

COMMONWEALTH OF PENNSYLVANIA  
Department of Public Welfare

OPERATIONS MEMORANDUM  
Medicaid

SUBJECT: Changes to Spousal Impoverishment Procedures  
Related to Medicaid/Long Term Care (LTC)

TO: Executive Directors

FROM: Christine M. Bowser  
Director  
Bureau of Operations

PURPOSE

The purpose of this Operations Memorandum is to provide policy and procedure changes that must be used for applicants, recipients and their spouses applying for and receiving Long Term Care (LTC) services both in an institutional setting and those received under one of the Home and Community-Based Services (HCBS) Programs. On July 7, 2005, the Pennsylvania legislature amended the Public Welfare Code, which changed the methodology of calculating available income and resources to a community spouse (CS) and provided new requirements for purchasing an annuity. These changes take effect on October 1, 2005.

BACKGROUND

The continuing rise in Medicaid costs, especially for those needing LTC services, requires that steps be taken to reduce those costs. To help defray the cost of Medicaid services, changes have been made that affect the calculation of the income and resources available to a community spouse when one spouse needs LTC services. These changes apply to applicants and recipients of Medicaid/LTC, both in institutions and in the community.

DISCUSSION

The policy provided in this memorandum takes precedence over any previous policy clarifications and Operations Memoranda that have been issued, as well as the policies and procedures that may be currently listed in the LTC Handbook (LTCH).

## NEXT STEPS

Review this Operations Memorandum with appropriate staff.

1. Follow the policy and procedures in this Operations Memorandum until the update to the LTCH is completed.
2. Contact your Area Manager if you have any questions.
3. For all LTC applicants (received by the County Assistance Office (CAO) on or after October 1, 2005) and recipients, these policy and procedure changes are effective October 1, 2005.
4. An Information Memorandum will be issued to the ten CAOs that have implemented the Community Choice process to provide additional guidance on how these new policies and procedures affect this expedited process.

Attachment

## Attachment A Spousal Impoverishment

### ***Old Policy:***

<b>If</b>	<b>Then</b>
The gross monthly income of the Community Spouse (CS), including income from the Community Spouse Resource Allowance (CSRA), is less than the Community Spouse Monthly Maintenance Needs Allowance (CSMMNA),	The couple may choose to protect additional resources by purchasing an annuity to generate the additional income needed by the CS. The purchase of the annuity is not required.

### ***New Policy:***

<b>If</b>	<b>Then</b>
The gross monthly income of the CS, including income from the CSRA, is less than the CSMMNA,	The CAO will project the income of the Institutionalized Spouse (IS) that would be available to the CS should the IS predecease the CS.

### ***New Policy:***

<b>If</b>	<b>Then</b>
The gross monthly income of the CS, including income from the CSRA and the income projected to be available to the CS if the IS predeceases the CS, is less than the CSMMNA,	The CS can request additional income from the IS or the couple can protect additional resources from the couple's non-protected share by purchasing an annuity to generate the additional income needed by the CS. The annuity must meet specific requirements.

### **New Policy Guidelines**

- This policy applies to couples when one spouse is applying for or receiving LTC services in an institution or in Home and Community-Based Services (HCBS).
- The definition of CS includes the spouse of the individual applying for or receiving care in HCBS.
- The monthly amount of income calculated to meet the maintenance needs of the CS is referred to as the Community Spouse Monthly Maintenance Needs

Allowance (CSMMNA). The CSMMNA includes the Minimum Monthly Maintenance Needs Allowance (MinMMNA) plus excess shelter expenses. The CSMMNA cannot exceed the Maximum Monthly Maintenance Needs Allowance (MaxMMNA).

- The MinMMNA is the minimum amount of income per month that is necessary to meet the maintenance needs of the CS (currently \$1,604). This amount is revised July 1<sup>st</sup> of each year.
- The MaxMMNA is the maximum amount of income per month that is necessary to meet the maintenance needs of the CS and still qualify for spousal impoverishment (currently \$2,378). This amount is revised January 1<sup>st</sup> of each year.
- After computing the CSRA, if it is determined that there are excess resources, the CAO will send a PA 162 denial notice rejecting the application. The couple may appeal this denial by requesting a fair hearing.
- The couple must appeal the PA 162 denial to begin the process for determining the amount of additional income and resources that can be protected for the CS.
- The income of the IS projected to be available to the CS, if the IS predeceases the CS, must be verified.

