



# Medicaid Update

The Official Newsletter of the New York State Medicaid Program

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## Office of the Medicaid Inspector General Selects Performant as Recovery Audit Contractor for the New York State Medicaid Program, Effective April 7, 2025

The Affordable Care Act requires New York State (NYS) Medicaid program agencies to contract with Recovery Audit Contractors (RACs) for NYS Medicaid program integrity purposes. The NYS Office of the Medicaid Inspector General (OMIG) utilizes a vendor to facilitate activities to reduce improper payments through detection and collection of overpayments, the identification of underpayments, the reporting of suspected fraudulent and/or criminal activities, and the implementation of actions that will prevent future improper payments.

**Effective April 7, 2025**, NYS OMIG will commence its engagement with Performant as the NYS Medicaid program RAC.

### About Performant

Performant supports health care payers in identifying, preventing, and recovering waste and improper payments by leveraging advanced technology, analytics, and proprietary data assets. Performant works with national and regional health care payers to provide eligibility-based, also known as coordination of benefits services, as well as claims-based services, which includes the audit and identification of improperly paid claims. Additional information regarding the NYS OMIG RAC Unit can be found on the NYS OMIG “Medicaid Recovery Audit Contractor” web page, located at: <https://omig.ny.gov/audit/medicaid-recovery-audit-contractor>.

### Questions

Questions should be directed to [rac@omig.ny.gov](mailto:rac@omig.ny.gov).

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Governor  
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*The Medicaid Update is a monthly publication of the New York State Department of Health.*

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## Subscribe to the eMedNY LISTSERV®

The eMedNY LISTSERV® is a method for dissemination of eMedNY related information and notifications to providers, vendors, and other New York State (NYS) Medicaid partners. The eMedNY LISTSERV® is a supplement to the *Medicaid Update* and enables subscribers to instantly receive:

- alerts for upcoming changes to claims and other transactions,
- announcements about upcoming provider training opportunities,
- provider-specific changes in procedures and policy requirements, **and**
- electronic Provider Assisted Claim Entry System changes.

The eMedNY LISTSERV® is available, free of charge, and has no limitations on the number of individuals allowed to subscribe from a practice, business or organization. Providers are encouraged to subscribe to as many categories as they feel necessary, to ensure they receive the important eMedNY communications that may impact their practice and business processes. **Please note:** All eMedNY LISTSERV® communications are archived and available for viewing at a later time.

Subscribing to the eMedNY LISTSERV® is quick and easy. Providers can visit the eMedNY homepage, located at: <https://www.emedny.org>, then select the "eMedNY LISTSERV®" button on the right side of the homepage. On the eMedNY "eMedNY LISTSERV®" web page, located at: [https://www.emedny.org/Listserv/eMedNY\\_Email\\_Alert\\_System.aspx](https://www.emedny.org/Listserv/eMedNY_Email_Alert_System.aspx), providers can check off all desired categories. Once categories have been selected, providers must enter their email address at the bottom of the web page, then select "submit".

### Questions

Questions regarding the eMedNY LISTSERV® should be directed to the eMedNY Call Center at (800) 343-9000.

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## Register for the Project TEACH 2025 “Webinar Wednesday” Series

Project TEACH, the New York State (NYS) Office of Mental Health child/adolescent and perinatal psychiatry access program, has launched its “Webinar Wednesday” series for 2025. Each webinar in the series includes Continuing Medical Education (CME) credit(s) and is offered at no cost to NYS clinicians that care for child, adolescent or perinatal patients, including family medicine, pediatric, obstetrics/gynecology (ob/gyn), as well as psychiatric clinicians, residents, therapists and allied health professionals imbedded with a health care practice.

### 2025 “Webinar Wednesday” Series

NYS clinicians are encouraged to register for upcoming Project TEACH webinars regarding a variety of child/adolescent and maternal mental health topics. To view all webinar events, NYS clinicians should refer to the Project TEACH “Upcoming Events” web page, at: <https://projectteachny.org/events/>. **Please note:** NYS clinicians who register for the 2025 “Webinar Wednesday” series will be automatically registered for all remaining series webinars.

