5.75	102	2.18	117	0.67
88	5.41	103	2.02	118	0.61
89	5.09	104	1.87	119	0.56
90	4.79	105	1.72	120	0.5
91	4.51	106	1.59		
92	4.23	107	1.47		

Increase in the Minimum and Maximum Allowance for Community Spouse

The minimum and maximum resource allowance for the community spouse increases each year beginning in 2017. This fact is noted on form 470-2588, *Notice of Attribution of Resources*. No further notice or action is necessary unless the household applies for Medicaid or requests a revision of the attribution based on the increase in the minimum or maximum allowance.

When a household with the minimum or maximum community spouse attribution files an application or requests a revision of the attribution, assess the case to determine if the revised minimum or maximum must be attributed to the community spouse. (You do not need to increase attributed resources if the institutionalized spouse’s eligibility is already established.)

If the new minimum or maximum applies, complete a revision and send a written statement. Do not send a *Notice of Attribution*. Suggested wording is as follows:

The Department of Human Services completed an attribution of resources for your household in **(month, year)**. At that time, the community spouse was attributed the maximum (or minimum) resource allowance of **(amount)**. You have (filed an application or requested a revision of the attribution).

We have revised the attribution, based on an increase in the maximum (or minimum) community spouse resource allowance to **(amount)**. As of **(date)**, the community spouse is attributed **(current maximum (or minimum))**.

We subtract this amount from your household’s total resources at the time of the Medicaid application to determine the institutionalized spouse’s countable resources.

If you have questions, please contact me.

Processing a Medicaid Application After Attribution

Legal reference: 441 IAC 75 (Rules in Process), P. L. 100-360, P. L. 100-485

When determining eligibility for the institutionalized spouse, the amount of resources to count is the difference between the couple's total resources at the time of application and the amount attributed to the community spouse.

Follow the requirements of [8-B](#) to process a Medicaid application. However, do not approve Medicaid before completing an attribution of resources.

If the couple does not have an attribution, total the countable resources of both spouses at the first moment of the month of entry. Exempt only those resources listed under [Resources Excluded From Attribution](#). Complete the attribution as directed under [Calculating the Amount to Attribute to the Community Spouse](#).

Determine and verify countable resources of both spouses as of the first moment of the first day of the month for which application is being made (if this is a different month). Subtract the amount of resources attributed to the community spouse as of the date of entry to the facility from the couple's total resources in the month of application. Count the remaining balance towards the Medicaid resource limit for the institutionalized spouse.

Mr. Z enters a nursing facility on May 22, 1994. Mrs. Z files a Medicaid application for him in September 1995. She lists resources of their homestead, one car, a \$20,000 CD, a checking account of \$55,000, and \$5,000 in a savings account.

When Mr. Z entered the facility, the Zs owned the following resources: their homestead, one car, \$60,000 in CDs, a checking account of \$65,000, and \$15,000 in a savings account. Of these resources, the following items are used in completing the attribution:

\$ 60,000	CDs
65,000	Checking account
+ 15,000	Savings account
\$ 140,000	Total resources

The worker divides \$140,000 by two, which equals \$70,000. This amount is attributed to each spouse.

When determining Mr. Z's eligibility, the worker uses the Zs' resources at the time of application:

\$ 20,000	CD
55,000	Checking account
+ 5,000	Savings account
\$ 80,000	Total resources

The worker then subtracts the community spouse resource allowance (\$70,000 for Mrs. Z) from the total resources. This leaves \$10,000 available for Mr. Z. He is not resource-eligible for Medicaid payment of nursing facility care.

The attributed amount protected for the community spouse is maintained from the month of entry through the initial determination of the institutionalized spouse's Medicaid eligibility. Even if the total resources have increased or decreased by the time the spouse applied for Medicaid, the amount protected for the community spouse is the value of the resources attributed when the other spouse entered the institution.

However, if resources attributed to the community spouse are below the minimum allowance, and the couple later acquires resources that were not counted for attribution, these resources can be transferred to the community spouse to bring that spouse's resources up to the minimum.

1. When Mr. H enters a medical institution, the resources attributed to Mrs. H are \$30,828. When Mr. H applies for Medicaid, the resources of Mr. and Mrs. H are \$31,500 as of the first moment of the first day of the month of application.