**Note: If there is any type of qualifier on the projected income (such as a limit on how long the CS may receive this income), this income is not projected as available to the CS.**

- The income projected to be available to the CS, if the IS predeceases the CS, is added to the CS's gross income plus interest income generated from the CSRA.
- If the CS still needs additional income to meet the CSMMNA, the CS can request additional income from the IS or additional resources from the non-protected share can be protected for the CS.
- The amount of additional resources from the non-protected share that can be protected to generate the needed income for the CS must be used to purchase an annuity.
- The annuity that is purchased must meet all of the following requirements:
  - The annuity must generate income for as long as the CS will live, with a guaranteed period that is equal to the actuarial life expectancy of the CS (this type of annuity is generally referred to as a "Lifetime Guaranteed Period Annuity");

- The annuity must pay out principal and interest in equal monthly payments;
  - The Department of Public Welfare (DPW) must be named as the designated beneficiary upon the death of the CS, in the event that the CS predeceases the expiration of the guaranteed payment period of the annuity, not to exceed the amount of all medical assistance expended on behalf of the IS; and
  - Upon the death of the CS, DPW can receive a lump sum payment from the annuity if the IS has predeceased the CS.
- DPW will be reimbursed as the designated beneficiary only for those LTC services provided during the lifetime of the IS that were paid for by Medicaid.
  - The couple must provide the CAO with three annuity quotes that will meet the additional income needed to prevent impoverishment of the CS. The CAO will use the quote that reflects the least amount of non-protected resources needed to purchase the annuity. The CAO will notify the couple of this decision.
  - The CAO will use the appropriate Stipulated Agreement in Attachment C/D of this Operations Memorandum for all married individuals applying for LTC services.

**SPECIFIC STEPS:**

1. Complete a Resource Assessment to determine the CSRA and the non-protected share. The CAO will notify both spouses of this determination.
2. Determine eligibility for Medicaid/LTC if there is an application.
3. Send a PA 162 authorizing or rejecting the application for Medicaid/LTC.

**If the applicant is ineligible for Medicaid/LTC due to excess resources, and the applicant appeals the PA 162 denial, continue with the following steps:**

4. Calculate the CSMMNA.
5. Verify the gross monthly income of the CS.
6. Calculate the interest income generated by the CSRA.
7. Project the amount of additional income that would become available to the CS should the IS predecease the CS (i.e., Social Security benefits, pensions, any other death benefit payments). The applicant, representative, or responsible party **must** provide verification of the projected amount of this income to the CAO.
8. Calculate the total gross income available to the CS by adding the following sources of income:

- A. The gross income of the CS (Step 5).
  - B. The income generated from the CSRA (Step 6).
  - C. The additional projected income of the CS, should the IS predecease the CS (Step 7).
9. Determine whether the total gross income of the CS (as computed in Step 8) is below the CSMMNA (as computed in Step 4). If the total gross income of the CS is below the CSMMNA, the IS will now be permitted to make available to the CS a monthly amount of income equal to the projected income the CS would receive should the IS predecease the CS. The maximum amount of monthly income transferred from the IS to the CS can be no greater than the amount needed to raise the income of the CS to the CSMMNA.
  10. If the CS's total gross income is still less than the CSMMNA, advise the couple that the CS can request additional income from the IS or an additional amount of resources from the non-protected share can be protected for the CS.
  11. The additional amount of resources that can be protected for the CS must be used by the CS to purchase an annuity that meets all of the following requirements:
    - The annuity must generate income for as long as the CS will live, with a guaranteed period that is equal to the actuarial life expectancy of the CS (this type of annuity is generally referred to as a "Lifetime Guaranteed Period Annuity");
    - The annuity must pay out principal and interest in equal monthly payments;
    - DPW must be named as the designated beneficiary upon the death of the CS, in the event that the CS predeceases the expiration of the guaranteed payment period of the annuity, not to exceed the amount of all medical assistance expended on behalf of the IS; and
    - Upon the death of the CS, DPW can receive a lump sum payment from the annuity if the IS has predeceased the CS.
  12. Advise the couple that they must provide the CAO with three annuity quotes. The annuity must meet the additional income needs of the CS, as identified in Step 10 and the annuity requirements identified in Step 11. The CAO will use the annuity quote that reflects the least amount of non-protected resources needed to generate the required amount of income. The CAO will advise the couple of this decision.