Topic/CME Credit	Date and Time	Registration Details
<p>“How to Read That 16-Page Neuropsychological Evaluation: What is Important?” 1.0 CME credit</p>	<p>Wednesday, May 28, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “How to Read That 16-page Neuropsychological Evaluation. What is important?” web page (<a href="https://projectteachny.org/events/how-to-read-that-16-page-neuropsychological-evaluation-what-is-important/">https://projectteachny.org/events/how-to-read-that-16-page-neuropsychological-evaluation-what-is-important/</a>)</p>
<p>“Patient-Centered Care: How to Talk About Weight During the Perinatal Period” 1.0 CME credit</p>	<p>Wednesday, June 18, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “Patient-Centered Care: How to Talk about Weight During the Perinatal Period” web page (<a href="https://projectteachny.org/events/patient-centered-care-how-to-talk-about-weight-during-the-perinatal-period/">https://projectteachny.org/events/patient-centered-care-how-to-talk-about-weight-during-the-perinatal-period/</a>)</p>
<p>“Could This Be Autism? Supporting Tweens and Teens with Social Communication Differences” 1.0 CME credit</p>	<p>Wednesday, July 16, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “Could This be Autism? Supporting Tweens and Teens with Social Communication Differences” web page (<a href="https://projectteachny.org/events/could-this-be-autism-supporting-tweens-and-teens-with-social-communication-differences/">https://projectteachny.org/events/could-this-be-autism-supporting-tweens-and-teens-with-social-communication-differences/</a>)</p>
<p>“Child/Adolescent OCD: Anxiety’s Sneaky Cousin” 1.0 CME credit</p>	<p>Wednesday, September 17, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “OCD: Anxiety’s Sneaky Cousin” web page (<a href="https://projectteachny.org/events/ocd-anxiety-s-sneaky-cousin/">https://projectteachny.org/events/ocd-anxiety-s-sneaky-cousin/</a>)</p>
<p>“Passion and Parenthood: Bridging the Gap in Perinatal Sexual Health” 1.0 CME credit</p>	<p>Wednesday, October 15, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “Passion and Parenthood: Bridging the Gap in Perinatal Sexual Health” web page (<a href="https://projectteachny.org/events/passion-and-parenthood-bridging-the-gap-in-perinatal-sexual-health/">https://projectteachny.org/events/passion-and-parenthood-bridging-the-gap-in-perinatal-sexual-health/</a>)</p>
<p>“Prenatal Exposure to Alcohol: Neurodevelopment Effect” 1.0 CME credit</p>	<p>Wednesday, November 19, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “Prenatal Exposure to Alcohol: Neurodevelopmental Effects” web page (<a href="https://projectteachny.org/events/prenatal-exposure-to-alcohol-neurodevelopmental-effects/">https://projectteachny.org/events/prenatal-exposure-to-alcohol-neurodevelopmental-effects/</a>)</p>
<p>“Infant Mental Health: What It Is and How to Promote It in Your Work With Families - Evidence-based practices to optimize infant mental health” 1.0 CME credit</p>	<p>Wednesday, December 17, 2025 Noon to 1 p.m.</p>	<p>Project TEACH “Infant Mental Health: What it is and how to promote it in your work with families - Evidence-based practices to optimize infant mental health” web page (<a href="https://projectteachny.org/events/infant-mental-health-what-it-is-and-how-to-promote-it-in-your-work-with-families-evidence-based-practices-to-optimize-infant-mental-health/">https://projectteachny.org/events/infant-mental-health-what-it-is-and-how-to-promote-it-in-your-work-with-families-evidence-based-practices-to-optimize-infant-mental-health/</a>)</p>

## About Project TEACH

Project TEACH is the NYS child/adolescent and perinatal psychiatry access program. In addition to ongoing training and webinar opportunities, which can be found on the Project TEACH “Upcoming Events” web page, at: <https://projectteachny.org/events/>. Project TEACH also provides referral support to health care clinicians and allied health professionals. Telephone consultations with a child/adolescent or perinatal psychiatrist are also offered to primary care, ob/gyn, pediatric and psychiatric clinicians in NYS. **Please note:** Consultations are billable as a NYS Medicaid fee-for-service using Current Procedural Terminology code “99452”.

