HOME AND COMMUNITY BASED SERVICES

F-200 HOME AND COMMUNITY BASED SERVICES

F-200.1 Eligible Groups

Eligibility under each waiver is determined in combination with the agency administering the waiver.

a. Aged Individuals - Living in the Community

Waiver for the Frail Elderly (aka Community Home Based Initiatives Program (CHIP))

1. Administration – Aging and Disability Services Division (ADSD).

2. Aid Code – HC

b. Aged Individuals – Living in an Adult Group Care Facility

Waiver for Elderly Adult in Residential Care (WEARC)

1. Administration – Aging and Disability Services Division.

2. Aid Code – HG

c. Aged Individuals – Living in Assisted Living Facility

Assisted Living Waiver

1. Administration – Aging and Disability Services Division.

2. Aid Code – AL

3. Eligibility for this waiver is limited to Clark County.

d. Blind/Disabled Individuals

Waiver for Persons with Physical Disabilities (aka Waiver for Independent Nevadans (WIN))

1. Administration – Division of Health Care Financing and Policy District Offices.

2. Aid Code – HD

e. Persons with Intellectual Disabilities

Waiver for Persons with Intellectual Disabilities and Related Conditions.

1. Administration – Division of Public and Behavioral Health (DPBH).

2. Aid Code – HR

F-200.2 Identification of Applicants/Recipients Who May Be Eligible

Individuals eligible for this category of assistance will be identified in the following ways:

a. Individuals referred to the administering division will be pre-screened for nursing home level of care. The screening is completed by the administering division staff.

b. Medicaid applications or inquiries which do not appear eligible in any other category but have indicated a need for home based services, will be referred by the case manager to the appropriate division for pre-screening.

Note: The case manager should submit a referral if they see a need even if it is not indicated on the application.

F-205 DEFINITIONS

Institutionalized Spouse - a married person residing in a medical facility at least 30 consecutive days **(including Home and Community Based Services Waiver - HCBW clients)** with a spouse in an independent living situation.

Community Spouse - a married person who is not in a medical facility or receiving HCBW services whose spouse has been residing in a medical facility or receiving HCBW services at least 30 consecutive days.

Medical Facility - a facility for skilled nursing or intermediate care, or a hospital.

Spousal Share – an amount equal to one-half of the total resources (separately and jointly held) at the time of the client's institutionalization/application for HCBW services.

Community Spouse Resource Allowance – an amount of resources allocated to the community spouse for his/her maintenance.

Continuous Period of Institutionalization – institutionalized for 30 days or determined to meet the level of care for home based services.

Designation of Resources through a Court Order – resources and/or portions of resources ordered to the community spouse by a court of competent jurisdiction.

Liquid Resources - cash and other items which can reasonably be converted to cash within 20 work days.

Non-Liquid Resources - items which are not cash and cannot be converted to cash within 20 work days.

F-210 ELIGIBILITY REQUIREMENTS

Individuals applying under this category must meet each of the following:

a. CHIP Waiver – Aged Individuals – Living in the Community

1. Be age 65 or over;
2. Be living at home;
3. Require a level of care provided in a nursing facility (determined by DHCFP or ADSD);
4. Have medical costs for home care which are less than if the client were institutionalized (determined by ADSD);
5. Be approved, eligible for and receiving home based services (determined by DHCFP); and
6. Meet all financial and non-financial eligibility criteria of an institutional case except for residing in an institution.

b. WEARC Waiver – Aged Individuals – Living in an Adult Group Care Facility

1. Be age 65 or over;
2. Currently residing in a hospital, nursing facility, the community at large, or receiving waiver services in their home;

3. Meet all financial and non-financial eligibility criteria of an institutional case except they reside in a group home rather than an acute care or skilled nursing facility;

4. Require a level of care provided in a nursing facility (determined by DHCFP or ADSD); and

5. Demonstrate he/she would be safe in a group care environment (determined by ADSD).

c. AL Waiver – Aged Individuals – Living in Assisted Living Facility – Clark County only

1. Be age 65 or over;

2. Meet the criteria for placement in an assisted living facility;

3. Meet all financial and non-financial eligibility criteria of an institutional case except they reside in an assisted living facility;

4. Require a level of care provided in a nursing facility (determined by DHCFP or ADSD); and

5. Demonstrate he/she would be safe in an assisted living environment.

d. WIN Waiver – Blind/Disabled Individuals

1. Be living at home;

2. Meet blindness/physical disability criteria;

   Blindness/disability criteria are the same as the Social Security Administration's.

