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 | ADMINISTRATIVE DIRECTIVE |
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TRANSMITTAL: 95 ADM-12

TO: Commissioners of
 Social Services

DIVISION: Health and
 Long Term Care

DATE: July 21, 1995

SUBJECT: Spousal Impoverishment: Allowance Increases for 1995

 SUGGESTED

DISTRIBUTION: Medical Assistance Staff
 Public Assistance Staff
 Adult Services Staff
 Fair Hearing Staff
 Legal Staff
 Staff Development Coordinators

CONTACT

PERSON: Upstate: Elsie Kirk, 1-800-343-8859, extension
 3-5509, User ID OME310
 New York City: New York City Representative at
 (212)383-2512

ATTACHMENTS: Attachment -- Spousal Impoverishment Income and
 Resource Amounts (available on-line)

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Dept. Regs.	Soc. Serv. Law & Other Legal Ref.	Manual Ref.	Misc. Ref.
94 ADM-7	+				
93 ADM-17					
92 ADM-18					
91 ADM-33					
91 ADM-27		360-1.4	SSA 1924	MARG pgs.	GIS 95MA016
91 ADM-13		360-4.3(f)	SSL 366-c	213 and	GIS 94MA025
90 ADM-36		360-4.9	SSL 366	334.4	GIS 94MA032
90 ADM-35		360-4.10			MBL Trans-
90 ADM-29					mittal 94-2
89 ADM-47					
92 INF-14					
90 INF-38					
90 INF-19					

I. PURPOSE

- A. This Administrative Directive (ADM) informs social services districts of the January, 1995 increases in the following amounts used in determining Medical Assistance (MA) eligibility for institutionalized spouses:
1. the maximum community spouse resource allowance (CSRA); and
 2. the minimum monthly maintenance needs allowance (MMMNA) for a community spouse.
- B. This ADM also informs social services districts of the January, 1995 increase in the family member allowance (FMA) used in determining the eligibility of institutionalized spouses.
- C. This ADM further informs social services districts of the July, 1995 decrease in the FMA.

II. BACKGROUND

A. CSRA AND MMMNA

Chapter 558 of the Laws of 1989 added a new Section 366-c to the Social Services Law (SSL) regarding the treatment of income and resources of institutionalized persons and their spouses. Under SSL Section 366-c, effective October 1, 1989, in determining the MA eligibility of an institutionalized spouse, the community spouse is permitted to retain the maximum CSRA of the couple's countable resources, and a maximum MMMNA in monthly income. A larger resource or income amount can be established by a court order or a fair hearing. The MMMNA is also used in determining the amount of any contribution to be requested from the income of a community spouse or of a spouse living apart from an SSI-related applicant/recipient (A/R).

SSL Section 366-c requires that the maximum CSRA be increased annually and allows the MMMNA to be increased annually, by the same percentage as that of the Consumer Price Index (CPI). Based on an increase in the CPI, effective January 1, 1995:

1. the maximum CSRA increases from \$72,660 to \$74,820; and
2. the MMMNA increases from \$1,817 to \$1,871.

B. FMA

SSL Section 366-c provides that if an institutionalized spouse or community spouse has dependent family members, who are living with the community spouse and whose otherwise available income is below

a calculated FMA amount, income must be set aside to meet the needs of the family members before applying any income to the institutionalized spouse's cost of care.

The FMA established for each family member is an amount equal to one-third of the amount by which one-twelfth of the applicable percentage of the annual federal income official poverty line (federal poverty line) for a family of two exceeds the amount of the family member's otherwise available monthly income.

1. January 1, 1995 Increase

The federal poverty line for a family of two increases from \$9,840 to \$10,080, effective January 1, 1995.

2. July 1, 1995 Decrease

The estimated federal poverty line for two (\$10,080) used to determine the FMA effective January 1, 1995 was higher than the actual federal poverty line for two (\$10,030) announced in March, 1995. As a result, the federal poverty line for two is revised to \$10,030, effective July 1, 1995.