13. Assist those couples who do not understand how to obtain the three annuity quotes. The CAO can contact the Bureau of Policy, Division of Health Services, at (717) 772-7809 for additional guidance on individual situations where help is needed on how to get the annuity quotes.

**Note: The MAPPER system will be updated to reflect the amounts needed to purchase a Lifetime Guaranteed Period Annuity for male/female gender-specific income needs. CAO staff will be notified when this is updated. The amounts calculated by the current MAPPER system are no longer accurate and are not to be used.**

14. Complete the Stipulated Agreement (Attachment C) when there are no excess resources after the purchase of the annuity for the CS and have it signed by all parties.

Complete the Stipulated Agreement (Attachment D) when there are excess resources that must be spent down prior to the determination of eligibility and have it signed by all parties.

15. Forward the appropriate Stipulated Agreement to the Bureau of Hearings and Appeals.
16. Upon receipt of the Order from the Bureau of Hearings and Appeals, notify the couple that they must purchase the annuity and provide a copy of the annuity to the CAO.
17. Upon receipt of the annuity document from the couple, the CAO will review the annuity to ensure that it meets the specifications set forth in Step 11 and, if it qualifies, forward a copy of the annuity to the Third Party Liability (TPL) Unit in Harrisburg.
18. The CAO will authorize Medicaid/LTC benefits effective the date set forth in the Stipulated Agreement.

**This new policy applies to individuals receiving LTC services in an institutional setting or HCBS.**

**Example 1:**

- Mr. Brown has been admitted to Main Street Nursing Facility. Total countable resources owned by Mr. and Mrs. Brown on the date of admission were \$60,000.
- Mr. Brown's total gross monthly income is \$2,166 (Department of Defense pension of \$1,828 and a Social Security benefit of \$338).

- Mrs. Brown receives a small Social Security gross benefit of \$200 per month.
- The CAO has determined that Mrs. Brown's protected CSRA is \$30,000.
- The CAO has rejected the application due to excess resources and Mr. Brown has appealed, citing the need to protect additional income and resources to prevent Mrs. Brown from becoming impoverished.
- The CAO has determined that Mrs. Brown is entitled to a CSMMNA of \$1,604 (which is the MinMMNA). The couple owns their home and they have no excess shelter costs.
- Interest income from the protected CSRA will be \$37.50 per month ( $\$30,000 \times 1.5\% = \$450 \div 12 \text{ months} = \$37.50$ ).
- Mrs. Brown provides the CAO with verification from the Department of Defense that she would be entitled to \$1,005.40 per month from Mr. Brown's pension should he predecease her. Mrs. Brown also provides the CAO with a letter from the Social Security Administration indicating she would be entitled to \$138 per month in Social Security benefits should her husband predecease her. The total additional income available to Mrs. Brown would be \$1,143.40 should her husband predecease her.
- Mrs. Brown's gross monthly income of \$237.50 (\$200 Social Security + \$37.50 interest from protected CSRA) is added to the projected additional income amount of \$1,143.40, making her total available income \$1,380.90 per month. Since her total available income (\$1,380.90) is below her CSMMNA of \$1,604, Mr. Brown must now make a monthly transfer of \$1,143.40 to Mrs. Brown.
- Mrs. Brown is still below her CSMMNA by \$223.10. In order to yield \$223.10 in monthly income, Mrs. Brown can purchase an annuity or she can choose to take an additional \$223.10 from Mr. Brown's remaining income. Since only \$30,000 in non-protected resources remain, Mrs. Brown can purchase an annuity with the \$30,000, provided that the annuity meets DPW's requirements as set forth in Step 11.
- The annuity of \$30,000 would yield a monthly income of \$164.18 to Mrs. Brown. Since there is still a need for \$58.92, Mr. Brown would be permitted to transfer an additional \$58.92 of his income per month to the CS. The total amount of income Mr. Brown would make available to Mrs. Brown would be \$1,202.32 ( $\$1,143.40 + \$58.92 = \$1,202.32$ ) per month.