The worker subtracts the \$30,828 attributed to Mrs. H from the total. Mr. H has \$672. He is resource eligible under any Medicaid coverage group.
2. Mr. and Mrs. J are SSI eligible. When Mrs. J enters a medical institution in November, Mr. and Mrs. J have \$2,997 in resources. All of the resources are attributed to Mr. J to meet the minimum protection of \$30,828. Mrs. J is resource eligible for Medicaid payment of nursing facility care.
3. Mr. and Mrs. K are eligible for Medically Needy. Their resources are \$9,800 when Mr. K enters skilled care in December. All of the resources are attributed to Mrs. K to meet the minimum protection of \$30,828. Mr. K is resource eligible for Medicaid payment of nursing facility care.
4. Mr. I enters a nursing facility in December. At that time, resources attributed to Mrs. I are \$30,000. Mr. I applies for Medicaid six months later. He reports that his resources have increased. The total is \$75,000 at the time of application. However, only \$30,000 can be attributed to Mrs. I. The other \$45,000 is countable to Mr. I.

If the institutionalized spouse's resources exceed limits for nursing facility coverage groups, check eligibility under the qualified Medicare beneficiary (QMB) group or Medically Needy coverage group. Review resource eligibility at redetermination to ensure that the coverage group continues to be correct.

Mr. D enters a nursing facility in November. Mrs. D remains at home. Their resources total \$33,950 in November. Mrs. D is attributed \$30,828 and \$3,122 is attributed to Mr. D. He is resource-eligible for Medically Needy coverage.

Mrs. D asks that the resources be reevaluated in February, since their resources have decreased. As of the first moment of the first day of the month, the combined resources of both spouses are \$32,100. Subtracting the \$30,828 attributed to Mrs. D, Mr. D has \$1,272 in resources. Mr. D is resource-eligible under any Medicaid coverage group.

When Spouses Are Estranged

Legal reference: 44I IAC 75 (Rules in Process)

Attribute resources for estranged couples. “Estrangement” means a breakdown to the point that the spouses would not be living together if one was not institutionalized or were not living together before one spouse entered the institution. Determine estrangement by talking with the applicant.

If the institutionalized spouse is estranged from the community spouse, do not deny eligibility because of excess resources or failure to provide verification if the applicant can show hardship. To prove hardship, the applicant must demonstrate that:

- The applicant cannot get information about the community spouse’s resources after exploring all legal means.
- The applicant is unable to access the estranged community spouse’s resources after exploring all legal means, even though the community spouse’s resources cause the applicant to be ineligible.

Assignment of Support Rights

Legal reference: 44I IAC 75 (Rules in Process)

Do not deny Medicaid for the institutionalized spouse if the resources owned by the institutionalized spouse are less than eligibility limits and the institutionalized spouse either:

- Has assigned any rights to support from the community spouse to the state, **or**
- Lacks the ability to execute an assignment because of physical or mental impairment.

To decide if the applicant lacks the ability to assign support rights, determine if the applicant has a guardian or conservator. If the applicant did not voluntarily choose to have a guardian or conservator, the client lacks the ability to assign support rights. No further verification is required.

If the applicant chose to have a guardian or conservator but it is alleged that the applicant lacks the ability to assign support rights, verify the lack of assignment ability with a physician’s statement.

If you approve eligibility for an applicant who voluntarily or involuntarily has a guardian or conservator, send the following information to the Bureau of Financial, Health and Work Supports:

- The names and addresses of both spouses.
- The amount of the community spouse resource allowance.
- The amount of resources owned by the community spouse.

The Department will pursue support from the community spouse on a case-by-case basis. The state has the right to bring a support proceeding against a community spouse without an assignment.

The applicant is ineligible if the applicant owns resources that exceed limits, even if the applicant assigns support rights or lacks the ability to assign support rights.

Transfers to Establish Ongoing Eligibility

Legal reference: 441 IAC 75 (Rules in Process)

After the month the institutionalized spouse is determined eligible, do not consider the resources **owned** by the community spouse to be available to the institutionalized spouse.

Resources that are owned wholly or in part by the institutionalized spouse and are not transferred to the community spouse **are** counted when determining ongoing eligibility.

However, do not consider these resources if the institutionalized spouse has declared, in writing, the intent to transfer ownership of the resources to the community spouse. Issue form [470-4888, *Institutional Spouse Intent to Transfer Resources*](#), to document the member's intent. The member can choose to sign and return the form or can provide a written statement.

If the institutionalized spouse does not intend to transfer resources, establish eligibility for the month of application only. Deny ongoing eligibility at the end of that month.