   If the client is currently receiving disability benefits through SSA, use disability onset date as verification of disability.

   If the client is not receiving Social Security Disability, or if the client is pending a disability decision through the SSA, the DHCFP case manager will initiate Form NMO-3004 and send with medical records to the DHCFP waiver team. DHCFP will determine if the applicant meets the criteria for the physically disabled. The DWSS case manager will receive the original NMO-3004 form and a copy of Form NMO-2734 approving or denying waiver admission.

3. Require a level of care provided in a nursing facility (determined by DHCFP District Office staff);

4. Be approved, eligible for and receiving home based services (determined by DHCFP); and

5. Meet all financial and non-financial eligibility criteria of an institutional case except for residing in an institution.

e. MR Waiver - Persons with Intellectual Disabilities

1. Be diagnosed as having an intellectual disability or related condition, or evaluated and certified to need placement in an intermediate care facility for the mentally retarded (ICF-MR) within 30 to 60 days if waiver services were not available (determination made by the Division of Public and Behavioral Health - DPBH);

2. Be living at home, in a foster home, group care home **or** a supported living arrangement (SLA) which is overseen by DPBH; and

3. Meet all financial and non-financial eligibility criteria of an institutional case except for residing in an institution.

F-215 ELIGIBILITY DETERMINATION PROCESS

Two separate eligibility determinations must be made on these cases:

a. Administering division - will have the individual complete an application packet and send with Form NMO-2734 to DWSS and DHCFP Central Office waiver team when the applicant/recipient is pending approval for waiver admission to their program.

The administering division is responsible for completing an assessment to determine if the recipient meets the need for an appropriate level of care.

b. DWSS - is responsible for determining if the applicant meets all financial and non-financial Medicaid eligibility criteria.

c. DHCFP Central Office - The DHCFP waiver team will review the application/packet with the NMO-2734 and approve or deny waiver admission, notifying the administering division and DWSS by sending Form NMO-2734.

Note: Medicaid cannot be approved/continued under this category unless the client is found eligible in both areas.

To make the Medicaid eligibility determination, the following steps must then be taken:

a. If the applicant is not eligible for Medicaid, the case manager will deny the case. A copy of the Notice of Decision with Form NMO-2734 will be sent to the administering division and DHCFP Central Office notifying them of the denial.

b. If the HCBW services are denied, the administering division will send the denial information via Form NMO-2734. The Medicaid application will then be denied if the applicant does not qualify under another category of eligibility.

c. If the waiver team denies waiver admission, the Medicaid application will be denied for the reason given on Form NMO-2734, unless the applicant qualifies for another category of eligibility.

d. If the administering division determines the individual meets the criteria for home based services, they must request waiver admission from the DHCFP waiver unit in DHCFP Central Office. The waiver unit will send Form NMO-2734 to DWSS and the administering division's case managers with the decision.

e. If waiver admission is approved, the DHCFP waiver unit completes Form NMO-2734 and sends it to DWSS and the administering division case managers. The DWSS case manager will approve Medicaid eligibility and apply the appropriate aid code, using the effective date provided on Form NMO-2734, if all other eligibility criteria are met.

   The DWSS case worker will send Form NMO-2734 verifying approval back to the administering division and notify the DHCFP waiver unit in Central Office via email within two (2) days of approval.

   If the application was previously denied for non-cooperation and the client reapplies and/or cooperates with verifications, contact the administering agency prior to approval to determine if the waiver slot is still available.

f. If Form NMO-2734 indicates the individual is eligible but is on a waiting list, and the individual meets financial eligibility, the case will remain pending up to the 45 day processing timeframe. Contact the administering division case manager at 45 days to determine if the waiver slot has become available. If no slot is available, deny eligibility.