- The CAO completes the Stipulated Agreement (Attachment C) providing this information and forwards it to the Bureau of Hearings and Appeals.
- Upon receipt of the Order from the Bureau of Hearings and Appeals, notify the couple that they must purchase the annuity and forward a copy to the CAO.
- Upon receipt of the annuity document from the couple, the CAO will review the annuity to ensure that it meets the specifications set forth in Step 11 and, if it qualifies, forward a copy of the annuity to the TPL Unit in Harrisburg.
- The CAO will authorize Medicaid/LTC benefits effective the date set forth in the Stipulated Agreement.

**Example 2:**

- All factors above remain the same with the following exceptions:
  - Total countable resources owned by the Browns on the date of admission were \$120,000.
  - The CAO has determined that Mrs. Brown's protected CSRA is \$60,000.
  - Interest income from the protected CSRA will be \$75 per month ( $\$60,000 \times 1.5\% = \$900 \div 12 \text{ months} = \$75$ ).
- Mrs. Brown's gross monthly income of \$275 (\$200 Social Security + \$75 interest from protected CSRA) is added to the projected additional income amount of \$1,143.40, making her total available income \$1,418.40 per month. Since her total available income (\$1,418.40) is below her CSMMNA of \$1,604, Mr. Brown must make a monthly transfer of \$1,143.40 to Mrs. Brown.
- Mrs. Brown is still below her CSMMNA by \$185.60. In order to yield \$185.60 in monthly income, Mrs. Brown can purchase an annuity or she can choose to take an additional \$185.60 from Mr. Brown's remaining income.
- There are \$60,000 in non-protected resources remaining.
- An annuity of \$33,000 would yield a monthly income of \$185.60 to Mrs. Brown. Mrs. Brown can purchase the annuity with \$33,000 provided that the annuity meets the Departmental requirements as set forth in Step 11.
- Mrs. Brown's total available income is now equal to her CSMMNA of \$1,604 ( $\$200 + \$75 + \$1,143.40 + \$185.60 = \$1,604$ ).

- However, Mr. Brown is still resource ineligible, since there are still excess resources in the non-protected share. The CAO completes the Stipulated Agreement (Attachment D) providing this information and forwards it to the Bureau of Hearings and Appeals.
- Upon receipt of a subsequent application indicating that Mr. Brown is now resource eligible, and after receiving the Order from the Bureau of Hearings and Appeals, notify the couple that they must purchase the annuity and send a copy of the annuity to the CAO.
- The CAO will review the annuity to ensure that it meets the specifications set forth in Step 11 and, if it qualifies, forward a copy of the annuity to the TPL Unit in Harrisburg.
- If otherwise eligible authorize Medicaid/LTC benefits.

**Example 3:**

- All factors above remain the same from Example 1, except that now Mrs. Brown has a private pension of \$1,000 per month.
- Mrs. Brown's gross monthly income is \$1,037.50 (\$1,000 private pension + \$37.50 interest from protected CSRA).
- Mrs. Brown would be entitled to \$1,143.40 from her husband's benefits should Mr. Brown predecease her.
- Mr. Brown must transfer \$566.50 from his income to provide Mrs. Brown with the needed additional income to meet her CSMMNA of \$1,604 ( $\$1,037.50 + \$566.50 = \$1,604$ ).
- Mrs. Brown's monthly income is now equal to her CSMMNA.
- No additional resources can be protected.
- A Stipulated Agreement would not be necessary in this example since Mrs. Brown has enough income to meet her CSMMNA.

**Attachment B  
Spousal Impoverishment and HCBS**

**Old Policy:**

<b>If</b>	<b>Then</b>
A married individual applied for Long Term Care (LTC) Services under Home and Community-Based Services (HCBS),	Only the income and resources of the spouse applying for LTC services under HCBS were considered.

**New Policy:**

<b>If</b>	<b>Then</b>
A married individual applies for LTC services under HCBS,	Spousal Impoverishment provisions apply. The income and resources of both spouses must be considered. A resource assessment is required.