1. Mr. W, the institutionalized spouse, has \$1,900 in resources attributed to him and is eligible for Medicaid. He jointly owns a CD valued at \$20,000. To remain eligible for Medicaid payment to the nursing facility, he must transfer \$18,000 of the CD to reduce his ownership down to \$2,000. He may transfer the total value if he wishes.
2. Mr. J is determined eligible for Medicaid in a medical institution. The amount of resources attributed to Mrs. J (the community spouse) and owned by Mrs. J is \$7,000, which is under the \$30,828 minimum.

A year later, Mr. J receives an inheritance of \$5,000. The IM worker verifies that when Mr. J received the inheritance, Mrs. J's resources were \$6,000. Mr. J intends to transfer \$4,000 to Mrs. J since her resources are under the \$30,828 minimum. He signs a statement to this effect.

Mr. J's remaining resources are \$1,000 ($\$5,000 - \$4,000 = \$1,000$). He is below resource limits for Medicaid and continues to be eligible.

When the member intends to transfer the resource, monitor the progress of the transfer. The transfer must take place within 90 days. The member must provide verification of the transfer. Send a notice similar to the following:

Medicaid has been approved effective _____, since your intent is to transfer resources to your spouse within 90 days of the date of this eligibility determination.

Failure to transfer the resource within 90 days will result in cancellation of Medicaid benefits unless unusual circumstances exist. Please notify this office when the resource is transferred and provide proof that the resource was transferred. 8-D, [Transfers to Establish Ongoing Eligibility](#).

Contact the member or authorized representative within 45 days of the notice to check the status of the transfer. Contact the member at the end of 90 days to see if the resources were transferred.

If the institutionalized spouse is not able to transfer excess resources because of circumstances beyond the member's control, you can allow another 90 days. If, at the end of this extended 90-day period, the resources have not been transferred, cancel the case.

In some cases, the transfer of resources may cause Medicaid ineligibility for the community spouse. After the transfer has been made, examine the effect of the transfer on the community spouse's Medicaid eligibility.

Mr. and Mrs. K are eligible for Non-MAGI-related 503 program at home. Mrs. K enters a nursing facility in January. All \$2,900 of their resources are attributed to Mr. K, who actually owns them. Mr. K is ineligible for the 503 program if he retains the \$2,900 resources. However, he is eligible for the Medically Needy program.

Summary Examples

- I. When Mr. R enters a nursing facility, Mrs. R files form 470-2577, *Resources Upon Entering a Medical Facility*. The Rs list resources of a farm that includes their homestead, \$4,000 in bonds, \$20,000 in stock, two cars, and \$3,000 in a checking account.

Completing the Attribution

The following items are used to complete the attribution:

\$	4,000	Bonds
	20,000	Stocks
	4,500	One car
+	<u>6,000</u>	Checking account
\$	34,500	Total resources

The worker divides \$34,500 by 2, which equals \$17,250. Because this is less than \$30,828, the amount attributed to Mrs. R (the community spouse) is \$30,828. The remaining amount of \$3,672 is attributed to Mr. R.

Appealing an Attribution

After the attribution is complete, Mrs. R files an appeal to set aside additional resources that would generate income equal to the difference between the couple's available income and the MMMNA. The deficit in income is \$1,622.

The cost of an annuity to generate \$1,622 per month is \$103,119. Because \$103,119 is more than the \$30,828 attributed to Mrs. R, the attribution will be modified to substitute \$103,119 for the \$30,828 previously attributed to Mrs. R. No resources are attributed to Mr. R.

Determining Eligibility After the Appeal

After the appeal, Mrs. R applies for Medicaid for Mr. R. The worker subtracts the community spouse allowance of \$103,119 from the couple's resources. This leaves no resources available to Mr. R. He is resource-eligible for Medicaid payment for nursing facility care. Mr. R has 90 days to transfer resources to Mrs. R to maintain his eligibility.

2. Mrs. J enters a nursing facility and files form 470-2577, *Resources Upon Entering a Medical Facility*. The Js list resources of a \$150,000 farm, a homestead, \$10,000 in bonds, \$100,000 in CDs, one car, \$10,000 in a checking account, and \$35,000 in a savings account.

Completing the Attribution

The following items are used to complete the attribution:

\$	150,000	Farm
	10,000	Bonds
	100,000	CDs
	10,000	Checking account
+	<u>45,000</u>	Savings account
\$	315,000	Total resources

\$154,140 is attributed to Mr. J. \$160,860 is attributed to Mrs. J.

