

**Legislative Regulation  
Review Committee**

2008-056

Department of Social Services

**ASSIGNMENT OF SPOUSAL SUPPORT  
RIGHTS**

**CONNECTICUT DEPARTMENT OF SOCIAL SERVICES  
UNIFORM POLICY MANUAL**

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Date: xx-xx-07

Transmittal: UP-07-xx

1507.05 Page 2

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Section:  
The Eligibility Process

Type:  
POLICY

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Chapter:  
Assessment of Spousal Assets

Program:  
MAABD

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Subject:  
Assessment Process - MCCA Spouses

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- 1507.05 A. 6. Initial eligibility is determined using an assessment of spousal assets except when:
- a. undue hardship exists (Cross Reference 4025.68); or
  - b. the institutionalized spouse has assigned his or her support rights from the community spouse to the department[;] (Cross Reference: 4025.69); or
  - c. the institutionalized spouse cannot execute the assignment because of a physical or mental impairment. (Cross Reference: 4025.69).
- B. Requesting the Assessment
1. MCCA spouses shall file a completed written request for the assessment on a form prescribed by the Department.
  2. Telephone contacts or other requests for the assessment not made on the prescribed form are considered inquiries and do not constitute a request.
  3. The request may be submitted in person or by mail.
  4. The assessment form shall be signed by the community spouse or the institutionalized spouse or another individual who is qualified to request the assessment on behalf of either MCCA spouse.
  5. The Department determines the individuals who are qualified to request the assessment on the same basis as it determines the individuals who are qualified to make an application for assistance (Cross Reference 1505.15).

**CONNECTICUT DEPARTMENT OF SOCIAL SERVICES  
UNIFORM POLICY MANUAL**

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Date: xx-xx-07

Transmittal: UP-07-xx

4022.05

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Section:

Treatment of Assets

Type:

POLICY

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Chapter:

Asset Disregards

Program: MAABD

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Subject:

Community Spouse Disregard

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4022.05 A. General Provisions

1. The Community Spouse Disregard (CSD), as defined at UPM 1500.01, is subtracted from an institutionalized spouse's (IS') counted assets in determining the IS' eligibility for Medicaid.
2. The CSD is used to allow the IS to transfer a specific amount of his or her counted assets to the community spouse (CS) when such assets are needed to raise the CS' assets to the Community Spouse Protected Amount (cross reference: 1500.01).
3. Except as provided in section 4022.05 A. 7., the CSD is used for the initial eligibility determination for each continuous period of institutionalization for an assistance unit consisting of a MCCA spouse.
4. After eligibility is established for the institutionalized spouse, the CSD amount shall be transferred to the community spouse as soon as practical.
5. Except in the event of good cause, any portion of the CSD which is not transferred by the next determination of eligibility is not subtracted from the institutionalized spouse's assets. This results in the ineligibility of the IS if his or her counted assets total more than the Medicaid asset limit of \$1600.00.
6. After the amount of the CSD is transferred as part of the initial eligibility determination, no more assets may be subtracted from the institutionalized spouse's assets as a CSD for the remainder of that continuous period of institutionalization.
7. No CSD is used when an assessment of spousal assets has not been completed. In such a case, the IS may be eligible only if:
  - a. his or her counted assets do not exceed the asset limit at the time of application; and
  - b. the institutionalized spouse has assigned his or her support rights from the community spouse to the department[;] (Cross References: 1507.05, 4025.69); or
  - c. the institutionalized spouse cannot execute the assignment because of a physical or mental impairment (Cross References: 1507.05, 4025.69); or
  - d. undue hardship exists (Cross Reference: 4025.68).

**CONNECTICUT DEPARTMENT OF SOCIAL SERVICES  
UNIFORM POLICY MANUAL**

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Date: xx-xx-07

Transmittal: UP-07-xx

4025.67

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Section:

Treatment of Assets

Type:

POLICY

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Chapter:

Deemed Assets

Program:

MAABD

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Subject:

MCCA Spouses

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4025.67 A. Circumstances in Which Assets are Deemed

When the applicant or recipient who is a MCCA spouse begins a continuous period of institutionalization, the assets of his or her community spouse (CS) are deemed through the institutionalized spouse's initial month of eligibility as an institutionalized spouse (IS).

1. As described in section 4025.67 D., the CS' assets are deemed to the IS to the extent that such assets exceed the Community Spouse Protected Amount.
2. Any assets deemed from the CS are added to the assets of the IS and the total is compared to the Medicaid asset limit for the IS (the Medicaid asset limit for one adult).

