



Commonwealth of Massachusetts
Executive Office of Health and Human Services
Office of Medicaid
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Boston, MA 02111
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MassHealth
Eligibility Letter 159
February 1, 2007

TO: MassHealth Staff

FROM: Thomas Dehner, Acting Medicaid Director TD

RE: **Changes to Regulations about the Treatment of a Married Couple's Assets**

MassHealth is revising the regulations about the treatment of a married couple's assets when one spouse is institutionalized.

The community spouse will be allowed one of the following:

- the combined total countable assets of the married couple, up to a specified limit, currently \$99,540;
- a court-ordered amount; or
- an amount determined by a fair hearing.

The effective date of this revision is effective for all applications that are pending as of that date and where initial denial notices have not been sent to the applicant.

These regulations are being issued as emergency regulations and are effective July 1, 2006.

MANUAL UPKEEP

<u>Insert</u>	<u>Remove</u>	<u>Trans. By</u>
520.016 (1 of 2)	520.016 (1 of 2)	E.L. 157
520.016 (2 of 2)	520.016 (2 of 2)	E.L. 145

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(G) retroactive RSDI and SSI benefit payments; and

(H) any other income considered noncountable under Title XIX.

520.016: Long-Term Care: Treatment of Assets

130 CMR 520.016 describes the treatment of countable assets when one member of a couple is institutionalized, the post-eligibility transfer of assets, and the allowable income deductions for applicants and members who are residents of a long-term-care facility.

(A) Institutionalized Individuals. The total value of assets owned by an institutionalized single individual or by a member of an institutionalized couple must not exceed \$2,000.

(B) Treatment of a Married Couple's Assets When One Spouse Is Institutionalized.

(1) Assessment.

(a) Requirement. The MassHealth agency completes an assessment of the total value of a couple's combined countable assets and computes the community spouse's asset allowance as of the date of the beginning of the most recent continuous period of institutionalization of one spouse.

(b) Right to Request an Assessment. When one spouse has entered a medical institution and is expected to remain institutionalized for at least 30 days, either spouse may request the MassHealth agency to make this assessment, even if the institutionalized spouse is not applying for MassHealth Standard at that time. The period of institutionalization must be continuous and expected to last for at least 30 days.

(c) Right to Appeal. The MassHealth agency must give each spouse a copy of the assessment and the documentation used to make such assessment. Each spouse must be notified that he or she has the right to appeal the determination of countable assets and the community spouse's asset allowance when the institutionalized spouse (or eligibility representative) applies for MassHealth Standard.

(2) Determination of Eligibility for the Institutionalized Spouse. At the time that the institutionalized spouse applies for MassHealth Standard, the MassHealth agency must determine the couple's current total countable assets, regardless of the form of ownership between the couple, and the amount of assets allowed for the community spouse as follows. The community spouse's asset allowance is not considered available to the institutionalized spouse when determining the institutionalized spouse's eligibility for MassHealth Standard.

(a) Deduct the community spouse's asset allowance, based on countable assets as of the date of the beginning of the most recent continuous period of institutionalization of the institutionalized spouse, from the remaining assets. The community spouse's asset allowance is the greatest of the following amounts:

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(i) the combined total countable assets of the institutionalized spouse and the community spouse, not to exceed \$99,540;

(ii) a court-ordered amount; or

(iii) an amount determined after a fair hearing in accordance with 130 CMR 520.017.

(b) Compare the amount of the remaining assets to the MassHealth asset standard for one person, which is \$2,000. When the amount of the remaining assets is equal to or below \$2,000, the institutionalized spouse has met the asset test of eligibility.

(3) Post-Eligibility Transfer of Assets.

(a) To meet the needs of the community spouse and to allow the continuing eligibility of the institutionalized spouse, the MassHealth agency allows the institutionalized spouse, after he or she has been determined eligible for MassHealth Standard, to transfer assets to or for the sole benefit of the community spouse in accordance with 130 CMR 520.016(B)(1) and (2).

(b) The institutionalized spouse must transfer any of his or her assets that are part of the community spouse's asset allowance no later than 90 days immediately after the date of the notice of approval for MassHealth Standard. During this 90-day period, the MassHealth agency:

(i) will continue to exclude these assets in the determination of continuing eligibility; and

(ii) will not apply the transfer rules in 130 CMR 520.018 and 520.019 to the assets transferred to the community spouse.

(c) The MassHealth agency may extend the 90-day period if any of the following conditions exist:

(i) the court is involved in assigning the couple's property through support actions;

(ii) an appeal of the asset allowance has been filed with the Board of Hearings; or

(iii) the condition of the institutionalized spouse requires the appointment of a conservator or guardian to act on his or her behalf.

(d) The amount of the transferred assets added to the assets owned by the community spouse cannot exceed the community spouse's asset allowance as defined in 130 CMR 520.016(B)(2).