III. PROGRAM IMPLICATIONS

A. MAXIMUM CSRA AND MMMNA INCREASES

In accordance with the provisions of SSL Section 366-c, effective January 1, 1995, the resource and income levels for the community spouse of an institutionalized MA A/R are as follows:

1. \$74,820 - Maximum Community Spouse Resource Allowance
2. \$ 1,871 - Minimum Monthly Maintenance Needs Allowance

These increased amounts may result in more spouses becoming eligible for MA coverage for institutional care and services. In addition, the new MMMNA provides increased income for a community spouse and will also raise the level used in determining any requested contribution from income from a community spouse or a spouse living apart from an SSI-related A/R.

Note: The increased MMMNA and CSRA amounts must be used when completing an assessment of a couple's resources and income.

B. FMA

Under the provisions of SSL Section 366-c, a FMA is established for a minor child, dependent child, dependent parent, or dependent sibling of the institutionalized spouse or community spouse, who

is residing with the community spouse and who has over 50 percent of his or her maintenance needs met by the community spouse and/or the institutionalized spouse.

A higher FMA also will affect the amount of income which may be requested as a contribution from a community spouse or from a spouse living apart from an SSI-related A/R.

1. January 1, 1995 Increase

The estimated federal poverty line for a family of two is \$10,080 effective January 1, 1995. One-twelfth of 150 percent (applicable percentage) of \$10,080 equals \$1,260. The maximum FMA for a family member with no other available income is calculated as follows:

$$\frac{\$1,260}{3} = \$420$$

2. July 1, 1995 Decrease

The actual federal poverty line for a family of two is \$10,030, effective July 1, 1995. One twelfth of 150 percent (applicable percentage) of \$10,030 rounded up to the nearest dollar equals \$1,254. The maximum FMA for a family member with no other available income is calculated as follows:

$$\frac{\$1,254}{3} = \$418$$

IV. REQUIRED ACTION

A. MAXIMUM CSRA AND MMMNA INCREASES

As advised in a GIS Message dated November 8, 1994 (94MA025), social services districts must use the increased maximum CSRA and MMMNA figures when determining the MA eligibility of an institutionalized spouse (as defined in 89 ADM-47) for January 1, 1995 or after.

In determining the resources of an institutionalized spouse, the community spouse must be allowed to retain up to \$74,820 of the couple's total combined countable resources, unless a higher amount is established by court order or fair hearing. This updates the \$72,660 amount set forth in 94 ADM-7. When performing an assessment of a couple's resources for any month beginning January 1, 1995 or after, social services districts must use the increased maximum CSRA.

Effective January 1, 1995, the increased MMMNA must be used in determining the Net Available Monthly Income (NAMI) of an

institutionalized spouse when an MA application is filed or when completing an assessment. All cases involving an institutionalized spouse active on or after January 1, 1995, must have their eligibility recomputed based on the new MMMNA figure of \$1,871. The budgeting methodology contained in 89 ADM-47, with the exception of no longer allowing mandatory payroll deductions in accordance with 91 ADM-27, must be followed for computing the amount of the community spouse monthly income allowance. Any increases in the amount of income available for the community spouse or changes in the institutionalized spouse's NAMI are to be made effective January 1, 1995.

Social services districts must also use the new MMMNA amount to (re)calculate the requested contribution from income of a community spouse or a spouse living apart from an SSI-related A/R as set forth in Section IV.G of 89 ADM-47.

B. FMA

Effective January 1, 1995, the estimated federal poverty line for a family of two is \$10,080. As advised in GIS 94MA032, one-twelfth of 150 percent of \$10,080 equals \$1,260.

Effective July 1, 1995, as advised in GIS 95MA016, the actual federal poverty line for a family of two is \$10,030. One-twelfth of 150 percent of \$10,030 rounded up to the nearest dollar equals \$1,254.

1. The formula to calculate the FMA is as follows:

- a. Subtract the otherwise available income of the family member from one-twelfth of 150 percent of the federal poverty line for a family of two (\$1,260 effective January 1, 1995; and \$1,254 effective July 1, 1995).
- b. Divide the result by three, and round up to the nearest dollar.

2. All spousal impoverishment cases involving a family member which are active on or after January 1, 1995 and/or July 1, 1995, must be recomputed using the appropriate FMA formula.