B. Circumstances in Which Assets Are Not Deemed

The Department does not deem assets from the community spouse to the institutionalized spouse:

1. after the initial month the institutionalized spouse is eligible as an institutionalized spouse; or
2. when undue hardship exists (Cross Reference 4025.68); or
3. when the IS has assigned his or her spousal support right to the Department (Cross Reference: 4025.69); or
4. when the IS cannot execute the assignment because of a physical or mental impairment[.] (Cross Reference: 4025.69).

C. Community Spouse Not Part of Needs Group

As noted in section 4025.67 A.2., a community spouse is not a member of the institutionalized spouse's needs group for setting the asset limit.

D. Deeming Methodology

1. The Department calculates the amount of assets deemed to the institutionalized spouse from the community spouse by subtracting the Community Spouse Protected Amount (CSPA) from the community spouse's total available non-excluded assets.
2. The Department calculates the community spouse's total available non-

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UNIFORM POLICY MANUAL**

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Date: xx-xx-07

Transmittal: UP-07-xx

4025.69

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Section:

Treatment of Assets

Type:

POLICY

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Chapter:

Deemed Assets

Program:

MAABD

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Subject:

Assignment of Support Rights - MCCA Spouses

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- 4025.69 A. The Department does not deem assets from a community spouse (CS) to his or her institutionalized spouse (IS) if:
1. the institutionalized spouse has assigned his or her support rights from the community spouse to the department[;] (Cross References: 1507.05, 4025.67); or
  2. the institutionalized spouse cannot execute the assignment because of a physical or mental impairment (Cross References: 1507.05, 4025.67); or
  3. undue hardship exists (Cross Reference: 4025.68).
- B. The assignment of support rights described in section 4025.69 A. is a separate assignment made for the specific purpose that the Department not deem assets from the CS to the IS. It is not the general automatic assignment that accompanies a Medicaid application (Cross Reference: 7520).
- C. The assignment of support rights described in section 4025.69 A. may be made only if:
1. the IS's assets do not exceed the Medicaid asset limit; and
  2. the IS cannot locate the CS, or the CS is unable to provide information regarding his or her own assets.
- [C.] D. The Department does not deem in situations described in section 4025.69 A. as of the month in which the assignment is received by the Department. In cases where the IS cannot execute the assignment, the Department does not deem as of the month of application.

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UNIFORM POLICY MANUAL**

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Date: xx-xx-07

Transmittal: UP-07-xx

7520.07

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Section:  
Recovery

Type:  
POLICY

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Chapter:  
Recovery from Third Parties

Program:  
MAABD

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Subject:  
MCCA Spouses – Assets

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7520.07 A. Assignment of Support Rights

1. [The applicant] A person applying for Medicaid benefits as an institutionalized spouse (IS) [shall] may assign to the Department rights of support available from the assets of the community spouse [when the community spouse is unwilling or unable to provide the information necessary to complete an assessment of spousal assets (Cross References: 1507.05 and 4025.68).] (CS) only if:
  - a. the IS's assets do not exceed the Medicaid asset limit; and
  - b. the IS cannot locate the CS, or the CS is unable to provide information regarding his or her own assets.
2. If the assignment is made, or if the applicant is unable to execute the assignment because of a physical or mental impairment, the Department [has the right to bring a support proceeding against the community spouse without the assignment] may seek recovery of any medical assistance paid on his or her behalf.
3. The assignment described in section 7520.07 A. 1. is a separate assignment and is not the general automatic assignment that accompanies a Medicaid application, as described in this chapter. This assignment is required only under the circumstances described in section 7520.07 A. 1.

B. Limit of Claim

The Department's claim against the community spouse is equal to the lesser of the following amounts:

1. the total amount of Medicaid payments made on behalf of the IS; or
2. the amount of the CS's assets, as of the first month of the IS's eligibility for Medicaid, which exceeds the CSPA and which would have made the IS ineligible for Medicaid.

C. Collection of Claim

The Department's claims against community spouses of those who are institutionalized or receiving Home and Community Based Services (CBS) under a Medicaid waiver are collected by the Department of Administrative Services.