Note: 45 days for aged and 90 days for disabled unless extenuating circumstances exist.

g. The DHCFP waiver unit will enter the individual's benefit plan into the MMIS database when notification of approval is received. The plan will start on the date listed on Form NMO-2734 or the date Medicaid eligibility is established, whichever date is later.

h. The waiver benefit will remain in MMIS until/unless the DHCFP waiver team in DHCFP central office is notified by the case manager to terminate the benefit, or until the individual loses Medicaid eligibility. DWSS case manager should notify DHCFP waiver unit of all waiver approval, termination and reinstatements via email within two (2) business days.

i. If a case terminates and is subsequently reinstated prior to the end of the month (effective date of closure), the client's *approved* waiver admission will continue in MMIS.

j. If a case is reinstated after the end of the month, email the DHCFP waiver team, who will determine the status of the prior approved waiver. If the waiver team finds the waiver admission open, Form NMO-2734 will be sent and Medicaid eligibility will be reinstated, and the prior approved waiver continues. If the waiver team finds the prior approved waiver admission ended, the individual must complete and submit another application packet with Form NMO-2734 through the administering division case manager to the waiver team for waiver admission.

k. Copies of all notices, such as approvals, denials, and P/L, which are usually sent to the institution, will be sent to the administering division by entering them as the secondary representative in the Authorized Representative screen.

Note: If the applicant falls into another eligible category, such as SSI, QMB or SLMB, approve the case under that category and do not wait for the HCBW services decision. Notify the administering division the case has been approved under another category of Medicaid. **Eligibility can be updated once it is determined the client is eligible for HCBW services.** If it appears the person may be eligible for SSI, refer them to apply, but do not hold the case if they can be approved sooner under this category.

F-220 INCOME

Income means the receipt of money in the month for which an eligibility determination is being made. All income or changes in income must be reported. All income must be evaluated for financial eligibility.

F-220.1 Ownership/Availability

F-220.1.1 Sole Ownership

All income which a payer designates as the client's will be considered in determining eligibility.

When a benefit or income is received for more than one person or family member, only the client's portion of the income is considered.

F-220.1.2 Shared Ownership

a. Deeming: Does not apply.

b. Dividing:

If it is in the applicant's best interests for financial eligibility, the case manager will divide the total income of spouses who are living separate and apart (due to institutional status of Waiver program) equally between them. Only the applicant's share of the income will be considered when determining eligibility; however, if a portion of the spouse's income is made available to the applicant, that portion is counted as income to the client in determining eligibility.

Married persons are considered to be living separate and apart when both spouses are residing in a medical facility and when qualifying under the HCBW category.

Dividing income takes precedence over the joint bank account procedures. Income deposited in a joint bank account held by both spouses will NOT be considered as "being made available."

c. Court Orders:

If the client has a court order designating spousal income and/or client income trust document, a copy of the court order and/or trust must be sent to the Chief of Eligibility and Payments for a decision on whether DWSS can recognize the court order or trust.

d. Exceptions:

Monies received by the client in his/her capacity as an agent are not income to him/her. An "agent" is a person acting on behalf of someone, such as a representative payee, guardian, conservator, etc.

F-220.2 Treatment of Income

When determining financial eligibility, budget income for the month it is received.

Regular unearned income deposited directly into a financial institution is considered received in the month for which it is intended to be received.

Effective July 1, 2005 individuals with a Qualified Income Trust (QIT), also known as a Miller Trust* are not eligible for HCBW services, because a QIT requires all income be applied for certain SSI allowable expenditures including patient liability. Because a HCBW individual is not assessed a patient liability, the individual would not be able to spend the income deposited in the QIT account each month. Funds would accumulate in the QIT account and a transfer of assets would apply. HCBW individuals would then be ineligible for HCBW services due to a transfer of assets. ***Note**: A QIT, or Miller Trust, helps an individual living in a long-term care setting to potentially qualify for Medicaid if his or her income exceeds the allowable income limit.

When a one-time lump sum payment is received, evaluate as a resource in future months.

a. Intake Cases

Individually determine financial eligibility for each month of requested coverage.

b. Ongoing Cases

Financial eligibility is always determined prospectively (future month). When information becomes known which causes ineligibility prospectively terminate benefits allowing adverse action.

F-220.3 Income Limits

See income chart in Appendix C.