**New Policy Guidelines**

- Any applicant who applies for Medicaid/HCBS who is married is treated the same as an applicant who is married and resides in a LTC facility.
- Beginning October 1, 2005, all married applicants for Medicaid/HCBS who have been determined medically (functionally and clinically) eligible for HCBS must have a resource assessment completed.
- The **resource assessment** is based on total countable resources owned by the couple on the **assessment date**. The assessment date is the date the applicant spouse has been determined to meet the medical (**functional and clinical evaluation**) eligibility requirements for HCBS by the appropriate Program Office (Department of Aging, Office of Medical Assistance Programs, Office of Social Programs, Office of Mental Retardation or authorized designee). It is not the date that HCBS begins (referred to as the service begin date).
- The resource assessment date cannot be prior to October 1, 2005.
- The resource assessment date is October 1, 2005 for any current pending applications for Medicaid/HCBS that had a medical assessment date prior to October 1, 2005.

- All current married Medicaid recipients who have been determined to be eligible for Medicaid/HCBS must have a resource assessment completed. The resource assessment must be completed by March 31, 2006. The resource assessment is based on total countable resources owned by the couple as of October 1, 2005.
- If a married couple disagrees with the results of the resource assessment, they can file an appeal with the Bureau of Hearings and Appeals within 30 days of the PA162 Notice of the results of the resource assessment.
- The definition of Community Spouse (CS) includes the spouse of the individual applying for or receiving care in HCBS.
- The monthly maintenance needs allowance of the CS must be determined. The calculation of the income of the CS and the shelter costs of the CS are calculated the same as for a couple when one spouse resides in a LTC facility. The actual shelter costs would be treated as though they were entirely the costs incurred by the CS.
- The allocation of income and treatment of resources of a couple participating in HCBS are treated the same as set forth in Attachment A - Spousal Impoverishment. There is no actual deduction of income made from the spouse participating in HCBS since current policy does not require a payment towards the cost of LTC services in HCBS.
- The resource assessment must be completed regardless of whether the couple lives together. If the couple is legally married, the resource assessment requirements apply.

**SPECIFIC STEPS:**

1. Review the application received from the Program Office (Department of Aging, Office of Medical Assistance Programs, Office of Social Programs, and Office of Mental Retardation or authorized designee) for determination of Medicaid eligibility.
2. Mail the Resource Assessment Form (PA1572) to the applicant within three calendar days of receiving an application for Medicaid/HCBS by the CAO.

**Note: The documents needed to verify the information of resources owned by the couple as identified on the form is based on the total countable resources owned by the couple on the assessment date of medical (functional and clinical evaluation) eligibility for HCBS by the Program Office.**

3. Complete the resource assessment and mail the results to the applicant, the community spouse and/or representative.
4. Send a PA162 authorizing or rejecting the application for Medicaid/HCBS.

**If the applicant is ineligible for Medicaid/HCBS due to excess resources and the applicant appeals the PA162 denial, continue with the following steps:**

5. Calculate the Community Spouse Monthly Maintenance Needs Allowance (CSMMNA).
6. Verify the gross monthly income of the CS.
7. Calculate the interest income generated by the Community Spouse Resource Allowance (CSRA).
8. Project the amount of additional income that would become available to the CS, should the IS predecease the CS. The applicant, representative, or responsible party **must** provide verification of the projected amount of income to the CAO.
9. Calculate the total gross income available to the CS by adding the following sources of income:
  - A. The gross income of the CS (Step 6).
  - B. The income generated from the CSRA (Step 7).
  - C. The additional projected income of the CS should the IS predecease the CS (Step 8).
10. Determine whether the total gross income of the CS (as computed in Step 9) is below the CSMMNA (as computed in Step 5). If the total gross income of the CS is below the CSMMNA, the IS will now be permitted to make available to the CS a monthly amount of income equal to the projected income the CS would receive should the IS predecease the CS. The maximum amount of monthly income transferred from the IS to the CS can be no greater than the amount needed to raise the income of the CS to the CSMMNA.
11. If the CS's total gross income is still less than the CSMMNA, advise the couple that the CS can request additional income from the IS or an additional amount of resources from the non-protected share can be protected for the CS.
12. The additional amount of resources that can be protected for the CS must be used by the CS to purchase an annuity that meets all of the following requirements:

