441—75.82(249A) Determination of countable income and resources for persons in a medical institution. In determining eligibility for any coverage group under rules 441—75.3(249A) through 441—75.8(249A), certain factors must be considered differently for persons who reside in a medical institution, as follows.

75.82(1) *Determining income from property.*

a. *Nontrust property.* Where there is nontrust property, unless the document providing income specifies differently, income paid in the name of one person shall be available only to that person. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, including a Medicaid client, a client's spouse, or both, the income will be considered in proportion to the Medicaid client's or spouse's interest. If payment is made jointly to both spouses and no interest is specified, one-half of the couple's joint interest will be considered available for each spouse. If the client or the client's spouse can establish different ownership by a preponderance of evidence, the income will be divided in proportion to the ownership.

b. *Trust property.* Where there is trust property, the payment of income will be considered available as provided in the trust. In the absence of specific provisions in the trust, the income will be considered as stated above for nontrust property.

75.82(2) *Division of income between married people for non-MAGI coverage groups.*

a. *Institutionalized spouse and community spouse.* If there is a community spouse, only the institutionalized spouse's income will be considered in determining eligibility for the institutionalized spouse.

b. *Spouses institutionalized and living together.* Partners in a marriage who are residing in the same room in a medical institution will be treated as a couple until the first day of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or receive reduced benefits by considering them separate individuals or if they choose to be considered together. When spouses are treated as a couple, the combined income of the couple shall not exceed twice the amount of the income limit established in subrule 75.6(4). Persons treated together as a couple for income must be treated together for resources, and persons treated individually for income must be treated individually for resources. Spouses residing in the same room in a medical institution may be treated as individuals effective the first day of the seventh calendar month. The income of each spouse shall not exceed the income limit established in subrule 75.6(4).

c. *Spouses institutionalized and living apart.* Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, will be treated as individuals effective the month after the month the partners cease living together. Their income will be treated separately for eligibility. If they live in the same facility after six months of continuous residence, they may be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or receive reduced benefits by considering them separate individuals or if they choose to be considered together.

In the month of entry into a medical institution, income shall not exceed the amount of the income limit established in subrule 75.6(4).

75.82(3) *Attribution of resources to institutionalized spouse and community spouse.* The department will determine the attribution of a couple's resources to the institutionalized spouse and to the community spouse when the institutionalized spouse is expected to remain in a medical institution at least 30 consecutive days on or after September 30, 1989, at the beginning of the first continuous period of institutionalization.

a. *When determined.* The department will determine the attribution of resources between spouses at the earlier of the following:

(1) When either spouse requests that the department determine the attribution of resources at the beginning of the person's continuous stay in a medical facility prior to an application for Medicaid benefits. This request must be accompanied by a form prescribed by the department and necessary documentation.

(2) When the institutionalized spouse or someone acting on that person's behalf applies for Medicaid benefits. If the application is not made in the month of entry, the applicant shall also complete a form prescribed by the department and provide necessary documentation.

b. Information required. The couple must provide the social security number of the community spouse. The attribution process will include a match of the IRS data for both the institutionalized and community spouses.

c. Resources considered. The resources attributed shall include resources owned by both the community spouse and institutionalized spouse, except for the following resources:

(1) The home in which the spouse or relatives as defined in 441—paragraph 41.22(3)*"a"* live (including the land that appertains to the home).

(2) Household goods, personal effects, and one automobile.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of either spouse or any other member of the immediate family.

(4) Other property essential to the means of self-support of either spouse as to warrant its exclusion under the SSI program.

(5) Resources of a blind or disabled person who has a plan for achieving self-support as determined by division of vocational rehabilitation or by the department.

(6) For natives of Alaska, shares of stock held in a regional or village corporation, during the period of 20 years in which the stock is inalienable, as provided in Sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act as amended to August 1, 2025.

(7) Assistance under the Disaster Relief Act and Emergency Assistance Act as amended to August 1, 2025, or other assistance provided pursuant to federal statute on account of a presidentially declared major disaster and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(8) Any amount of underpayment of SSI or social security benefits due either spouse for one or more months prior to the month of receipt. This exclusion is limited to the first six months following receipt.

(9) A life insurance policy (or policies) whose total face value is $1,500 or less per spouse.