F-220.4 Budgeting Procedures for Financial Eligibility - Form 2203-EM

a. Gross Countable Income Test

1. Enter the countable amount of all unearned income.

2. Enter the gross earned income.

3. Determine **total gross countable income** by adding items I-A and I-B.

4. Compare the total gross countable income to the income limit. If gross countable income is less than or equal to the income limit, the

client is eligible under the HCBW category.

If gross countable income exceeds the income limit, the client is not eligible for the HCBW category.

If gross countable income exceeds the income limit and the client is married, apply the equal division of income rules. If one-half of countable gross marital income exceeds the income limit, the client is ineligible for Medicaid.

F-225 RESOURCES

Resources are defined as those assets, both real and personal, which an individual owns and can apply, either directly or by sale, to meet basic needs of food, clothing, shelter and medical costs.

Real property is land, including buildings or immovable objects attached permanently to the land.

Personal property is any property that is not real property. The term encompasses, but is not limited to, such things as cash, tools, life insurance policies, mobile home, automobiles, bank accounts, etc.

Any income retained the month following the month of receipt and later, is subject to resource evaluation.

Resources are evaluated at market value less encumbrances. When the combined value of all countable resources does not exceed the resource limit, verification of encumbrances is not necessary.

When the value of countable resources is under the resource limit on any day of the month, the client is eligible for that month.

All resources must be reported.

F-225.1 Ownership/Availability

F-225.1.1 Sole Ownership

Sole ownership of real or personal property means only one person may sell, transfer or otherwise dispose of the property. All of the resource evaluated at market value less encumbrances is available to the client.

F-225.1.2 Shared Ownership

Shared ownership of real or personal property means two or more people own it simultaneously. The following are common types of shared ownership:

a. Tenancy-In-Common

Two or more persons each have an undivided fractional interest in the whole property for the duration of the tenancy. These interests are not necessarily equal. One owner may sell, transfer or otherwise dispose of his/her share of the property without permission of the other owner(s); but cannot take these actions with the entire property. If a tenant-in-common dies, the deceased's interest passes to his/her estate or heirs. Count the fair market value less encumbrances of the client's property share.

b. Joint Tenancy

Each of two or more persons has one and the same undivided ownership interest and possession of the whole property for the duration of the tenancy. This means each owner owns ALL the property. If a joint tenant dies, the survivor becomes the sole owner. If more than one joint tenant survives, the survivors become joint tenants of the entire property interest. Count the total fair market value less encumbrances of the entire property.

c. Tenancy by the Entirety (Married Couples only)

This type of ownership can only exist between married couples. The wife and husband as a unit own the entire property and can be sold only with the consent of both parties. However, if a legal divorce occurs, the former spouses become tenants-in-common and one can sell his/her share without the consent of the other. If one spouse dies, the survivor becomes the sole owner. Verify whether the client's spouse will give permission to sell the property. If permission cannot be obtained, DO NOT count the client's one-half share of the property.

d. Exceptions

When a resource is owned jointly by more than one TANF/Medicaid applicant/recipient (other than a community spouse), divide the resource equally among those applicants/ recipients to whom available.

When a client is representative payee or legal guardian managing someone else's funds, these funds are not considered the client's resource when they are kept in an account separate and apart from the client's monies AND can be identified as being received and designated for someone other than the client.

F-225.1.3 Treatment of Resources

a. Deeming: Does not apply.

b. Dividing:

If a married person is living separate and apart from his/her spouse and they enter into a written agreement dividing the total resources of both spouses equally between them, only the portion the agreement specifies as the clients is counted in determining eligibility.

The agreement is effective the month it is signed as long as the spouses were living separate and apart at least part of the month. An agreement cannot be effective for months prior to the date the arrangement was signed.

Married persons are considered to be living separate and apart when both spouses qualify under the HCBW category.

The written agreement must include the following:

1. A specific listing of all resources being divided.

2. A statement specifying which resources are being given to whom.

   Example: A couple has resources totaling $2,000. These resources consist of $1,000 cash in savings, $500 in a CD and $500 in stocks. The agreement must specify exactly which resources the agreement is designating as the client's and which are the spouse's. They cannot simply state $1,000 of the total resources belong to the client and $1,000 belong to the spouse.

   In this example, an acceptable written agreement would:

   - designate to the client $500 of the savings account and the $500 CD.

   - designate to the spouse $500 of the savings account and $500 in stocks.