Appealing an Attribution

After the attribution is complete, Mr. J files an appeal to set aside additional resources to generate income equal to the difference between the couple's income and the MMMNA. The couple's available income is \$1,844 per month. $\$3,853.50 - \$1,844.00 = \$2,009.50$ unmet need.

The average estimate of the cost of an annuity to generate \$2,009.50 per month is \$45,000, which is less than the \$154,140 attributed to Mr. J. The attribution remains the same.

Determining Eligibility After the Appeal

After the appeal, Mr. J files an application for medical assistance for Mrs. J. The Js have the following resources at the time of application:

\$	61,920	CDs
	50,000	Bonds
	10,000	Checking account
+	<u>40,000</u>	Savings account
\$	161,920	Total resources

The worker subtracts the community spouse allowance of \$154,140. This leaves \$7,780 in resources available to Mrs. J. She is ineligible for Medicaid payment for nursing facility care, because she is over the resource limit.

Transfers That Do Not Cause a Penalty

Legal reference: 441 IAC 75.23(5)

In the following situations, the transfer is exempt and does not cause a penalty:

- A joint account is divided into separate accounts that reflect separate ownership, as long as the funds are divided equally in proportion of ownership. Funds not equally divided in proportion of ownership may be considered transferred and subject to penalty.

Mr. J and Ms. H have \$8,000 in a joint account (A) and \$3,000 in another joint account (B) that they cannot separate. Ms. H also has an account of \$500 in her name alone.

Mr. J enters a nursing home and applies for Medicaid. Ms. H has spent \$5,000 from account A and \$1,000 from account B on Mr. J's nursing home care. At that point, she removes Mr. J's name from the accounts.

Since Ms. H spent more than half of the accounts on Mr. J's care (\$6,000 out of \$11,000), she has rebutted the presumption of divesting. The account owned by Ms. H does not enter into the rebuttal of divesting.

- A transfer is made to the institutionalized person's child or adult child who is disabled as defined by Social Security Administration. The child is considered disabled if the child is:
 - Receiving SSI, Social Security disability benefits, or Railroad Retirement benefits as a disabled child, or
 - Declared disabled by a Department disability determination. See 8-C, [When the Department Determines Disability](#).

Ms. E applies for Medicaid while living in a skilled nursing facility. She has transferred \$10,000 to her son. She says her son is disabled, but he is not receiving any disability benefits. The Department refers the son to apply for SSI, because he has no income.

Ms. E's application is approved for other medical services but is pended for facility payments due to the need to determine her son's disability. If the son does not apply for SSI, the Department determines disability. If the son is not determined to be disabled, transfer of asset penalties are applied.

- The applicant or member or the applicant or member's spouse transfers an asset that would have been exempt as a resource at the time of transfer.

Mr. and Mrs. D have \$11,000 in total assets in March. On April 14, they gave away \$5,000 in certificates of deposit to their daughter. Mrs. D enters a medical institution to stay on April 30.

Since the Ds owned total assets of less than \$30,828, the minimum protected amount for the community spouse in the month before the month of entry and attribution, the transfer is not for the purpose of qualifying for Medicaid.

EXCEPTION: Transfers of a home and surrounding property (including the transfer of a life estate interest only) are not exempt from transfer penalties.

- Program for All-Inclusive Care for the Elderly (PACE) services. (A person receiving PACE services is considered as an institutionalized person.)
- Home health care services.
- Home and community care for functionally disabled elderly people.
- Personal care services.
- Other long-term care services.

The penalty period for transferring assets depends on when the assets were transferred and how much the assets were worth at the time the transfer occurred.

The value of the assets transferred is divided by the statewide average cost of nursing facility services at the time of application.

