

Using California's Spousal Impoverishment Rule for Home and Community Based Services

CANHR is a private, nonprofit 501(c)(3) organization dedicated to improving the quality of care and the quality of life for long term care consumers in California.

This fact sheet may be useful to California residents seeking Medi-Cal benefits to cover the cost of in-home caregiving or other services at home. Medi-Cal is California's version of the federal Medicaid program, providing health insurance to low-income or low-asset individuals. In addition to paying for nursing home care, Medi-Cal also covers the cost of in-home caregiving, assistance with household chores, and other "home and community-based services" (HCBS). Unfortunately, many Medi-Cal beneficiaries have difficulty accessing these benefits due to a high monthly Share of Cost;¹ others may be ineligible for Medi-Cal entirely due to excess assets.

If you are interested in obtaining Medi-Cal to assist with in-home care expenses, but are worried that your income or assets may be too high, the "Spousal Impoverishment Protections" described below may help you.

What are the "Spousal Impoverishment Protections"?

The spousal impoverishment protections are Medi-Cal rules designed to prevent the impoverishment of one spouse, when the other spouse enrolls in Medi-Cal payment for nursing home care, or "Home and Community Based Services." This means that certain married individuals can be eligible for Medi-Cal with more generous income and asset limits, enabling them to access services without depleting all of their resources.

Under the spousal impoverishment protections, Medi-Cal allows the spouse who isn't receiving Medi-Cal, (the "well spouse") to retain additional income and assets, without jeopardizing the eligibility for the Medi-Cal spouse. In 2020, the well spouse is permitted to retain a "Community Spouse Resource Allowance" (CSRA) of \$128,640 in countable assets, in addition to the \$2,000 in countable assets the Medi-Cal spouse may retain.

Example: John and Mary have \$50,000 in savings in January 2020. John has Parkinson's Disease and wants Medi-Cal to pay for in-home care through a Home and Community-Based Services program. John can be eligible for Medi-Cal immediately. Under the spousal impoverishment law, Mary can keep all of the \$50,000 since it is below the \$128,640 limit.

In addition to the CSRA, the well spouse is permitted to retain additional income without having to contribute it all to Share of Cost. The well spouse may retain all income in her own name and, if that income is less than \$3,216 (the Minimum Monthly Maintenance Needs Allowance, or MMMNA, for 2020), he/she may receive an allocation from the Medi-Cal spouse's income to reach \$3,216.

Example: John receives a pension of \$2,500 per month. Mary receives a pension of \$500 per month. Since Mary is allowed to retain at least a minimum income of \$3,216 per month, Mary can keep her \$500 and receive an allocation of all \$2,500 per month from John's income, to

¹ A Share of Cost functions like a deductible. It is the amount of money you must pay out of pocket each month towards your healthcare costs, before you start receiving covered services through Medi-Cal.

bring her income up to \$3,000, which is below the threshold of \$3,216. John will have **no Share of Cost.**

What are Home and Community Based Services?

Home and Community Based Services (HCBS), sometimes called “Medi-Cal Waivers,” are programs that offer an alternative to nursing homes. HCBS programs offer a package of services and supports to Medi-Cal beneficiaries who would otherwise require care in a nursing home, but who prefer to remain at home. Some of the benefits offered through HCBS programs include: caregiving (“personal care services”), assistance with chores and meal preparation, protective supervision, in-home nursing care, case management, and home modifications. Availability of HCBS programs varies from county to county, and the services offered through each program vary as well.

HCBS programs in California include:

- Community First Choice Option (CFCO) - *part of the IHSS program*
- [The Multipurpose Senior Services Program](#) (MSSP)
- [The Home and Community Based Alternatives Waiver](#) (HCBA)
- [The Assisted Living Waiver](#) (ALW)
- [Program for All Inclusive Care for the Elderly](#) (PACE)
- Community Based Adult Services (CBAS)
- Home and Community Based Services for Persons with Developmental Disabilities
- Pediatric Palliative Care
- Self-Directed Services for Persons with Developmental Disabilities

For more information about individual programs visit www.dhcs.ca.gov/services/medi-cal/Pages/Medi-CalWaiversList.aspx

Is In-Home Supportive Services (IHSS) an HCBS Program?

The answer is: it depends on which IHSS program you are enrolled in. IHSS has several different programs. A large percentage of people enrolled in IHSS are enrolled in the Community First Choice Option (CFCO), which **is** an HCBS program. If you are enrolled in IHSS’ CFCO program, then you are entitled to the spousal impoverishment protections.

IHSS recipients can call the county Medi-Cal office to verify whether they are enrolled in CFCO. Individuals enrolled in CFCO will have a “2k” Aid Code.