   Do not require couples to liquidate resources when considering an equal division, as long as the written agreement specifically designates which resources or a portion of resources belongs to the client and spouse.

3. The signature of the client and the client's spouse or the signature of a legal representative of the client and the client's spouse. A legal

representative is defined as a person who has legal authority such as a legal guardian, power of attorney, etc. Being an authorized representative does not give that person legal authority.

If the spouse of the client makes a portion of his/her resources available to the client, that portion is counted as a resource to the client.

c. Court Order

When a court order **equally** divides resources between spouses, only the portion the court order specifies as the client's is counted when determining eligibility, UNLESS the spouse makes a portion of his/her resources available to the client. The portion made available to the client is counted as a resource in determining eligibility.

If the client has a court order dividing resources **unequally** a copy of the court order must be sent to the Chief of Eligibility & Payments for a decision on whether DWSS can recognize the court order.

d. Inaccessible Resources

The cash values of resources which are not legally available to the household are exempt. If the Medicaid applicant/recipient or authorized representative is able to verify a resource is unavailable due to the client's inability to access the resource due to incapacity, and no one else has the ability to access the resource on their behalf, exempt the value of the resource as long as reasonable and timely steps are being taken to access the account on the client's behalf, such as a referral to the public guardian's office. Once the resource becomes accessible, the resource becomes countable and eligibility must be reevaluated for future months.

F-225.2 Resource Provisions for Spousal Impoverishment Cases

This section applies to **all** persons who are likely to begin a "continuous period of services" under a HCBW on or after September 30, 1989 and who have a spouse in an independent living situation (e.g., the spouse is not receiving HCBW services or is not residing in a nursing facility).

If the community spouse dies prior to an eligibility decision, spousal impoverishment rules do not apply. Treat the case as a non-spousal case and apply the treatment of resource rules accordingly for all requested months of coverage.

If the institutional spouse dies prior to an eligibility decision, **spousal impoverishment rules do apply. Treat the case as a spousal case from the date of application through the date of death of the institutional spouse.**

F-225.2.1 Ownership/Availability

a. Sole Ownership

All of the resource evaluated at market value less encumbrances is available to the applicant/ recipient or community spouse.

b. Shared Ownership

1) Resources Jointly Owned Between Spouses

a) Liquid Resources (bank accounts, certificates of deposit, stocks, bonds, etc.).

All liquid resources held jointly between spouses are considered available in their entirety to the institutionalized/HCBW client only. They are not considered an "available resource" to the community spouse when determining the community spouse resource allowance.

b) Non-liquid Resources (real property, vehicles, etc.)

When non-liquid resources are held jointly between spouses, consider only one-half as available to each spouse when determining the community spouse resource allowance.

2) Resources Jointly Held With Someone Other Than a Spouse

a) When the client or community spouse is able to sell or dispose of a resource without another person's signature of approval, all of the resource is evaluated at market value less encumbrances and considered available to the client or community spouse.

b) When the client or community spouse is able to sell or dispose of his/her share of a resource without another person's signature of approval, that portion evaluated at market value less encumbrances is available to the client or community spouse.

c. Exceptions

When a resource is owned jointly by more than one TANF/Medicaid applicant/recipient (other than a community spouse), divide the resource equally among those applicants/recipients to whom available.

When a client is representative payee or legal guardian managing someone else's funds, these funds are not considered the client's resource when they are kept in an account separate and apart from the client's monies **and** can be identified as being received and designated for someone other than the client.

If the client has a court order dividing resources, a copy of the order must be sent to the Chief of Eligibility and Payments for a decision on whether DWSS can recognize the order.

F-225.2.2 Resource Determination

a. Spousal Impoverishment/Resource Determination – An assessment of a couple's total resources completed at **the time of institutionalization/application for HCBW Services.**

This determination is only completed <u>once</u> at the beginning of the <u>first</u> application for HCBW services (beginning on or after 9/30/89).

The HCBW client, community spouse or their representatives may submit a written and signed request to DWSS to determine the total value of their resources. The determination shall be made whether or not the HCBW client is applying for Medicaid.

Determine and verify the total value of all countable resources owned separately or jointly by the HCBW client and the community spouse as of the beginning of a continuous period of institutionalization or as of the date the client is eligible for home based waiver services.