3. Any increase/decrease in the FMA, or change in the NAMI of the institutionalized spouse as a result of the increase/decrease in the FMA, is to be made effective January 1, 1995 and/or July 1, 1995, as appropriate.

4. Any increase/decrease in the FMA also will affect the amount of income which may be requested as a contribution from a community spouse or from a spouse living apart from an SSI-related A/R.

NOTE: The new FMA must be used when completing an assessment of a couple's resources and income.

C. Notice Requirements

1. When a social services district changes the amount of one of the items used in the calculation of MA eligibility (even if the result is no change in liability), the district must send to the A/R or authorized representative and the community spouse:
 - a. an updated "Institutionalized Spouse Budget Worksheet" detailing current income information;
 - b. a copy of the revised MBL budget;
 - c. the DSS-4021 "Notice of Intent to Change the Contribution Toward Chronic Care Costs"; and,
 - d. if appropriate, the "Notice to Spouse (Undercare)."
2. Social services districts are reminded that they must also send the provider a copy of any client notice reflecting an adjustment in the NAMI to allow providers to bill MMIS appropriately.
3. In the event that the decrease in the July 1, 1995 FMA has the effect of increasing the institutionalized spouse's NAMI, social services districts are reminded that timely and adequate notice must be provided.
4. Districts must use Attachment I, which has been updated to reflect the 1995 increases in the maximum CSRA, maximum MMMNA, and FMA, as a replacement for the last page of the "Information Notice to Couples with an Institutionalized Spouse," contained in 90 ADM-29.

V. SYSTEM IMPLICATIONS

A. MBL

As of December 5, 1994, MBL has supported \$1,871 as the maximum MMMNA when a Budget Effective From Date of 01/01/95 or greater has been entered. The amount of court ordered support in excess of \$1,871 should be entered on MBL as Additional Allowance Code 19.

The calculation of a couple's countable resources, the maximum CSRA, and Family Member Allowances(s) must be done using the "Institutionalized Spouse Budget Worksheet." Any resources attributed to the institutionalized spouse should be entered on MBL using the appropriate Categorical Code (CTG) and Chronic Care Indicator (I). The total amount of the Family Member Allowance should be entered on MBL as Additional Allowance Code 23.

B. MBL REPORT

To request a report identifying MBL budgets with Additional Allowance Codes 19 and/or 23, call the contact person listed on the first page of this ADM.

V1. EFFECTIVE DATE

This ADM is effective August 1, 1995, retroactive to January 1, 1995, except for the FMA decrease, which is effective July 1, 1995.

Richard T. Cody
Deputy Commissioner
Division of Health and Long Term Care

SPOUSAL IMPOVERISHMENT INCOME AND RESOURCE AMOUNTS

Maximum Community Spouse Resource Allowance

\$60,000	- October 1, 1989	\$70,740	- January 1, 1993
\$62,580	- January 1, 1990	\$72,660	- January 1, 1994
\$66,480	- January 1, 1991	\$74,820	- January 1, 1995
\$68,700	- January 1, 1992		

Note: A higher amount may be established by court order or fair hearing.

Maximum Community Spouse Monthly Income Allowance is an amount of up to:

\$1,500	- October 1, 1989	\$1,769	- January 1, 1993
\$1,565	- January 1, 1990	\$1,817	- January 1, 1994
\$1,662	- January 1, 1991	\$1,871	- January 1, 1995
\$1,718	- January 1, 1992		

if the community spouse has no income of his/her own.*

Note: A higher amount may be established by court order or fair hearing.

Family Member Allowance - for each family member is an amount up to:

\$271	- October 1, 1989	\$395	- January 1, 1993
\$285	- July 1, 1990	\$393	- July 1, 1993
\$329	- July 1, 1991	\$410	- January 1, 1994
\$340	- January 1, 1992	\$420	- January 1, 1995
\$383	- July 1, 1992	\$418	- July 1, 1995

if the family member has no income of his/her own.*

* If the institutionalized spouse is receiving Medical Assistance, any change in income of the institutionalized spouse, the community spouse and/or the family member may affect the community spouse income allowance and/or the family member allowance. Therefore, the social services district should promptly be notified of any income changes.