All County Letter 14-60 explains the eligibility requirements for the CFCO program: www.cdss.ca.gov/lettersnotices/EntRes/getinfo/acl/2014/14-60.pdf.

Step by Step Instructions: HOW TO APPLY FOR MEDI-CAL TO PAY FOR HCBS AND RECEIVE SPOUSAL IMPOVERISHMENT PROTECTIONS

STEP 1: APPLY FOR MEDI-CAL

To apply for Medi-Cal to pay for HCBS, and to ensure that the spousal impoverishment protections are properly applied to your case, you must complete a Medi-Cal application, and indicate on the application that you are interested in HCBS. On the [Single Streamlined Application](#), you would answer “yes” to the

question on Page 4 that asks: “Does this person need help with long term care or home and community based services?”

Because staff at many Medi-Cal offices and HCBS programs may not yet be familiar with the expanded spousal impoverishment protections, you may want to write explicitly on your Medi-Cal application, “Applicant is applying for Medi-Cal using the Home and Community Based Services and spousal impoverishment provisions outlined in ACWDL 17-25.”

You can download the Single Streamlined Application here: www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/2014_CoveredCA_Applications/ENG-CA_SingleStreamApp.pdf.

STEP 2: DEMONSTRATE YOU MEET THE CLINICAL CRITERIA

Second, you must establish that you meet the clinical eligibility requirements for HCBS, meaning you must demonstrate that you require nursing facility level of care. To do this, you have two options:

- A. Have your doctor complete a [Doctor’s Verification Form](#), which the Medi-Cal office should send as soon as you indicate that you are interested in HCBS. (You can also download the Doctor’s Verification Form online at www.dhcs.ca.gov/formsandpubs/forms/Forms/MC604MDV.pdf) After your doctor completes the form, she must send it directly to the county Medi-Cal office.

OR

- B. Contact an HCBS program (i.e., one of the programs listed above) to begin the application process. The HCBS program will complete a needs assessment to determine whether you meet the clinical criteria for nursing home care. Once the needs assessment is complete, the HCBS program staff should communicate directly with your county Medi-Cal office to verify that you meet the clinical criteria for enrollment.

STEP 3: ENROLL IN A HOME AND COMMUNITY-BASED SERVICE PROGRAM

The first step to enroll in an HCBS program is to call the HCBS provider serving your county to initiate an intake process. Each HCBS program has a different intake and application process. Phone numbers for some HCBS providers, by county, can be found below.

1. Multipurpose Senior Services Program (MSSP):
www.aging.ca.gov/ProgramsProviders/MSSP/Contacts/
2. California Community Transitions Project (CCT):
www.dhcs.ca.gov/services/ltc/Documents/CCT_LO_Contact_Info_8-17-17.pdf
3. Program for All Inclusive Care for the Elderly (PACE):
www.canhr.org/factsheets/misc_fs/html/fs_PACE.html (scroll to bottom)

What if I Already have Medi-Cal?

If you are already enrolled in Medi-Cal, and you are **not** currently enrolled in one of the HCBS programs described above, you may contact an HCBS provider to begin the application process. Once you begin the application process for HCBS, and demonstrate you meet the clinical eligibility for HCBS (either by completing the HCBS needs assessment, or by having your doctor complete a verification form), the spousal impoverishment protections should be applied to your Medi-Cal case.

If you are already enrolled in Medi-Cal, and you are also already enrolled in one of the HCBS programs listed above, you are entitled to spousal impoverishment protections retroactive to January 1, 2014. If you believe you are entitled to retroactive spousal impoverishment, please call CANHR at (800) 474-1116 and ask to speak with an advocate.

CANHR

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What if the desired HCBS program has a waitlist?

Spousal impoverishment protections apply to HCBS applicants on waitlists.

Example: John and Mary live at home, and John has Parkinson's Disease. John needs a lot of care but wants to remain at home with Mary for as long as possible. John receives a pension of \$2,500 per month. Mary receives a pension of \$500 per month. They have savings of \$50,000.

John applies to Medi-Cal under the spousal impoverishment protections. He has his doctor submit the Doctor's Verification Form, and then calls the Multipurpose Senior Services Program (MSSP) serving his county to enroll.

Unfortunately, the MSSP program in John's county has a waitlist. Even though John is on the waitlist for MSSP, he is still entitled to Medi-Cal under the spousal impoverishment protections. Once he is enrolled in Medi-Cal, he can use his benefits to receive needed Medi-Cal care, or enroll in additional Home and Community-Based Service programs. For example, he can now use his Medi-Cal benefits to apply for IHSS and receive in-home caregiving, with no Share of Cost.