## Questions and Additional Information:

- Questions regarding Project TEACH trainings and webinars should be directed to the **Project TEACH Clinical Services Warmline** at (855) 227-7272, available Monday through Friday from 9 a.m. to 5 p.m.
- To view Project TEACH services, past webinars and trainings, as well as clinical and family resources, NYS clinicians should refer to the Project TEACH website, located at: <https://projectteachny.org/>.

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## New York State Medicaid Evidence Based Benefit Review Advisory Committee Update

On Thursday, April 10, 2025, the New York State (NYS) Medicaid Evidence Based Benefit Review Advisory Committee (EBBRAC) held its third meeting since reconvening in July 2024. At this meeting, the committee reviewed “Contingency Management for the Treatment of Stimulant Use Disorder.” Meeting materials and reports can be found on the NYS DOH Medicaid “Evidence Based Benefit Review Advisory Committee (EBBRAC)” web page, located at: [https://www.health.ny.gov/health\\_care/medicaid/ebbrac/](https://www.health.ny.gov/health_care/medicaid/ebbrac/).

The next NYS Medicaid EBBRAC meeting will take place on Thursday, July 24, 2025, and will focus on two topics: “Treatment of Opioid Use Disorder Exclusively by Telehealth” and “Applied Behavior Analysis Therapy Provided via Telehealth.” Additional information and reports can be found on the NYS DOH Medicaid “Evidence Based Benefit Review Advisory Committee (EBBRAC)” web page, located at: [https://www.health.ny.gov/health\\_care/medicaid/ebbrac/](https://www.health.ny.gov/health_care/medicaid/ebbrac/).

## Background

Established in 2015 under Chapter 57, Part B, §46-a of the Laws of 2015 (codified as Social Services Law §365-d, located at: <https://www.nysenate.gov/legislation/laws/SOS/365-D>), NYS Medicaid EBBRAC is tasked with providing recommendations to the NYS Department of Health on Medicaid coverage for health technologies and services.

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## 2025 Spousal Impoverishment Income and Resource Levels Increase

Providers of nursing facility services, certain home and community-based waiver services, and services to individuals enrolled in a Managed Long Term Care Plan are required to *print and distribute* the *Information Notice to Couples with an Institutionalized Spouse* (see “Appendix” on page 10 of this issue) at the time they begin to provide services to their patients.

**Effective January 1, 2025**, the federal maximum Community Spouse Resource Allowance increased to \$157,920.00, while the community spouse monthly income allowance increased to \$3,948.00. The maximum family member monthly allowance increased to \$882.00. This information should be provided to any institutionalized spouse, community spouse, or representative acting on their behalf to avoid unnecessary depletion of the amount of assets a couple can retain under the Medicaid program spousal impoverishment eligibility provisions.

### Income and Resource Amounts

Date	Allowance
January 1, 2025	<b>Federal Maximum Community Spouse Resource Allowance: \$157,920.00</b> <b>Please note:</b> A higher amount may be established by court order or fair hearing to generate income to raise the community spouse’s monthly income up to the maximum allowance. <b>Please note:</b> The State Minimum Community Spouse Resource Allowance is \$74,820.00.
January 1, 2025	<b>Community Spouse Minimum Monthly Maintenance Needs Allowance: An amount up to \$3,948.00</b> (if the community spouse has no income of their own) <b>Please note:</b> A higher amount may be established by court order or fair hearing due to exceptional circumstances that result in significant financial distress.
January 1, 2025	<b>Family Member Monthly Allowance (for each family member): An amount up to \$882.00</b> (if the family member has no income of their own)

**Please note:** If the institutionalized spouse is receiving Medicaid, any change in income of the institutionalized spouse, the community spouse, and/or the family member may affect the community spouse income allowance and/or the family member allowance. Therefore, the social services district should be promptly notified of any income variations.

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### Medicaid Breast Cancer Surgery Centers

Research shows that five-year survival rates are higher for patients who have their breast cancer surgery performed at high-volume facilities. Therefore, it is the policy of the New York State (NYS) Department of Health (DOH) that NYS Medicaid members receive mastectomy and lumpectomy procedures associated with a breast cancer diagnosis at high-volume hospitals and ambulatory surgery centers defined as averaging 30 or more all-payer surgeries annually over a three-year period. Restricted low-volume facilities will not be reimbursed for breast cancer surgeries provided to NYS Medicaid members.