- The annuity must generate income for as long as the CS will live with a guaranteed period that is equal to the actuarial life expectancy of the CS (this type of annuity is generally referred to as a “Lifetime Guaranteed Period Annuity”);
  - The annuity must pay out principal and interest in equal monthly payments;
  - DPW must be named as the designated beneficiary upon the death of the CS, in the event that the CS predeceases the expiration of the guaranteed payment period of the annuity, not to exceed the amount of all medical assistance expended on behalf of the IS; and
  - Upon the death of the CS, DPW can receive a lump sum payment from the annuity if the IS has predeceased the CS.
13. Advise the couple that they must provide the CAO with three annuity quotes. The annuity must meet the additional income needs of the CS as identified in Step 11 and the annuity requirements identified in Step 12. The CAO will use the annuity quote that reflects the least amount of non-protected resources needed to generate the required amount of income. The CAO will advise the couple of this decision.
14. Assist those couples who do not understand how to obtain the three annuity quotes. The CAO can contact the Bureau of Policy, Division of Health Services, at (717) 772-7809 for additional guidance on individual situations where help is needed on how to get the annuity quotes.

**Note: The MAPPER system will be updated to reflect the amounts needed to purchase a Lifetime Guaranteed Period Annuity for male/female gender-specific income needs. CAO staff will be notified when this is updated. The amounts calculated by the current MAPPER system are no longer accurate and are not to be used.**

15. Complete the Stipulated Agreement (Attachment C) when there are no excess resources after the purchase of the annuity for the CS and have it signed by all parties.
- Complete the Stipulated Agreement (Attachment D) when there are excess resources that must be spent down prior to the determination of eligibility and have it signed by all parties.
16. Forward the appropriate Stipulated Agreement to the Bureau of Hearings and Appeals.
17. Upon receipt of the Order from the Bureau of Hearings and Appeals, notify the couple that they must purchase the annuity and provide a copy of the annuity to the CAO.

18. Upon receipt of the annuity document from the couple, the CAO will review the annuity to ensure that it meets the specifications set forth in Step 12 and, if it qualifies, forward a copy of the annuity to the TPL Unit in Harrisburg.
19. The CAO will authorize Medicaid/HCBS benefits effective the date set forth in the Stipulated Agreement.

**Example:**

- Mr. Wilson has been assessed medically eligible for HCBS. Total countable resources owned by Mr. and Mrs. Wilson on the assessment date were \$80,000.
- Mr. Wilson's total gross monthly income is \$1,700 (Social Security benefit).
- Mrs. Wilson's total gross monthly income is \$1,000 (Social Security benefit).
- The CAO has determined that Mrs. Wilson's protected CSRA is \$40,000.
- The CAO has rejected the application due to excess resources and Mrs. Wilson has appealed, citing the need to protect additional income and resources to prevent her from becoming impoverished.
- The CAO has determined that Mrs. Wilson is entitled to a CSMMNA of \$1,922 after taking into consideration the Wilsons' mortgage, real estate taxes and utilities.
- Interest income from the protected CSRA will be \$50 per month ( $\$40,000 \times 1.5\% = \$600 \div 12 \text{ months} = \$50$ ).
- Mrs. Wilson provides the CAO with verification from the Social Security Administration that she would be entitled to an additional \$700 per month from Mr. Wilson's Social Security benefits should he predecease her.
- Mrs. Wilson's gross monthly income of \$1,050 (\$1,000 Social Security + \$50 interest from protected CSRA) is added to the projected additional income amount of \$700, making her total available income \$1,750 per month. Since her total available income (\$1,750) is below her CSMMNA of \$1,922, Mr. Wilson must now make a monthly transfer of the \$700 of projected income to Mrs. Wilson.