(10) An amount, not more than $1,500 for each spouse, that is separately identifiable and has been set aside to meet the burial and related expenses of that spouse. The amount of $1,500 will be reduced by an amount equal to the total face value of all insurance policies that are owned by the person or spouse and the total of any amounts in an irrevocable trust or other irrevocable arrangement available to meet the burial and related expenses of that spouse.

(11) Federal assistance paid for housing occupied by the spouse.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a client comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended to August 1, 2025, which is subject to the treatment required by Section 216 of that Act.

d. Method of attribution. The resources attributed to the institutionalized spouse shall be one-half of the documented resources of both the institutionalized spouse and the community spouse as of the first moment of the first day of the month of the spouse's first entry to a medical facility. However, if one-half of the resources is less than the minimum set by the federal spousal impoverishment provisions, then the greater of $24,000 or the federally established minimum will be protected for the community spouse. Also, when one-half of the resources attributed to the community spouse exceeds the maximum amount allowed as a community spouse resource allowance under the federal spousal impoverishment provisions, the amount over the maximum will be attributed to the institutionalized spouse. (The minimum and maximum limits are indexed annually according to the consumer price index.) The federal spousal impoverishment provisions are defined in Section 1924(f)(2)(A)(i) of the Act (42 U.S.C. §1396r-5(f)(2)(A)(i)). If the institutionalized spouse has transferred resources to the community spouse under a court order for the support of the community spouse, the amount transferred will be the amount attributed to the community spouse if it exceeds the specified limits above.

e. Notice and appeal rights. The department will provide each spouse a notice of the attribution results. The notice will state that either spouse has a right to appeal the attribution if the spouse believes:

(1) That the attribution is incorrect, or

(2) That the amount of income generated by the resources attributed to the community spouse is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance. If an attribution has not previously been appealed, either spouse may appeal the attribution upon the denial of an application for Medicaid benefits based on the attribution.

f. Appeals. Hearings on attribution decisions are governed by procedures in 441—Chapter 2506. If the hearing establishes that the community spouse's resource allowance is inadequate to raise the community spouse's income to the minimum monthly maintenance allowance, there will be substituted an amount adequate to provide the minimum monthly maintenance needs allowance.

(1) To establish that the resource allowance is inadequate and receive a substituted allowance, the applicant must provide verification of all the income of the community spouse. For an applicant who became an institutionalized spouse on or after February 8, 2006, all income of the institutionalized spouse that could be made available to the community spouse pursuant to paragraph 75.83(2)*"d"* will be treated as countable income of the community spouse when the attribution decision was made on or after February 8, 2006.

(2) The amount of resources adequate to provide the community spouse minimum maintenance needs allowance will be based on the cost of a single premium lifetime annuity with monthly payments equal to the difference between the monthly maintenance needs allowance and other countable income not generated by either spouse's countable resources.

(3) The resources necessary to provide the minimum maintenance needs allowance will be based on the maintenance needs allowance as provided by these rules at the time the appeal is filed.

(4) To receive the substituted allowance, the applicant will be required to obtain one estimate of the cost of the annuity.

(5) The estimated cost of an annuity will be substituted for the amount of resources attributed to the community spouse when the amount of resources previously determined is less than the estimated cost of an annuity. If the amount of resources previously attributed for the community spouse is greater than the estimated cost of an annuity, there will be no substitution for the cost of the annuity and the attribution will remain as previously determined.

(6) The applicant will not be required to purchase this annuity as a condition of Medicaid eligibility.

(7) If the appellant provides a statement from an insurance company that it will not provide an estimate due to the potential annuitant's age, the amount to be set aside will be determined using the following calculation: the difference between the community spouse's gross monthly income not generated by countable resources (multiplied by 12) and the minimum monthly maintenance needs allowance (multiplied by 12) will be multiplied by the annuity factor for the age of the community spouse. This amount will be substituted for the amount of resources attributed to the community spouse pursuant to subparagraph 75.82(3)*"f"*(5).

75.82(4) *Consideration of resources of married people.*

a. One spouse in a medical facility who entered the facility on or after September 30, 1989.