Each year, NYS DOH reviews the list of low-volume facilities and releases an updated list, effective April 1. NYS DOH has completed its annual review of all-payer breast cancer surgical volumes for 2021 through 2023 using the Statewide Planning and Research Cooperative System database. Two hundred fifteen restricted low-volume hospitals and ambulatory surgery centers throughout NYS were identified. These facilities have been notified of the restriction, **effective April 1, 2025**. The policy does not restrict the ability of the facility to provide diagnostic or excisional biopsies and post-surgical care (chemotherapy, radiation, reconstruction, etc.) for NYS Medicaid members. For mastectomy and lumpectomy procedures related to breast cancer, NYS Medicaid members should be directed to high-volume providers in their area.

To view the list of facilities where NYS Medicaid **will not pay** for breast cancer surgery, providers should refer to the NYS DOH “Hospitals & Ambulatory Surgery Centers Where Medicaid Will Not Pay for Breast Cancer Surgery” web page, located at: [https://www.health.ny.gov/health\\_care/medicaid/quality/surgery/cancer/breast/no\\_contract.htm](https://www.health.ny.gov/health_care/medicaid/quality/surgery/cancer/breast/no_contract.htm). To view the list of facilities where NYS Medicaid **will pay** for breast cancer surgery, providers should refer to the NYS DOH “Hospitals & Ambulatory Surgery Centers Where Medicaid Will Pay for Breast Cancer Surgery” web page, located at: [https://www.health.ny.gov/health\\_care/medicaid/quality/surgery/cancer/breast/contract.htm](https://www.health.ny.gov/health_care/medicaid/quality/surgery/cancer/breast/contract.htm).

#### Questions

Questions should be directed to NYS DOH at [hcre@health.ny.gov](mailto:hcre@health.ny.gov).

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### Reminder: Recipient Restriction Program and Opioid Treatment Program Services

This article is a reminder to all New York State (NYS) Medicaid fee-for-service (FFS) and Medicaid Managed Care (MMC) providers regarding Opioid Treatment Program (OTP) services rendered to NYS Medicaid members who are identified as part of the Recipient Restriction Program (RRP). OTP services are delivered by programs certified as Article 32 outpatient programs by the Office of Addiction Services and Supports and are formerly known as Methadone Maintenance Treatment programs.

The goal of the RRP is to coordinate medical services and improve quality of care for NYS Medicaid members. Coordination of care reduces the potential over-utilization of health care services and prevents abusive or fraudulent behavior. The RRP may restrict the NYS Medicaid member to care provided by, or referred by, a primary care provider, inpatient hospital, and/or primary pharmacy. A restriction is implemented if it is found that the NYS Medicaid member has received a pattern of duplicative, excessive, contraindicated, or conflicting health care services, drugs, or supplies, or if a NYS Medicaid member commits fraudulent acts with their benefit card (i.e., forged prescriptions, card loaning, doctor shopping).

OTP services including methadone maintenance treatment are fully-exempt from all RRP coverage and payment restrictions. Consequently, all NYS Medicaid MMC Plans must cover medically necessary opioid use disorder services delivered in an OTP for RRP-identified NYS Medicaid members without any additional RRP restrictions, edits, authorizations, or referral requirements, and claims for OTP services must not be denied due to RRP restrictions.

### Provider Billing:

- For FFS claims, Article 32 OTP providers are systemically assigned specialty code “922” in their provider enrollment file and must utilize one of the following rate codes when submitting FFS claims: “1036”, “1039”, “1564”, “1567”, “7969” through “7976” (bundled rate codes), and “1671” / “2973” (Federally Qualified Health Centers). A system update to eMedNY claims processing, to enhance the bypassing of OTP FFS claims on a restricted recipient, is currently in progress with an anticipated release date of July 24, 2025. OASAS is working with the NYS Department of Health Office of Health Insurance Programs to ensure facilities are paid for services rendered.
- For RRP-identified NYS Medicaid members enrolled in MMC, providers should refer to the individual MMC Plan for billing instructions; however, claims submitted for OTP services rendered by an Article 32 program must not be denied due to RRP restrictions.

