



ADMINISTRATIVE RULES OF MONTANA



37.82.1336 INSTITUTIONALIZED SPOUSE, RESOURCE ELIGIBILITY DETERMINATION

- (1) The institutionalized spouse is resource eligible when the institutionalized spouse and community spouse's combined countable resources are less than or equal to the community spouse's resource allowance in (2) plus the supplemental security income (SSI) resource limitation for one person as defined in ARM 37.82.1110.
- (2) The community spouse resource allowance is the greatest of the following:
 - (a) one-half, but no more than \$60,000, of the couple's combined countable resources. Effective January 1 of each calendar year after 1989, the \$60,000 limit shall increase by the same percentage increase in the consumer price index as adopted by the federal government for all urban consumers which occurred between September 1988 and the September before the calendar year involved;
 - (b) Montana's standard community spouse resource allowance of \$12,000. Effective January 1 of each calendar year after 1989, the \$12,000 limit shall increase by the same percentage increase in the consumer price index as adopted by the federal government for all urban consumers which occurred between September 1988 and the September before the calendar year involved;
 - (c) an amount established under a court order; or
 - (d) an amount designated by a department hearings officer.
- (3) The community spouse resource allowance must be revised when inaccurate information was used to calculate the resource allowance.
- (4) After the month in which the institutionalized spouse is determined eligible for medicaid, no resources of the community spouse shall be deemed available to the institutionalized spouse as long as the institutionalized spouse remains continuously institutionalized.
- (5) Eligibility will not be denied an institutionalized spouse whose resources exceed the supplemental security income resource limit for one when denial of eligibility will create an undue hardship or when the conditions of assignment of support rights described in 42 U.S.C. 1396r-5(c) (3) (A) and (B) (sub 1990 edition) are met. The department hereby adopts and incorporates 42 U.S.C. 1396r-5(c) (3) (A) and (B) (sub 1990 edition) by reference. Copies may be obtained through the Department of Public Health and Human Services, Operations and Technologies Division, Institutional Reimbursement, 111 Sanders, P.O. Box 6429, Helena, MT 59604-6429.
- (6) Unless specifically refused by the institutionalized spouse, a portion or all of his resources may be used to ensure adequate resources are available to meet the community spouse resource allowance.

Authorizing statute(s): Sec. 53-6-113, MCA

Implementing statute(s): Sec. 53-6-131, MCA

History: NEW, 1991 MAR p. 54, Eff. 1/18/91; TRANS, from SRS, 2000 MAR p. 476.