

IC 12-15-2-24 Eligibility; community spouse resource requirements

Sec. 24. (a) This section applies to determining eligibility for an individual who:

- (1) resides in a nursing facility or another medical institution; and
- (2) has a community spouse.

(b) In determining eligibility for an individual described in subsection (a), the office shall, beginning in calendar year 2006, use the greater of the following community spouse resource allowances:

- (1) Nineteen thousand twenty dollars (\$19,020), subject to an adjustment described in 42 U.S.C. 1396r-5(g).
- (2) The lesser of:
 - (A) the spousal share computed under 42 U.S.C. 1396r-5(c)(1); or
 - (B) ninety-five thousand one hundred dollars (\$95,100), subject to an adjustment described in 42 U.S.C. 1396r-5g.

(3) An amount established by a court order or an administrative hearing if the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3) and an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) An institutionalized spouse shall not be ineligible for the program because of resources if:

- (1) the institutionalized spouse:
 - (A) establishes that the individual has a right to receive support from the community spouse; and
 - (B) assigns to the office the right to receive support from the community spouse; or
- (2) the office determines that the denial of eligibility would result in an undue hardship to the institutionalized spouse.

(d) The office shall adopt rules under [IC 4-22-2](#) to calculate the amount of resources necessary to provide income to the community spouse under subsection (b).

As added by P.L.246-2005, SEC.102.

IC 12-15-2-25 Eligibility; retention of income to support community spouse

Sec. 25. (a) This section applies to an individual who:

- (1) is eligible for Medicaid;
- (2) resides in a nursing facility or another medical institution; and
- (3) has a community spouse.

(b) An individual described in subsection (a) is entitled to retain an income allowance for the purpose of supporting a community spouse if:

- (1) the community spouse's income is less than the minimum monthly needs allowance established under 42 U.S.C. 1396r-5(d)(3); and
- (2) an increased amount is necessary to increase the community spouse's income to the minimum monthly needs allowance.

(c) If either spouse establishes that a higher allowance is needed due to exceptional circumstances resulting in significant financial duress, the minimum monthly needs allowance may be increased after an administrative hearing or by a court order.

(d) The office shall adopt rules under [IC 4-22-2](#) setting forth the manner in which the office will determine the existence of exceptional circumstances resulting in significant financial duress under subsection (c).

As added by P.L.246-2005, SEC.103.

Chapter 14. Actions for Support of Dependents by Dependent Spouse

IC 31-16-14-1 Grounds for bringing action

Sec. 1. (a) A dependent spouse may bring an action in a circuit or superior court to obtain support from the other spouse for the benefit of the dependent spouse and the dependent children in the custody of the dependent spouse if:

(1) the other spouse has deserted the dependent spouse or dependent children without cause and without sufficient support;

(2) the other spouse has:

(A) been convicted of a felony;

(B) been imprisoned; and

(C) left the dependent spouse or dependent children without sufficient support;

(3) the other spouse:

(A) becomes incapacitated; or

(B) neglects to provide support for the dependent spouse or dependent children;

because the other spouse is a habitual drunkard;

(4) the other spouse:

(A) joins a sect or denomination that requires a renunciation of the marriage or that forbids the spouses to cohabit as husband and wife; and

(B) renounces the marriage or refuses to live with the dependent spouse in a marital relationship; or

(5) the other spouse has been adjudged insane.

(b) A dependent spouse may join other persons as codefendants in an action brought under subsection (a) if the other persons:

(1) are indebted to either spouse; or

(2) have rights, credits, or choses in action that belong to either spouse and that are in the possession or control of the other persons.

[Pre-1997 Recodification Citation: 31-7-11-1.]

As added by P.L.1-1997, SEC.8.