



## Ohio Administrative Code

### Rule 5160:1-6-04 Medicaid: treatment of income and resources for an institutionalized spouse with a spouse in the community.

Effective: December 14, 2020

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(A) This rule describes how to treat the income and resources of the institutionalized spouse (IS) and the community spouse (CS) for purposes of determining eligibility of the IS. When determining eligibility under this rule, the income and resources deeming provisions in Chapter 5160:1-3 of the Administrative Code do not apply.

(B) This rule only applies to the financial eligibility determination of the IS, who is:

(1) Requesting long-term care (LTC) payment of services, as described in rule 5160:1-6-01.1 of the Administrative Code, in a medical institution, or home and community-based services (HCBS) waiver, or program of all-inclusive care for the elderly (PACE), for a continuous period of institutionalization as defined in rule 5160:1-6-01.1 of the Administrative Code; and

(2) Married to someone who is not in a medical institution, eligible for an HCBS waiver, or receiving PACE services. This spouse is called the CS.

(C) Financial eligibility for the IS cannot be approved until:

(1) The IS's income is at or below the income limit applicable to the eligibility group for which he or she qualifies, as identified in Chapters 5160:1-3, 5160:1-4, 5160:1-5, and 5160:1-6 of the Administrative Code; and

(2) The couple's combined countable resources, if the IS is subject to a resource limit as described in the eligibility rules for the applicable medicaid category, are equal to or less than the community spouse resource allowance (CSRA), as determined in paragraph (E)(5) of this rule, plus two thousand dollars.

(D) Treatment of income.



(1) During any month in which the IS is eligible for LTC services in a medical institution, or HCBS waiver, or PACE, no income of the CS shall be considered available to the IS.

(a) If the IS's base eligibility is calculated using modified adjusted gross income (MAGI) budgeting methodology, determine the MAGI household composition and family size in accordance with rule 5160:1-4-01 of the Administrative Code, under which a married individual's household includes his or her spouse if the spouses file their tax returns jointly or are living together.

(b) When using MAGI budgeting methodology, the CS's income will not be included in the determination of household income.

(2) In determining each spouse's income, the following rules apply:

(a) If payment of income is made solely in the name of one spouse, the income shall only be considered available to that respective spouse, unless the income is from a trust or other instrument establishing ownership otherwise.

(b) If payment of income is made in the name of both spouses, with no trust or instrument establishing ownership otherwise, one-half of the income shall be considered available to each spouse.

(c) If payment of income is made in the name of both spouses and to another person, the income shall be considered available to each spouse in proportion to their interest. If the portion of interest is not specified, then one-half of the joint interest shall be considered available to each spouse.

(E) Treatment of resources.

(1) The IS, if subject to a non-MAGI budgeting methodology, is allowed to keep up to two thousand dollars in countable resources.

(2) A CS is allowed to keep a certain amount of the couple's combined countable resources called the community spouse resource allowance (CSRA).



- (3) A CSRA must be calculated when an IS applies for LTC services; unless
- (4) The IS has base eligibility under a MAGI category, in accordance with Chapter 5160:1-4 of the Administrative Code, since MAGI budgeting does not have a resource limit.
- (5) The CSRA is calculated as follows:
- (a) Total all of the couple's combined countable resources, in accordance with Chapter 5160:1-3 of the Administrative Code, which were owned on the IS's snapshot date. Beginning on or after September 30, 1989, the snapshot date is the earlier of:
- (i) The first day of the month in which the individual was an IS and was in a medical institution for a continuous period of institutionalization;
  - (ii) The first day of the month in which the individual was an IS and is expected to be in a medical institution for a continuous period of institutionalization; or
  - (iii) The day that the IS applied for or requested HCBS or PACE services, so long as the IS meets the non-financial requirements to receive such services. If the IS ceases to meet the non-financial requirements for HCBS waiver or PACE enrollment, then the IS's base eligibility must be re-determined in accordance with Chapter 5160:1-3, 5160:1-4, or 5160:1-5 of the Administrative Code.
- (b) The CSRA is the greatest of the following:
- (i) One half of the total of the couple's combined countable resources or the community spouse maximum resource standard established annually by the centers for medicare and medicaid services (CMS); whichever is less;
  - (ii) The community spouse minimum resource standard established annually by CMS;
  - (iii) The amount established by a state hearing decision from a hearing requested under paragraphs (E)(11) and (E)(12) of this rule; or



- (iv) The amount established under a court order.
- (6) To determine if the IS is resource eligible deduct the CSRA from the total of the couple's current combined countable resources.
- (a) If the remainder is less than or equal to two thousand dollars, the IS is resource eligible.
- (b) If the remainder is greater than two thousand dollars, the IS is ineligible for medical assistance.
- (7) If the CS fails to cooperate with the CSRA determination or refuses to make resources available to the IS as required by this rule, the IS shall not be ineligible because of resources determined in paragraph (E)(6) of this rule, if the countable resources that are solely owned by or titled to the IS are at or below two thousand dollars and one of the following conditions are met:
- (a) The IS has assigned to the administrative agency any rights to support from the CS; or
- (b) The IS lacks the ability to execute an assignment due to physical or mental impairment but the administrative agency has the right to bring a support proceeding against a CS without such assignment; or
- (c) The administrative agency determines that a denial of eligibility would cause an undue hardship. An undue hardship exists when the denial or termination of services would deprive the individual of medical care such that the individual's health or life would be endangered or deprive the individual of life necessities such as food, clothing, or shelter.
- (8) An undue hardship under paragraph (E)(7) of this rule will not be granted if the IS transferred resources to the CS and the CS refuses to make resources in an amount above the CSRA available to the IS.
- (9) If applicable, once the IS's initial eligibility is approved, the IS has twelve months from the date that eligibility was approved to transfer any resources that are owned or titled in his or her name, up to the CSRA amount, solely into the name of the CS.



(10) After the month in which the IS is determined eligible for medical assistance, no resources of the CS shall be considered available to the IS, for so long as the IS continues to remain eligible without a break in coverage.

(11) A CSRA calculation can be requested at any time by either spouse or by someone with the legal ability to act on the IS's behalf. If the request for a CSRA calculation is not a part of an application for medical assistance, there shall be a fee of fifty dollars charged to the individual requesting the calculation. A copy of the CSRA calculation will be maintained by the administrative agency.

(12) If either spouse considers the CSRA amount insufficient, either spouse or someone with the legal ability to act on his or her behalf can request a state hearing, in accordance with rule 5101:6-7-02 of the Administrative Code, regardless of whether the CSRA calculation is done in conjunction with an application for medical assistance.

(13) The CSRA may be increased to generate additional income to the CS if a hearing requested under rule 5101:6-7-02 of the Administrative Code results in a finding that all of the available income of the IS has been allocated to the CS and that income is not enough to bring the CS's income up to the minimum monthly maintenance needs allowance (MMMNA), as defined in rule 5160:1-6-01.1 of the Administrative Code.