If the request is not part of an application, the determination must be completed within 45 days from the date of request unless delays are due to non-receipt of documentation/verification from the requesting party or third party. Make up a case file for each assessment. The case file shall contain the written request, the signed statement of resources owned by both spouses (Form 2794-EM), documentation and verification of the market value less encumbrances of all countable resources and Form 2793-EM "Assessment and Documentation of Resources." These files will be kept alphabetically and retained indefinitely.

When an applicant applies for assistance and provides a spousal resource assessment completed from another state, the assessment must be reviewed. If the assessment is done correctly, use the assessment as provided.

However, if an error(s) is found on the assessment, redetermine the resource assessment based on the error(s) only. Once the information in error is corrected, the assessment can be accepted. If more than one resource assessment is provided, review all assessments to determine acceptability.

b. Spousal Share of Resources at the Time of Application for HCBW Services (Section I of Form 2797-EM)

This determination is only completed once at the beginning of the first application for HCBW services (beginning on or after September 30, 1989), unless additional resources are received after the determination.

1. Enter the community spouse's separate resources.

2. Enter the HCBW client's separate resources.

3. Enter joint resources between spouses.

4. Divide total resources equally.

   This one-half portion of total resources is the "Spousal Share."

c. Community Spouse Resource Allowance (Section II of Form 2797-EM)

1. Enter the state Medicaid maximum.

2. Enter the spousal share (one-half of resources at the time of the first continuous period of institutionalization or the first application for HCBW services) up to the federal maximum.

3. Enter the administrative hearing decision amount (if applicable).

4. Enter the court ordered amount (if applicable).

5. Enter the greatest of 1, 2, 3, or 4 above.

The state Medicaid and spousal share maximums change annually. Use the annual amounts applicable to the year associated with the months of requested coverage.

The amount of resources (if any) determined from this computation is the community spouse resource allowance.

d. Assignment of Resources at the Time of Application for Medicaid (Section III of Form 2797-EM)

Complete Section III for each month of requested Medicaid coverage.

1. Enter the community spouse's separate resources.

2. Enter the HCBW client's separate resources.

3. Enter joint resources between spouses.

4. Total all resources.

Subtract the total amount of Section II item "e" from the total countable resources of both spouses. The difference (if any) will be the amount of resources applied toward the HCBW client's resource limit.

If the value exceeds the resource limit, the client is ineligible. If the value is within the resource limit, the client is resource eligible.

CAUTION: There are situations where the client has separate resources and/or joint resources with their spouse (Section III, b, & c) which exceed the $2,000 resource limit (ineligible). This situation occurs even though the protected resource amount puts the countable resources for the client's eligibility (Section III, f) within the $2,000 resource limit.

The notice to the community spouse must advise them to place an amount of resources into their name which will leave the client's resources under the $2,000 resource limit.

e. Permitting Transfer of Resources to the Community Spouse

An amount up to the community spouse resource allowance must be transferred to the community spouse's name only within 30 days from the date of the approval notice.

In situations where transferring the resource(s) cannot reasonably occur within the 30-day period, the client, spouse and/or their representatives must substantiate the circumstances and provide an expected date the transfer will take place. The case manager must monitor, document and verify the situation until the transfer occurs.

The client, spouse and/or their representatives must continue to make every effort and take all possible steps to successfully transfer the resource(s) to the community spouse. Failure to comply will cause the resources to be counted towards the HCBW client's resource limit.

Effective October 1, 1993, state law is amended regarding court orders giving state court's guidelines when protecting income and resources for the community spouse.

The guidelines provide for an equal division of income and resources OR a protection of income not to exceed the federal maximum monthly maintenance needs allowance and a protection of resources which does not exceed the federal maximum spousal share.

The court may order a greater amount of income for the support of the community spouse upon finding exceptional circumstances resulting in significant financial duress. The court may also transfer a greater amount of resources, in relation to the amount of income generated by the resource, if resources up to the federal maximum are not enough to fund the amount of income ordered.