### Additional RRP Resources:

- NYS Office of the Medicaid Inspector General (OMIG) “Frequently Asked Questions for RRP Providers” web page (<https://omig.ny.gov/frequently-asked-questions-rrp-providers>)
- NYS OMIG “Information for Managed Care in the Recipient Restriction Program (RRP)” web page (<https://omig.ny.gov/information-managed-care-recipient-restriction-program-rrp>)

### Questions and Additional Information:

- RRP-specific questions should be directed to the NYS Office of the Medicaid Inspector General RRP Helpline by telephone at (518) 474-6866 or by email at [omig.sm.RRP@omig.ny.gov](mailto:omig.sm.RRP@omig.ny.gov).
- FFS claim questions should be directed to the eMedNY Call Center at (800) 343-9000.
- FFS coverage and policy questions should be directed to the Office of Health Insurance Programs Division of Program Development and Management by telephone at (518) 473-2160 or by email at [FFSMedicaidPolicy@health.ny.gov](mailto:FFSMedicaidPolicy@health.ny.gov).
- MMC reimbursement, billing, and/or documentation requirement questions should be directed to the MMC Plan of the enrollee.
- MMC Plan contact information can be found in the eMedNY *New York State Medicaid Program Information for All Providers – Managed Care Information* document, located at: [https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information\\_for\\_All\\_Providers\\_Managed\\_Care\\_Information.pdf](https://www.emedny.org/ProviderManuals/AllProviders/PDFS/Information_for_All_Providers_Managed_Care_Information.pdf).

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# Provider Directory

## **Office of the Medicaid Inspector General:**

For suspected fraud, waste, or abuse complaints/allegations, please call 1-877-87 FRAUD, (877) 873-7283, or visit the Office of Medicaid Inspector General (OMIG) web site at: [www.omig.ny.gov](http://www.omig.ny.gov).

## **Provider Manuals/Companion Guides, Enrollment Information/Forms/Training Schedules:**

Please visit the eMedNY website at: [www.emedny.org](http://www.emedny.org).

## **Providers wishing to listen to the current week's check/EFT amounts:**

Please call (866) 307-5549 (available Thursday PM for one week for the current week's amount).

## **For questions about billing and performing MEVS transactions:**

Please call the eMedNY Call Center at (800) 343-9000.

## **Provider Training:**

Please enroll online for a provider seminar at: <https://www.emedny.org/training/index.aspx>. For individual training requests, please call (800) 343-9000.

## **Beneficiary Eligibility:**

Please call the Touchtone Telephone Verification System at (800) 997-1111.

## **Medicaid Prescriber Education Program:**

For current information on best practices in pharmacotherapy, please visit the following web sites:

- DOH Prescriber Education Program page: [https://www.health.ny.gov/health\\_care/medicaid/program/prescriber\\_education/presc-educationprog](https://www.health.ny.gov/health_care/medicaid/program/prescriber_education/presc-educationprog).
- Prescriber Education Program in partnership with SUNY: <http://nypep.nysdoh.suny.edu/>.

## **eMedNY**

For a number of services, including: change of address, updating an enrollment file due to an ownership change, enrolling another NPI, or revalidating an existing enrollment, please visit the eMedNY Provider Enrollment page at: <https://www.emedny.org/info/ProviderEnrollment/index.aspx>, and choose the appropriate link based on provider type.

## **Comments and Suggestions Regarding This Publication**

Please contact the editor, Angela Lince, at [medicaidupdate@health.ny.gov](mailto:medicaidupdate@health.ny.gov).

## Appendix

### Information Notice to Couples with an Institutionalized Spouse

Medicaid is an assistance program that may help pay for the costs of your or your spouse's institutional care, home and community-based waiver services, or enrollment in a Managed Long Term Care Plan. The institutionalized spouse is considered medically needy if their resources are at or below a certain level and the monthly income after certain deductions is less than the cost of care in the facility. Federal and State laws require that spousal impoverishment rules be used to determine an institutionalized spouse's eligibility for Medicaid. These rules protect some of the income and resources of the couple for the community spouse. **Please note:** Spousal impoverishment rules do not apply to an institutionalized spouse who is eligible under the Modified Adjusted Gross Income rules.