- Mrs. Wilson is still below her CSMMNA by \$172 ( $\$1,922 - \$1,750 = \$172$ ). In order to yield \$172 in monthly income, Mrs. Wilson can purchase an annuity or she can choose to take an additional \$172 from Mr. Wilson's income. From the \$40,000 in non-protected resources, Mr. Wilson is allowed \$2,000 in resources and another \$6,000 of his resources is disregarded. \$32,000 remains for Mrs. Wilson to purchase an annuity. Mrs. Wilson can purchase an annuity with the \$32,000, provided that the annuity meets DPW's requirements as set forth in Step 12.
- The annuity of \$32,000 would yield a monthly income of \$150 to Mrs. Wilson. Since there is still a need for \$22 ( $\$1,000 + \$50 + \$700 + \$150 = \$1,900$ ;  $\$1,922 - \$1,900 = \$22$ ), Mr. Wilson would be permitted to transfer an additional \$22 of his income per month to the CS. The total amount of monthly income Mr. Wilson would make available to Mrs. Wilson would be \$722 ( $\$700 + \$22 = \$722$ ).
- The CAO completes the Stipulated Agreement (Attachment C) providing this information and forwards it to the Bureau of Hearings and Appeals.
- Upon receipt of the Order from the Bureau of Hearings and Appeals, notify the couple that they must purchase the annuity and forward a copy to the CAO.
- Upon receipt of the annuity document from the couple, the CAO will review the annuity to ensure that it meets the specifications set forth in Step 12 and, if it qualifies, forward a copy of the annuity to the TPL Unit in Harrisburg.
- The CAO will authorize Medicaid/HCBS benefits effective the date set forth in the Stipulated Agreement.

**Attachment C**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE**

**Appeal of:**

**Case No.**

**PARTIES' FINDINGS OF FACT AND STIPULATED AGREEMENT**

**BACKGROUND**

This matter is an appeal of the denial of Medicaid/LTC eligibility for .  
The appellant and the County Assistance Office (CAO), through  
their respective representatives, have agreed to a stipulated findings of fact and  
agreement in this matter.

**ISSUE**

What amount of additional resources is the community spouse permitted to  
protect in excess of her/his standard one-half share for the purpose of generating  
income to bring her/his income up to the Community Spouse Monthly  
Maintenance Needs Allowance (CSMMNA).

**FINDINGS OF FACT**

1. is the Appellant. is the community spouse.
2. The Appellant entered an LTC facility or was assessed medically eligible  
for Home and Community-Based Services (HCBS) on .  
The total countable resources of the Appellant and the community spouse,  
on , were \$ .
3. An application for Medicaid/LTC was filed on .
4. The community spouse's protected share, known as the Community  
Spouse Resource Allowance (CSRA) (subject to the minimum and  
maximum amounts) is \$ .

5. At the time of the application, the Appellant's total gross monthly income minus deductions for medical insurance premiums and the Personal Needs Allowance was \$ . The community spouse's total gross monthly income was \$ .
6. The CSMMNA is . In addition to her/his income listed in paragraph 5, the community spouse, is deemed to receive \$ monthly income from her/his CSRA.
7. The community spouse would be entitled to \$ of additional income should the Appellant predecease the community spouse. The Appellant shall transfer \$ per month which represents the amount of additional income that the community spouse would receive from the Appellant should the Appellant predecease the community spouse.
8. The community spouse needs additional income in order to increase her/his income to the CSMMNA. In order to generate the additional monthly income of \$ , the community spouse would have to purchase an annuity at the cost of \$ , provided that amount of resources are available to purchase an annuity.
9. The couple's total countable resources at admission/medical assessment were \$ . The CSRA is \$ . Considering the protected share of resources for the community spouse at the time of application, in the amount of \$ , and the resource allowance of \$ for the Appellant, an amount of \$ remains for the community spouse to purchase an annuity. The monthly income to the community spouse from an annuity purchased at the cost of \$ would be \$ . If the total gross monthly income available to the community spouse after the purchase of the annuity is less than the CSMMNA, the Appellant may transfer from her/his income an additional amount of \$ a month to the community spouse.
10. The additional amount of resources as set forth in Number 9 must be used to purchase an annuity that meets all of the following requirements:
  - The annuity must generate income for as long as the CS will live with a guaranteed period that is equal to the actuarial life expectancy of the CS (this type of annuity is generally referred to as a "Lifetime Guaranteed Period Annuity");
  - The annuity must pay out principal and interest in equal monthly payments;
  - The Department of Public Welfare must be named as the designated beneficiary upon the death of the CS, in the event that the CS

predeceases the expiration of the guaranteed payment period of the annuity, not to exceed the amount of all medical assistance expended on behalf of the IS; and

- Upon the death of the CS, the Department can receive a lump sum payment from the annuity if the Appellant has predeceased the CS.