The Transfer of Resources policies DO NOT apply to transfers made under these provisions.

f. Separate Treatment of Resources after Eligibility is Established

During the "continuous period" of institutionalization **and** after the client has been determined eligible, no resources of the community spouse are available to the client, unless actually made available to the client.

g. Undue Hardship

If undue hardship is claimed as a result of a denial of eligibility for excess resources under spousal impoverishment rules, the applicant may be determined eligible in spite of having excess resources if **all** of the following conditions exist:

1. The HCBW client is otherwise eligible for Medicaid without applying spousal impoverishment rules; **and**

2. The community spouse is the sole owner of liquid resources **or** non-liquid joint resources valued in excess of the Federal maximum; **and**

3. The community spouse has refused to make the resources available to the HCBW client; **and**

4. The HCBW client has insufficient funds to cover the cost of Home Care; **and**

5. Without Medicaid, the HCBW client would be forced to go without life sustaining medical care as determined by an individual licensed to practice medicine in the State of Nevada.

   Send Undue Hardship requests to the Chief of Eligibility and Payments for evaluation and decision.

h. Additional Resources Following Initial Eligibility

If the HCBW client acquires a new countable resource following the initial eligibility determination, his/her resource eligibility must be re-evaluated.

Apply the ownership/availability rules to newly acquired resources.

Determine how much, if any, of the spousal protected resources (Line II, "e") was used to transfer resources in the community spouse's name only. If there is a balance remaining, more resources countable to the HCBW client can be protected for the community spouse so the HCBW client remains resource eligible.

Determine if the spousal protected resources has an unused balance in an amount equal to or more than the new resource. If not, and the excess of resources is over the resource limit, terminate Medicaid coverage allowing the appropriate adverse action time. If the balance of the spousal protected resources is enough to protect the new resource from being counted toward the resource limit, apply the transfer to community spouse provisions as outlined.

Example #1: Liquid Resources

The community spousal protected resources was determined to be $12,000. After approval, the community spouse transferred $8,600 of resources to his/her name only. This leaves a balance of $3,400 in spousal protected resources. Later, the HCBW client receives a retroactive VA benefit check in the amount of $13,000; $10,000 remains the month after receipt and must be considered a countable resource. Since the balance of the spousal protected resources is $3,400, this is the maximum that can be protected. The difference of $6,600 ($10,000 - $3,400) remains a countable resource to the HCBW client and renders him/her ineligible for Medicaid.

Example #2: Non-Liquid Resources

The HCBW client and community spouse receive an inheritance of vacant land valued at $5,000. One-half is considered available to each spouse ($2,500). The community spousal protected resources was determined to be $12,000. Of this $12,000, the community spouse used $6,000 to transfer resources in his/her name after approval. Therefore, the community spouse has a $6,000 balance in resource protection.

One-half of the vacant land ($2,500) must be considered available to the community spouse. Since the community spouse has a balance of $6,000 in spousal protected resources, the HCBW client remains resource eligible by protecting his share of the vacant land.

His/her share of the vacant land ($2,500) must now be transferred to the community spouse. In this example, the new balance of the spousal protected resources would then be $3,500.

F-225.3 Resource Exemptions

One vehicle must be excluded without regard to use or value.

An individual who has received benefits under a qualified long-term care insurance policy is eligible for a resource disregard equal to the amount of insurance benefits paid to or on behalf of the individual. The resource disregard is allowed, even if additional benefits remain available under the terms of the policy.

Only qualified long-term care policies purchased after January 1, 2007 will meet the resource exemption rules. Beneficiaries will need to provide a certificate indicating the amount of benefits issued and certifying the policy as a qualified “partnership policy”. The state will not seek adjustment or recovery from the individual’s estate for the amount of assets or resources disregarded.

F-225.4 Resource Limits

The value of all countable resources of the client cannot be more than $2,000. When the resource limit is exceeded, the case is ineligible.

Home equity limits are applicable.

F-230 PATIENT LIABILITY

Individuals who are approved under the HCBW category are entitled to a maintenance allowance to take care of their needs, such as rent, utilities, etc. The needs allowance is currently set at 300% of SSI (Appendix C), which is equal to the income limit, resulting in zero patient liability.

If the client is admitted to a hospital or nursing facility for "long-term care," adjust the patient liability deduction to the $35 personal needs allowance beginning with the month following the month of institutionalization.

If an applicant leaves a medical facility to enter the HCBW Program, adjust the patient liability deduction to the home based maintenance allowance effective the month following the month of discharge.