

TO: Local District Commissioners, Medicaid Directors

FROM: Judith Arnold, Director
Division of Coverage and Enrollment

SUBJECT: Change in Spousal Budgeting for Individuals in the Traumatic Brain Injury (TBI) Waiver Program

EFFECTIVE DATE: September 1, 2008

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The purpose of this GIS message is to advise social services districts of a recent change in policy concerning spousal budgeting for individuals applying for or renewing Medicaid coverage for services provided through the Traumatic Brain Injury (TBI) waiver program.

Chapter 58 of the Laws of 2008 amended Section 366-c of Social Services Law to comply with federal requirements regarding the manner in which income is budgeted for individuals participating in the TBI waiver program who have a community spouse. Spousal budgeting for individuals in the TBI waiver program no longer includes post-eligibility deductions from the applicant/recipient's (A/R's) income for a community spouse monthly income allowance or a family member allowance. Income eligibility is determined solely on the income of the spouse applying for or renewing Medicaid coverage for services provided through the TBI waiver program.

The total net income of the waiver A/R is calculated by applying all applicable SSI-related income disregards and comparing the resulting figure to the Medicaid income level for one (\$725 for 2008) (MBL Budget Type 04, Case Count of one) rather than allowing a Personal Needs Allowance (PNA)(\$342 for 2008). Income of the non-applying community spouse is not considered available for purposes of determining the waiver A/R's Medicaid eligibility. Additionally, income of the A/R may not be used to bring the community spouse's income up to the Minimum Monthly Maintenance Needs Allowance (MMMNA).

Spousal budgeting for individuals in the TBI waiver program continues to include a community spouse resource allowance (CSRA) (up to a maximum of \$104,400 for 2008) for the community spouse. After providing for a CSRA, any remaining resources are deemed available to the waiver applicant and compared to the Medicaid resource level for one (\$13,050 effective April 1, 2008).

Effective September 1, 2008, new applications for coverage of waiver services provided through the TBI program must be budgeted according to the spousal budgeting instructions provided in this GIS. For individuals currently participating in the TBI waiver program, the change in spousal budgeting is to be applied when the case comes up for renewal of Medicaid eligibility or when a change is reported which results in a recalculation of income eligibility, whichever comes first. Districts should use LDSS-3623, "Notice of Intent to Discontinue/Change Medical Assistance" to inform an individual of a change in his/her Medicaid coverage. The legal citation for the notice is SSL 366-c(4).