Time of Application	Average Monthly Statewide Cost of Nursing Facility Services	Average Daily Cost of Nursing Facility Services
July 1, 2023 – June 30, 2024	\$8,581.61	\$282.29
July 1, 2022 – June 30, 2023	\$7,786.35	\$256.13
July 1, 2021 – June 30, 2022	\$7,710.66	\$253.64
July 1, 2020 – June 30, 2021	\$7,205.40	\$237.02
July 1, 2019 – June 30, 2020	\$6,799.88	\$223.68
July 1, 2018 – June 30, 2019	\$6,447.54	\$212.09
July 1, 2017 – June 30, 2018	\$6,269.63	\$206.24
July 1, 2016 – June 30, 2017	\$5,809.13	\$191.09
July 1, 2015 – June 30, 2016	\$5,407.24	\$177.87
July 1, 2014 – June 30, 2015	\$5,103.24	\$167.87
July 1, 2013 – June 30, 2014	\$5,057.65	\$166.37
July 1, 2012 – June 30, 2013	\$5,131.82	\$168.81
July 1, 2011 – June 30, 2012	\$4,853.36	\$159.65
July 1, 2010 – June 30, 2011	\$4,842.72	\$159.30
July 1, 2009 – June 30, 2010	\$4,598.61	\$151.27
July 1, 2008 – June 30, 2009	\$4,342.03	\$142.83
July 1, 2007 – June 30, 2008	\$4,173.92	\$137.30
July 1, 2006 – June 30, 2007	\$4,021.31	\$132.28
July 1, 2005 – June 30, 2006	\$3,697.55	\$121.63

Procedure: Refer trusts and conservatorships, including MAITS, for review by the Medicaid Trust Program. Even if clarification is not needed for Medicaid eligibility purposes, the referral is needed for proper tracking of Medicaid payback trusts. A referral should also be made when requested by Trust Program staff even if there is no Medicaid case.

Referring trusts and conservatorships is also needed to:

- Clarify how the terms of the trust impact eligibility;
- Make Trust Program staff aware when an inaccessible trust is held by an active member, a trustee is not abiding by the terms of the trust, or the trustee has the authority to use the principal of the trust for medical expenses but has not done so.

Make the referral for initial review by sending form 470-5132, *Clarification Request* (located in WISE) to trust@dhs.state.ia.us.

In the clarification request:

- Identify the client by name (if the trust beneficiary is a child, provide the child's name, not the case name), social security number, date of birth and state identification number. (This information is essential because program staff do not have access to the ABC system, Online Narrative, or electronic case files.)
- Provide all the case numbers of the files where you want the response placed.
- Identify relationship of client to the grantor or trustor.
- Identify marital status.
- Indicate what program the client is applying for or is eligible under (MAGI, Non-MAGI, Food Assistance, or FIP).
- Indicate whether this referral concerns a trust for third-party liability for medical expenses.
- Attach a copy of the legal document or trust agreement to the request.

Trust Program staff will first review each submitted document to determine whether it is a “pay-back” trust (defined as a special needs trust, an income trust, or a pooled trust).

- Trusts that are not “pay-back” trusts are returned to the eligibility policy staff for review. (See procedures below.)
- “Pay-back” trusts are kept for review by trust program staff. Of these, income trusts will be the priority for review.

General Non-MAGI-Related Resource Policies

The following sections describe SSI-related policies on:

- [Resource limits.](#)
- [What resources to count.](#)
- [Joint ownership of real property.](#)
- [Disputed ownership.](#)
- [Determining the value of a resource.](#)
- [Deeming resources from a spouse or parent.](#)
- [Eligibility while trying to sell a nonliquid resource.](#)
- [Long-term care asset protection.](#)
- [Resources exempt for Medicaid for Employed People with Disabilities.](#)

Non-MAGI-Related Resource Limits

Legal reference: 20 CFR 416.1205, 44I IAC 50.2(1), 75 (Rules in Process)

For SSI-related Medicaid eligibility, the resource limit is:

- \$2,000 for an individual, and
- \$3,000 for a married couple living together.

The resources of the ineligible spouse must be deemed to the eligible spouse. See [Deeming From a Spouse](#). Determine which resource limit to use, based on whether or not the ineligible spouse has income to deem to the eligible spouse (according to procedures in [8-E](#)).

- Use the resource limit for an individual when no income is deemed from the ineligible spouse.
- Use the resource limit for a couple when income is deemed from the ineligible spouse.

EXCEPTIONS:

- The resource limit is \$4,000 for an individual eligible as a qualified disabled and working person.
- The resource limit is \$6,000 for a married couple living together who are eligible as qualified disabled and working persons.
- The resource limit is \$9,430 for an individual eligible under one of the following coverage groups:
 - Qualified Medicare beneficiaries
 - Specified low-income Medicare beneficiaries
 - Expanded specified low-income Medicare beneficiaries
- The resource limit is \$14,130 for a couple eligible under one of the following coverage groups:
 - Qualified Medicare beneficiaries
 - Specified low-income Medicare beneficiaries
 - Expanded specified low-income Medicare beneficiaries
- The resource limit is \$10,000 for an individual or couple in the SSI-related Medically Needy coverage group.

