

# Spousal Impoverishment Protection Law

The Spousal Impoverishment Protection Law applies for nursing home admissions occurring on or after September 30, 1989. Protection under the law applies to nursing home, in-home and community type care services under the Medicaid Aged and Disabled Waiver. The purpose of the law is to allow the community spouse to keep some of the couple's income and assets while still qualifying the nursing home spouse for Medicaid. ([Click here to download brochure](#))

A *snapshot* of the couple's assets is taken in order to determine the community spouse's share. The snapshot reflects the couple's assets at the time of the Medicaid applicant's FIRST continuous (minimum 30 days) institutionalization (nursing facility or hospital).

When a nursing home spouse is applying for Medicaid, the couple will need to complete a *resource assessment* tool based upon the resources (assets) owned at the *snapshot* date AND an application for Medicaid (which asks for information about current resources). The community spouse's share is calculated from the resource assessment tool. The nursing home spouse's eligibility is determined from the application. Assets of a married couple are generally considered to be jointly-owned no matter in whose name they have been placed.

## ASSETS:

The community spouse is allowed to keep a maximum of half (1/2) of the non-exempt assets up to a total of **\$126,420** (1/2019) or at least a minimum of **\$25,284** (1/2019).

The nursing home spouse is allowed only **\$3,000** in non-exempt assets to be eligible for Medicaid.

## INCOME:

The community spouse is allowed to keep all income that is solely in his/her name, plus half (1/2) of all jointly owned income. If his/her income does not equal as least **\$2,058** per month (7/2018), he/she may keep some of the nursing home spouse's income to get up to the minimum level of **\$2,058**. If the community spouse has high living expenses, he/she may appeal to keep more of the nursing home spouse's income – bringing his/her total minimum monthly income up to **\$3,161** (1/2019).

The nursing home spouse must contribute all of his/her income towards the nursing home cost except for \$52 per month for personal needs and any dollar amounts for health insurance, premiums, taxes and medical expenses not covered by Medicaid. This contribution of income towards his/her care is called his/her "liability."