#### If you or your spouse are:

1. In a medical institution or nursing facility and are likely to remain there for at least 30 consecutive days; **or**
2. Receiving home and community-based services provided pursuant to a waiver under §1915(c) of the federal Social Security Act and are likely to receive such services for at least 30 consecutive days; **or**
3. Receiving institutional or non-institutional services and are enrolled in a Managed Long Term Care Plan; **and**
4. Married to a spouse who does **not** meet any of the criteria set forth under items 1 through 3 listed above, these income and resource eligibility rules for an institutionalized spouse may apply to you or your spouse.

If you wish to discuss these eligibility provisions, please contact your local department of social services to request an assessment of the total value of your or your spouses combined countable resources, even if you have no intention of pursuing a Medicaid application. It is to the advantage of the community spouse to request such an assessment to make certain that allowable resources are not depleted by you for your spouse's cost of care. To request such an assessment, please contact your local department of social services or complete and mail the *Request for Assessment – Spousal Impoverishment* form (DOH-5298), located at: <https://health.ny.gov/forms/doh-5298.pdf> (see "Appendix" on page 13 page of this issue). New York City residents may contact the Human Resources Administration Medicaid Helpline at (888) 692-6116.

#### Resource Information

**Effective January 1, 1996**, the community spouse is allowed to keep resources in an amount equal to the greater of the following amounts:

1. \$74,820.00 (the NYS minimum spousal resource standard); **or**
2. \$157,920.00 (the amount of the spousal share up to the maximum amount permitted under federal law for 2025).

For purposes of this calculation, "spousal share" is the amount equal to one-half of the total value of the countable resources of you and your spouse at the beginning of the most recent continuous period of institutionalization of the institutionalized spouse. The most recent continuous period of institutionalization is defined as the most recent period you and your spouse met the criteria listed in items 1 through 4 (listed under the "If you or your spouse are" section above). In determining the total value of the countable resources, we will not count the value of your home, household items, personal property, car, or certain funds established for burial expenses.

The community spouse may be able to obtain additional amounts of resources to generate income when the otherwise available income of the community spouse, together with the income allowance from the institutionalized spouse, is less than the maximum community spouse monthly income allowance, by requesting a fair hearing or commencing a family court proceeding against the institutionalized spouse. You can contact your local department of social services or an attorney about requesting a Medicaid fair hearing. Your attorney can provide more information about commencing a family court proceeding. You may be able to get a lawyer at no cost by calling your local Legal Aid or Legal Services Office. For names of other lawyers, call your local or State Bar Association.

Either spouse, or a representative acting on their behalf, may request an assessment of the couple's countable resources at the beginning or any time after the beginning of a continuous period of institutionalization. Upon receipt of such request and all relevant documentation, the local district will assess and document the total value of the couple's countable resources and provide each spouse with a copy of the assessment and the documentation upon which it is based. If the request is not filed with a New York State Medicaid application, the local department of social services may charge up to \$25.00 for the cost of preparing and copying the assessment and documentation.

#### Income Information

A spouse may request an assessment/determination of:

1. The community spouse monthly income allowance (an amount of up to \$3,948.00 a month for 2025);  
**and**
2. A maximum family member allowance for each minor child, dependent child, dependent parent, or dependent sibling of either spouse living with the community spouse of \$882.00 for 2025 (if the family member has no income of their own).

The community spouse may be able to obtain additional amounts of the institutionalized spouse's income, due to exceptional circumstances resulting in significant financial distress, then would otherwise be allowed under the Medicaid program, by requesting a fair hearing or commencing a family court proceeding against the institutionalized spouse. Significant financial distress means exceptional expenses which the community spouse cannot be expected to meet from the monthly maintenance needs allowance or from amounts held in resources. These expenses may include but are not limited to recurring or extraordinary non-covered medical expenses (of the community spouse or dependent family members who live with the community spouse); amounts to preserve, maintain, or make major repairs to the home; and amounts necessary to preserve an income-producing asset. Social Services Law §366-c(2)(g) and §366-c(4)(b), located at: <https://www.nysenate.gov/legislation/laws/SOS/366-C>, require that the amount of such support orders be deducted from the institutionalized spouse's income for eligibility purposes. Such court orders are only effective back to the filing date of the petition. Please contact your attorney for additional information about commencing a family court proceeding.