# REGULATION

OF

*IMPORTANT: Read instructions on bottom of Certification Page before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations.*

NAME OF AGENCY

Department of Social Services

Concerning

SUBJECT MATTER OF REGULATION

Assignment of Spousal Support Rights

SECTION \_\_\_\_\_

Statement of Purpose: (A) The purpose of the regulations is to amend sections 1507.05, 4022.05, 4025.67, 4025.69 and 7520.07 of the Uniform Policy Manual (UPM). The problems, issues or circumstances that the regulation proposes to address are: to define when an institutionalized spouse may assign to the Department of Social Services (DSS) support rights derived from the assets of his or her community spouse under the Medicaid program. The policy change is being made pursuant to Public Act 07-2 (6) of the June 2007 Special Session. The Department implemented and began to operate under the policy change on July 1, 2007.

(B) The main provisions of the regulation are: (1) an institutionalized person or person in need of institutional care who applies for Medicaid may assign to DSS support rights derived from the assets of his or her community spouse only if: (a) the assets of the institutionalized person or person in need of institutional care do not exceed the Medicaid asset limit; and (b) the institutionalized person or person in need of institutional care cannot locate the community spouse, or (c) the community spouse is unable to provide information regarding his or her own assets. (2) If the institutionalized person or person in need of institutional care makes the assignment, or cannot execute the assignment because of a physical or mental impairment, DSS may seek recovery of any medical assistance paid on his or her behalf up to the amount of the community spouse's assets that are in excess of the community spouse protected amount as of the initial month of Medicaid eligibility.

(C) The legal effects of the regulation, including all of the ways that the regulation would change existing regulations or other laws are: clarification of the circumstances under which institutionalized individuals may assign their support rights to DSS and the ability of DSS to recover medical assistance paid on behalf of the institutionalized spouse by the community spouse.

**CERTIFICATION**  
R-39 REV. 1/77

Be it known that the foregoing:

Regulations       Emergency Regulations

Are:

Adopted       Amended as hereinabove stated       Repealed

By the aforesaid agency pursuant to:

Sections \_\_\_\_\_ of the General Statutes.

Section \_\_\_\_\_ of the General Statutes, as amended by Public Act No. \_\_\_\_\_ of the \_\_\_\_\_ Public Acts.

Public Act No. 07-2(6) of the Public Acts.

After publication in the Connecticut Law Journal on July 15, 2008, of the notice of the proposal to:

Adopt       Amend       Repeal      such regulations

(If applicable):       And the holding of an advertised public hearing on \_\_\_\_\_ day of \_\_\_\_\_

WHEREFORE, the foregoing regulations are hereby:

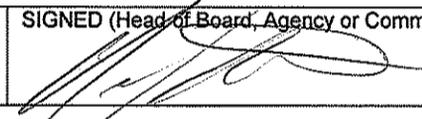
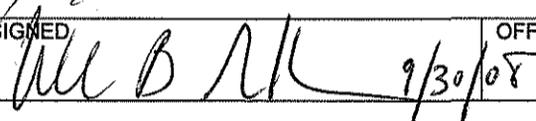
Adopted       Amended as hereinabove stated       Repealed

Effective:

When filed with the Secretary of the State.

(OR)

The \_\_\_\_\_ day of \_\_\_\_\_

In Witness Whereof:	Date	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED
	<u>8/15/08</u>		Commissioner
Approved by the Attorney General as to legal sufficiency in accordance with sec. 4-169, as amended C.G.S.	Date	SIGNED	OFFICIAL TITLE, DULY AUTHORIZED
			

- Approved
- Disapproved
- Disapproved in part, (Indicate Section Numbers disapproved only)
- Rejected without prejudice

By the Legislative Regulation Review Committee in accordance with Sec. 4-170, as amended, of the General Statutes.	Date	SIGNED (Clerk of the Legislative Regulation Review Committee)

Two certified copies received and filed, and one such copy forwarded to the Commission in Official Legal Publications in accordance with Section 4-172, as amended, of the General Statutes.

DATE	SIGNED (Secretary of the State.)	BY

**INSTRUCTIONS**

1. One copy of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the Attorney General for his determination of legal sufficiency. Section 4-169 of the General Statutes.
2. Seventeen copies of all regulations for adoption, amendment or repeal, except emergency regulations, must be presented to the standing Legislative Regulation Review Committee for its approval. Section 4-170 of the General Statutes.
3. Each regulation must be in the form intended for publication and must include the appropriate regulation section number and section heading. Section 4-172 of the General Statutes.
4. Indicate by "(NEW)" in heading if new regulation. Amended regulations must contain new language in capital letters and deleted language in brackets. Section 4-170 of the General Statutes.