**STIPULATED AGREEMENT**

In accordance with 55 PA Code § 178.124(b)(2), the Department and the Appellant have agreed that the community spouse is permitted to receive an additional amount of resources in the amount of \$ \_\_\_\_\_ in order to generate income sufficient to meet her/his CSMNA of \$ \_\_\_\_\_. Upon providing the Department a copy of the approved annuity contract satisfying the terms set forth in the Finding of Fact, Number 10 of this Agreement, Medicaid/LTC benefits may be authorized for the Appellant effective \_\_\_\_\_.

\_\_\_\_\_  
Representative of Appellant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Appellant

\_\_\_\_\_  
CAO Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

**Attachment D**

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE**

**Appeal of:**

**Case No.**

**PARTIES' FINDINGS OF FACT AND STIPULATED AGREEMENT**

**BACKGROUND**

This matter is an appeal of the denial of Medicaid/LTC eligibility for .  
The appellant and the County Assistance Office (CAO), through  
their respective representatives, have agreed to a stipulated findings of fact and  
agreement in this matter.

**ISSUE**

What amount of additional resources is the community spouse permitted to  
protect in excess of her/his standard one-half share for the purpose of generating  
income to bring her/his income up to the Community Spouse Monthly  
Maintenance Needs Allowance (CSMMNA).

**FINDINGS OF FACT**

1. is the Appellant. is the community spouse.
2. The Appellant entered an LTC facility or was assessed medically eligible  
for Home and Community-Based Services (HCBS) on .  
The total countable resources of the Appellant and the community spouse,  
on , were \$ .
3. An application for Medicaid/LTC was filed on .
4. The community spouse's protected share, known as the Community  
Spouse Resource Allowance (CSRA) (subject to the minimum and  
maximum amounts) is \$ .

5. At the time of the application, the Appellant's total gross monthly income minus deductions for medical insurance premiums and the Personal Needs Allowance was \$ . The community spouse's total gross monthly income was \$ .
6. The CSMMNA is . In addition to her/his income listed in paragraph 5, the community spouse, is deemed to receive \$ monthly income from her/his CSRA.
7. The community spouse would be entitled to \$ of additional income should the Appellant predecease the community spouse. The Appellant shall transfer \$ per month which represents the amount of additional income that the community spouse would receive from the Appellant should the Appellant predecease the community spouse.
8. The community spouse needs additional income in order to increase her/his income to the CSMMNA. In order to generate this additional monthly income of \$ , the community spouse must purchase an annuity at the cost of \$ .
9. The couple's total countable resources at admission/medical assessment were \$ . The CSRA is \$ . Considering the protected share of resources for the community spouse at the time of application, in the amount of \$ , and the resource allowance of \$ for the Appellant, an amount of \$ remains for the community spouse to purchase an annuity. The monthly income to the community spouse from an annuity purchased at the cost of \$ would be \$ . If the total gross monthly income available to the community spouse after the purchase of the annuity is less than the CSMMNA, the Appellant may transfer from her/his income an additional amount of \$ a month to the community spouse.
10. The additional amount of resources as set forth in Number 9 must be used to purchase an annuity that meets all of the following requirements:
  - The annuity must generate income for as long as the CS will live with a guaranteed period that is equal to the actuarial life expectancy of the CS (this type of annuity is generally referred to as a "Lifetime Guaranteed Period Annuity");
  - The annuity must pay out principal and interest in equal monthly payments;
  - The Department of Public Welfare must be named as the designated beneficiary upon the death of the CS, in the event that the CS

predeceases the expiration of the guaranteed payment period of the annuity, not to exceed the amount of all medical assistance expended on behalf of the IS; and

- Upon the death of the CS, the Department can receive a lump sum payment from the annuity if the Appellant has predeceased the CS.

**STIPULATED AGREEMENT**

In accordance with 55 PA Code § 178.124(b)(2), the Department and the Appellant have agreed that the community spouse is permitted to receive an additional amount of resources in the amount of \$ \_\_\_\_\_ in order to generate income sufficient to meet her/his CSMMNA of \$ \_\_\_\_\_. Medicaid/LTC may be authorized for the Appellant when her/his resources are below the appropriate limit and she/he has provided the Department a copy of the approved annuity contract satisfying the terms set forth in Finding of Fact, Number 10 of this Agreement. The authorization of Medicaid/LTC may require a new application.

\_\_\_\_\_  
Representative of Appellant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Relationship to Appellant

\_\_\_\_\_  
CAO Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title