

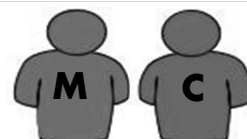
Strategies for Dealing with a Spend Down in MLTC – Married Applicants

1 Spousal Refusal & Spousal Impoverishment

Starting July 2016, can now request Spousal Impoverishment budgeting upon applying for Medicaid if using Immediate Need procedures.



Case Scenario: Morgan & Chris

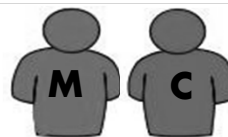


- Morgan and Chris are married
- Morgan receives Social Security Disability (SSD) & Chris gets SS Retirement. Both receive Medicare.
- Morgan needs community-based long term care
- Morgan's Medicaid budget – Since he receives SSD and Medicare and has no children, **“Disabled, Aged, Blind” (DAB or “SSI-related”)** budgeting is used at application

	Morgan – Needs MLTC	Chris – Spouse
Income – Social Security	\$2,000	\$1,500
Medicare Part B premium	\$121	\$121



Morgan's Regular Non-MAGI "DAB" Medicaid Budget



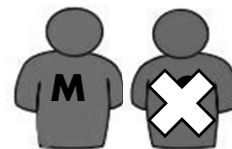
- Morgan's "SSI-related" community Medicaid budget **includes** Chris' income as spouse because both are either disabled or age 65+
- Morgan's spend down is **\$2,029/month** if he **does not use**

spousal refusal	Morgan MLTC	Chris
Income	\$2,000	\$1,500
Chris' income	\$1,500	
Medicare Part B premium	- \$242	\$121
Income disregard	- \$ 20	
Net Countable Income	\$3,238	
Medicaid standard (couple)	- \$1,209	
Excess Income/Spenddown	\$2,029	

Strategy 1: Spousal Refusal

- Medicaid eligibility must be determined just based on the applying spouse's income and resources if the non-applying spouse refuses to make his/her own resources and income available or does not live with the applicant. Soc. Serv. L. § 366.3(a)
- 2016-17 NYS Budget survived the 27th attempt to repeal that statute. Would have required deeming of spouse's income and resources if spouse lives with applicant.
- Must weigh risk of lawsuit for support by local DSS.
- Consider options - may not need spousal refusal if Spousal Impoverishment methodology helps. See next slides.

Morgan's Medicaid Budget with Spousal Refusal



- Morgan's "SSI-related" Medicaid budget does not **include** Chris' income
- Morgan's spend down with spousal refusal is **\$1,034/month** - better than **\$2,029**.

	Morgan MLTC	Chris
Income	\$2,000	\$1,500
Medicare Part B premium	- \$121	\$121
Income disregard	- \$ 20	
Net Countable Income	\$1,859	
Medicaid standard (single)	- \$825	
Excess Income/ Spenddown	\$1,034	

Deposit in Pooled Trust

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Strategy 2 - Spousal Impoverishment

- Option where **one spouse** is in MLTC or nursing home, or seeking Immediate Need Medicaid, and other spouse is "Community Spouse" NOT on or seeking Medicaid.
 - **Federal requirement for MLTC since 2014 (ACA)(but only until 2019).** Before, was only in Nursing home and certain waivers.
- NYS procedures are in **NYS DOH GIS 14 MA/015**, **NYS DOH GIS 13 MA/018** and **GIS 12 MA/13**. All on https://www.health.ny.gov/health_care/medicaid/publications/
- Summary on <http://www.wnyc.com/health/entry/165/>
- Can now request this with Immediate Need Medicaid application.

ASSETS – Instead of usual \$21,750 allowed for a couple --

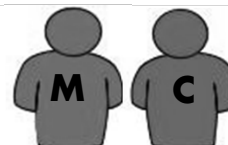
- Spouse may keep greater of **\$74,820** of assets or half of assets up to \$119,820
- MLTC recipient may have **\$14,850** assets – has 30 days after application approved to rearrange assets per these limits.

Spousal Impoverishment Income Budgeting – Basic Rules

- Normally couple can keep **only \$1229/month** COMBINED income The rest is the spend-down.
- With Spousal impoverishment budgeting, couple can keep up to:
 \$2,980.50/mo. **Minimum Monthly Maintenance Needs Allowance (MMMNA)** for “Community Spouse.”
 + \$ 384.00/mo. **Personal Needs Allowance** for MLTC Spouse
 = **\$3,364.50/mo. Total combined income PLUS**
 + \$ 668.00/mo. **Family Member Allowance-** for each financially dependent child (including adult child), parent, or sibling of either spouse living with them (maximum 3 people)*

*18 NYCRR §360-4.9 - 4.10, DOH MEDICAID REFERENCE GUIDE: INCOME at 278-282, GLOSSARY (June 2010). DOH [GIS 16 MA/007 - 2016 Federal Poverty Levels](#)

Morgan can supplement Chris’ income with CSMIA – Community Spouse Monthly Income Allowance – up to \$2,980.50



- Chris gets less than the max CSMIA (\$1601.50 – enough to bring his income to \$2,980.50), because Morgan’s income is not high enough after his PNA.
- Morgan will have no spenddown, but could if their income were higher. Couple can keep all income.

