

Medi-Cal Eligibility When One Spouse Needs Long-Term Services and Supports

JANUARY 2024

When do Medi-Cal's protections against spousal impoverishment apply?

Medi-Cal's protections against spousal impoverishment apply when one spouse needs long-term services and supports (LTSS), which includes both nursing home care and home and community-based services (HCBS). California HCBS programs include:

- In-Home Supportive Services (IHSS) (in some cases),
- Multipurpose Senior Services Program (MSSP),
- Community-Based Adult Services (CBAS) program,
- Home and Community-Based Alternative (HCBA) waiver, and
- Other Medi-Cal waiver programs.

Protections against spousal impoverishment apply both to married couples and registered domestic partners.

Do the protections apply to all spouses receiving In-Home Supportive Services (IHSS)?

No, the protections only apply to the almost half of the IHSS recipients who have a "2K" aid code. These are persons who have been determined to need a level of care that is roughly equivalent to the level of care provided in a nursing home. Their IHSS coverage is provided through the Community First Choice Option (CFCO).

How do these protections work?

Long-term services and supports can be extremely expensive – potentially over \$100,000 per year. The protections help protect a spouse financially when the other spouse needs LTSS. Specifically, the spouse not needing services (called the "community spouse") is allowed to retain specified amounts of the couple's income, as explained in more detail below.

How are the financial protections calculated?

Depending on the couple's finances, the spouse seeking Medi-Cal coverage for LTSS may be able to assign some income to the community spouse. The income allocation from the spouse seeking coverage can be up to an amount that increases the community spouse's total monthly countable income up to \$3,854. (These are the income limits as of January 2024; they are adjusted annually to account for inflation.) As of January 1, 2024, there are no limits to the resources that either spouse may own. [See ACWDL 23-16.](#)

For much more information about how to calculate income, see the Department of Health Care Services All County Welfare Department's Letters (ACWDL) [17-25](#), [18-19](#), [23-13](#), and [23-18](#).

How can individuals receive retroactive spousal impoverishment protections for service and care needs as far back as January 2014?

In the past, California did not properly provide adequate protections against spousal impoverishment. To make up for this failure, and as the result of a court order, the California Medi-Cal program offers retroactive spousal impoverishment protections under certain circumstances. A couple may be eligible for retroactive protections if

1. One member of the couple needed HCBS at a nursing home level of care and applied for Medi-Cal on or after January 1, 2014, AND
2. Either Medi-Cal was denied due to excess resources, or the Medi-Cal was granted but with an obligation to pay a portion of the cost of care.

If someone meets these standards, they might be able to be compensated for the coverage that they should