(1) Initial month. When the institutionalized spouse is expected to stay in a medical facility less than 30 consecutive days, the resources of both spouses will be considered in determining initial Medicaid eligibility. When the institutionalized spouse is expected to be in a medical facility 30 consecutive days or more, only the resources not attributed to the community spouse according to subrule 75.82(3) will be considered in determining initial eligibility for the institutionalized spouse. The amount of resources counted for eligibility for the institutionalized spouse shall be the difference between the couple's total resources at the time of application and the amount attributed to the community spouse under this rule.

(2) Ongoing eligibility. After the month in which the institutionalized spouse is determined eligible, no resources of the community spouse will be deemed available to the institutionalized spouse during the continuous period in which the spouse is in an institution. Resources that are owned wholly or in part by the institutionalized spouse and that are not transferred to the community spouse will be counted in determining ongoing eligibility. The resources of the institutionalized spouse will not count for ongoing

eligibility to the extent that the institutionalized spouse intends to transfer and does transfer the resources to the community spouse within 90 days unless unable to effect the transfer.

(3) Exception based on estrangement. When it is established by a disinterested third-party source that the institutionalized spouse is estranged from the community spouse, Medicaid eligibility will not be denied on the basis of resources when the applicant can demonstrate hardship. The applicant can demonstrate hardship when the applicant is unable to obtain information about the community spouse's resources after exploring all legal means. The applicant can also demonstrate hardship when resources attributed from the community spouse cause the applicant to be ineligible but the applicant is unable to access these resources after exhausting legal means.

(4) Exception based on assignment of support rights. The institutionalized spouse will not be ineligible by attribution of resources that are not actually available when:

1. The institutionalized spouse has assigned to the state any rights to support from the community spouse, or

2. The institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the state has the right to bring a support proceeding against a community spouse without an assignment.

b. One spouse in a medical institution prior to September 30, 1989. When one spouse is in the medical institution prior to September 30, 1989, only the resources of the institutionalized spouse will count for eligibility according to SSI policies the month after the month of entry. In the month of entry, the resources of both spouses are countable toward the couple resource limit.

c. Spouses institutionalized and living together. The combined resources of both partners in a marriage who are residing in the same room in a medical institution will be subject to the resource limit for a married couple until the first of the seventh calendar month that they continuously reside in the facility. The couple may continue to be considered as a couple for Medicaid effective with the seventh month if one partner would be ineligible for Medicaid or would receive reduced benefits by considering them separately or if they choose to be considered together. Persons treated together as a couple for resources must be treated together for income, and persons treated individually for resources must be treated individually for income. Effective the first of the seventh calendar month of continuous residence, they may be treated as individuals, with the resource limit for each spouse the limit for a single person.

d. Spouses institutionalized and living apart. Partners in a marriage who are both institutionalized, although not residing in the same room of the institution, will be treated as individuals effective the month after the month the partners cease living together. If they live in the same facility after six months of continuous residence, they may be considered as a couple for Medicaid effective the first day of the seventh calendar month of continuous residency if one partner would be ineligible for Medicaid or would receive reduced benefits by considering them separately or if they choose to be considered together. In the month of entry into a medical institution, all resources of both spouses will be combined and will be subject to the resource limit for a married couple.

75.82(5) *Consideration of resources for persons in a medical institution who have purchased and used a qualified or approved long-term care insurance policy pursuant to 191—Chapter 39 or 72.*

a. Eligibility. A person may be eligible for Medicaid under this subrule if:

(1) The person is the beneficiary of a qualified long-term care insurance policy or is enrolled in a prepaid health care delivery plan that provides long-term care services pursuant to 191—Chapter 39 or 72; and

(2) The person is eligible for Medicaid under subrule 75.3(14), 75.3(15), 75.6(4), or 75.6(8), except for excess resources; and

(3) The excess resources causing ineligibility under the listed coverage groups do not exceed the "asset adjustment" provided in this subrule.

b. Definition.

"Asset adjustment" means a $1 disregard of resources for each $1 that has been paid out under the person's qualified or approved long-term care insurance policy.

c. Estate recovery. An amount equal to the benefits paid out under a member's qualified or approved long-term care insurance policy will be exempt from recovery from the estate of the member or the member's spouse for payments made by the Medicaid program on behalf of the member.

This rule is intended to implement Iowa Code sections 249A.3, 249A.4, and 249A.35 and chapter 514H.

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