1. Mr. J buys a long-term-care partnership policy. The policy provides for \$100,000 in long-term-care coverage. Several years later, Mr. J needs nursing home care. His partnership policy covers most of the costs for three years before the \$100,000 benefits are exhausted by payment for his care.

Mr. J applies for Medicaid. He is able to protect \$100,000 for his resources and still qualify for Medicaid to help pay for his long-term care if he meets the other eligibility criteria.

2. Mr. S buys a long-term care partnership policy that provides \$100,000 in coverage. Several years later, Mr. S needs long-term care services and his policy begins to pay him a monthly benefit. Eventually, Mr. S applies for Medicaid home- and community-based waiver services.

At the time of application, Mr. S has \$90,000 in countable resources. His long-term care policy has paid out \$88,000 in benefits with \$12,000 remaining. The worker calculates his resources for Medicaid as:

\$	90,000	Mr. S's resources
-	88,000	Benefits paid out under the LTC policy
-	2,000	Medicaid resource limit
\$	0	Remaining countable resources

Mr. S is eligible for Medicaid because the amount paid under his partnership policy (\$88,000) combined with the Medicaid resource limit (\$2,000) equals his total countable resources (\$90,000). If his partnership policy continues to pay benefits, Mr. S can protect additional resources.

Exempt Resources for Medicaid for Employed People With Disabilities

Legal reference: 441 IAC 75 (Rules in Process)

Additional resources are exempt for persons who qualify for Medicaid eligibility under Medicaid for employed people with disabilities. They are:

- **Assistive technology accounts:** Assistive technology accounts include funds in contracts, savings, trust or other financial accounts, financial instruments or other arrangements with a definite cash value that are set aside and designated for the purchase, lease or acquisition of assistive technology, assistive technology services or assistive technology devices.

These accounts must be held separate from other accounts. Funds must be used to purchase, lease, or otherwise acquire assistive technology, assistive technology services, or assistive technology devices for the working person with a disability.

“Assistive technology” is defined as the systematic application of technologies, engineering, methodologies, or scientific principles to meet the needs of and address the barriers confronted by people with disabilities in areas such as education, rehabilitation, technology devices, and assistive technology services.

An **“assistive technology device”** is any item, piece of equipment, product system, or component part (whether acquired commercially, modified, or customized), that is used to increase, maintain, or improve functional capabilities or to address or eliminate architectural, communication, or other barriers confronted by people with disabilities.

- Use the following chart to determine the correct maximum equity amount based on the date of application.

Application filed on or after:	Equity interest cannot exceed:
January 1, 2014	\$543,000
January 1, 2015	\$552,000
January 1, 2017	\$560,000
January 1, 2018	\$572,000
January 1, 2019	\$585,000
January 1, 2020	\$595,000
January 1, 2021	\$603,000
January 1, 2022	\$636,000
January 1, 2023	\$688,000
January 1, 2024	\$713,000

Property Earning Six Percent of Equity
 20 CFR 416.1222

Exclude real property as a resource if its equity value does not exceed \$6,000 and the net annual return earned on the property is at least 6% of the equity value. **Equity** is the current market value of the property minus any legal debt on the property. **Market value** is the amount an item can be sold for on the open market.

To determine if the property is earning 6% of equity, multiply the net monthly income by 12 months. This amount is the net annual return earned on the property. Then multiply the equity value by 6%. Compare the net annual return amount to the 6% of equity amount.

If the net annual return is higher than 6% of the client's equity in the property, exclude the property if the equity value does not exceed \$6,000.

If the client's equity in the property exceeds \$6,000 and the property is earning at least 6% of equity, count only the amount of equity over \$6,000 as a resource.

Ms. T owns her home and rents it out for \$700 a month. The fair market value of the home is \$80,000 and she still owes \$50,000 on it. Ms. T's equity value is \$30,000. She files an application for medical assistance. Determine if the property is earning 6% of equity as follows:

$\$700 \times 12 = \$8,400$ net annual return

$\$30,000 \times 6\% = \$1,800$

Since Ms. T's equity amount exceeds \$6,000 and the property is earning at least 6% of equity, count only the amount of equity over \$6,000 as a resource.

$\$30,000 - \$6,000 = \$24,000$ countable resource value

If a property is not producing 6% of equity due to a client's illness, exclude the property as a resource for up to 24 months as long as the client plans to resume the business after the illness ends.