If you wish to request an assessment of the total value of your or your spouse's countable resources, a determination of the community spouse resource allowance, community spouse monthly income allowance, or family member allowance(s) and the method of computing such allowances, please contact your local department of social services. New York City residents should call the Human Resources Administration Medicaid Helpline at (888) 692-6116.

## Spousal Refusal and Undue Hardship Concerning a Community Spouse's Refusal to Provide Necessary Information

For purposes of determining Medicaid eligibility for the institutionalized spouse, a community spouse must cooperate by providing necessary information about their resources. Refusal to provide the necessary information shall be reason for denying Medicaid for the institutionalized spouse as Medicaid eligibility cannot be determined. If the applicant or recipient demonstrates that denial of Medicaid would result in undue hardship for the institutionalized spouse and an assignment of support is executed or the institutionalized spouse is unable to execute such assignment due to physical or mental impairment, Medicaid shall be authorized. However, if the community spouse refuses to make such resource information available, the New York State Department of Health or local department of social services, at its option, may refer the matter to court for recovery from the community spouse of any Medicaid expenditures for the institutionalized spouse's care.

### Undue hardship occurs when:

1. A community spouse fails or refuses to cooperate in providing necessary information about their resources;
2. The institutionalized spouse is otherwise eligible for Medicaid;
3. The institutionalized spouse is unable to obtain appropriate medical care without the provision of Medicaid; **and**
  - a. The community spouse's whereabouts are unknown; **or**
  - b. The community spouse is incapable of providing the required information due to illness or mental incapacity; **or**
  - c. The community spouse lived apart from the institutionalized spouse immediately prior to institutionalization; **or**
  - d. Due to the action or inaction of the community spouse, other than the failure or refusal to cooperate in providing necessary information about their resources, the institutionalized spouse will need protection from actual or threatened harm, neglect, or hazardous conditions if discharged from an appropriate medical setting.

An institutionalized spouse will not be determined ineligible for Medicaid because the community spouse refuses to make their resources in excess of the community spouse resource allowance available to the institutionalized spouse if:

1. The institutionalized spouse executes an assignment of support from the community spouse in favor of the social services district; **or**
2. The institutionalized spouse is unable to execute such assignment due to physical or mental impairment.

### Income Contribution from the Community Spouse

The amount of money that Medicaid will request as a contribution from the community spouse will be based on their income and the number of certain individuals in the community household depending on that income. Medicaid will request a contribution from a community spouse of 25 percent of the amount their otherwise available income that exceeds the minimum monthly maintenance needs allowance plus any family member allowance(s). If the community spouse feels that they cannot contribute the amount requested, the community spouse has the right to schedule a conference with the local department of social services to try to reach an agreement about the amount the community spouse is able to pay. Pursuant to Social Services Law §366(3)(a), located at: <https://www.nysenate.gov/legislation/laws/SOS/366>, Medicaid **must** be provided to the institutionalized spouse if the community spouse fails or refuses to contribute their income towards the institutionalized spouse's cost of care. However, if the community spouse fails or refuses to make their income available as requested, then the New York State Department of Health or the local department of social services, at its option, may refer the matter to court for a review of the community spouse's actual ability to pay.

# Request for Assessment – Spousal Impoverishment Form

NEW YORK STATE DEPARTMENT OF HEALTH  
Office of Health Insurance Programs

## Request for Assessment – Spousal Impoverishment

Date: \_\_\_\_\_

Institutionalized Spouse's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Community Spouse's Name: \_\_\_\_\_

Current Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

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**I/we request an assessment of the items checked below:**

- ☐ Couple's countable resources and the community spouse resource allowance
- ☐ Community spouse monthly income allowance
- ☐ Family member allowance(s)

☐ Check if you are a representative acting on behalf of either spouse. Please call your local department of social services if we do not contact you within 10 days of this request.

**NOTE:**

If an assessment is requested without a Medicaid application, the local department of social services may charge up to \$25 for the cost of preparing and copying the assessment and documentation.

Signature of Requesting Individual \_\_\_\_\_

Address and telephone number is different from above

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DOH-5298 (01/23)

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