	Morgan MLTC	Chris
Net Income	\$1,879	\$1,379
PNA (amount Morgan keeps)	-\$384	
CSMIA (“transferred” to Chris)	-\$1,495	\$1,495
Excess Income/Spenddown	\$0	< \$2,980 MMMNA

NEW: Spousal Impoverishment available on application for IMMEDIATE NEED Medicaid

- Before DOH issued 16 ADM-02, a married person applying for Medicaid in order to enroll in MLTC had to initially apply using regular Medicaid rules – combining both spouse's income using couple level of \$1209/mo. or using Spousal Refusal. Soc. Serv. L. § 366.3(a).
- This is because NYS sees Spousal Impoverishment as a “post-eligibility” budgeting methodology. GIS 14 MA/025 - Spousal Impoverishment Budgeting with Post-Eligibility Rules Under the Affordable Care Act.
- **Under 16 ADM-02, married person may request Spousal Impoverishment budgeting with Medicaid application based on IMMEDIATE NEED for personal care or CDPAP.**



Initial Budget where **NOT** seeking Immediate Need Medicaid – Spousal Impoverishment Not allowed.

- The applicant may have a high spend-down using regular community Medicaid rules. Even if the “community spouse” Chris did a spousal refusal, so Chris’ \$1,500/ month income isn’t counted, Morgan’s (Applicant’s) income of \$2,000 would create a high spenddown. (Earlier slide)
- But this is just for one month, because right **after she enrolls in an MLTC plan, she can request Spousal Impoverishment budgeting and will have NO spenddown.**
- A pooled trust wouldn’t be worth the trouble just for a month.
- If seeks IMMEDIATE NEED Medicaid, can request Spousal Impoverishment upon APPLICATION.



Converting to Spousal Impoverishment Budgeting – if didn't use “Immediate Need”

- Enrolling in MLTC doesn't automatically change the budgeting to spousal impoverishment!
- As soon as applicant is enrolled in an MLTC → submit DOH *Request for Spousal Impoverishment Assessment Form* to LDSS / HRA
 - HRA and some other counties prefer MLTC Plan, not Member, submit this request
- Form available at page 9 of NYS Medicaid Update, March 2014 -- see next slide.
- Warning –local DSS and plans still unfamiliar!



NYS DOH
Medicaid
Update
March 2014
p. 9

DOH
Department of Health

Request for Assessment Form

Institutionalized Spouse Name: _____

Address: _____

Telephone Number: _____

Community Spouse Name: _____

Current Address: _____

Telephone Number: _____

I/we request an assessment of the data checked below:

☐ Double's court-able resources and the community spouse resource allowance

☐ Community spouse monthly income allowance

☐ Family member allowance

Check ☐ If you are a representative acting on behalf of either spouse. Please call your local department of social services if we do not contact you within 30 days of this request.

NOTE: If an assessment is requested without a Medicaid application, the local department of social services may charge up to \$25 for the cost of preparing and copying the assessment and documentation.

Signature of Requesting Individual: _____

Address and telephone if different from above: _____

www.health.ny.gov/health_care/medicaid/program/update/2014/mar14_mu.pdf

www.health.ny.gov/health_care/medicaid/program/update/2014/mar14_mu.pdf

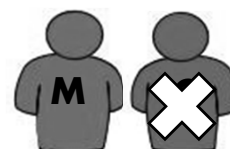


What if Spousal Impoverishment Doesn't Help? Applicant applies as SINGLE person.

- What if the Community Spouse (Chris) has income higher than \$3,000/month (instead of \$1,500).
- Chris wouldn't be entitled to a CSMIA (impoverishment allowance) because his income is already at the allowance - \$2,980. So spousal impoverishment budgeting isn't helpful.
- **ANSWER:** Morgan will have a high spend-down and may instead use a pooled trust. GIS 14 MA/025 gives you a choice of using spousal impoverishment or, if not favorable, to be **budgeted as a single person** without spouse's income being counted.
 - He is budgeted as single. GIS 12 MA/013. "SSI-related" community budgeting is used. Net income over \$825/mo. = Spend-down = Trust deposit. See next slide No spousal refusal needed.
 - May Request on Immediate Need application.



Morgan's Medicaid Budget if Opts Not to Use Spousal Impoverishment.



- Morgan is **budgeted as a single** person.
- Morgan's spend down based on being single – just like spousal refusal - **\$1,034/month**.

	Morgan	Chris
Income	\$2,000	\$3,000
Medicare Part B premium	- \$121	\$121
Income disregard	- \$ 20	
Net Countable Income	\$1,859	
Medicaid standard (single)	- \$825	
Excess Income/ Spenddown	\$1,034	

Deposit in Pooled Trust

