



State of New Jersey

DEPARTMENT OF HUMAN SERVICES
DIVISION OF MEDICAL ASSISTANCE AND HEALTH SERVICES

CHRISTINE TODD WHITMAN
Governor

WILLIAM WALDMAN
Commissioner

MEDICAID COMMUNICATION NO. 97-9 **DATE:** May 2, 1997

TO: County Welfare Agency Directors
ISS Area Supervisors

SUBJECT: Notification of Resource Assessment

As a result of the Cleary v. Waldman federal court case, the Division has agreed to modify its notification procedure for all cases which involve a resource assessment situation. As a result, the attached notice, "RIGHTS RELATING TO RESOURCE ASSESSMENT", must be received by any individual requesting a resource assessment whether or not the assessment is done at the time of application.

In order to comply with the court's ruling, CWAs must implement the notification form immediately upon receipt of this communication. The attached notice contains language which has been mutually agreed upon by the parties in the dispute and must be adopted in its current form. We suggest that the notice be printed on your letterhead for use by agency staff in advising individuals of the outcome of their resource assessment.

Your anticipated cooperation in this matter is appreciated. Please direct any questions regarding this matter to the field service staff assigned to your county.

Sincerely,

Karen I. Squarrell
Acting Director

KIS:S

Attachment

c: Len Fishman, Commissioner
Susan C. Reinhard, Ph.D., Deputy Commissioner
Department of Health and Senior Services

Karen Highsmith, Director
Division of Family Development

Michele Guhl, Acting Director
Division of Youth and Family Services

**IMPORTANT NOTICE
RIGHTS RELATING TO RESOURCE ASSESSMENT**

When a member of a married couple is in a nursing facility and the other member remains in the community, Federal Medicaid law requires that a portion of the couple's countable resources be protected for the spouse remaining in the community. In New Jersey, the amount protected for the community spouse is the greater of \$15,804* or one-half of the couple's countable resources, not to exceed \$79,020.* Federal law also establishes a monthly minimum maintenance allowance to support the community spouse once the institutionalized spouse becomes eligible for Medicaid. In New Jersey, the minimum monthly allowance for the community spouse is \$1,295* plus shelter expenses in excess of \$388.50* monthly.

As a couple, your total countable resources have been determined to be \$_____. The amount of resources that are protected for the community spouse is \$_____.

The community spouse monthly minimum maintenance allowance has been determined to be \$_____.

The community spouse's own monthly income is \$_____. The amount of income available from the spouse in the nursing facility is \$_____ monthly.

If applicable, the family member minimum maintenance monthly allowance has been determined to be \$_____. The family member's own monthly income is \$_____. The amount of income available from the parent in the nursing facility is \$_____ monthly.

The law allows a higher level of resources be protected for the community spouse when the income of the community spouse, together with the income available from the spouse in the nursing facility, is inadequate to raise the community spouse's income to the spousal maintenance allowance. It also allows an increase in the monthly minimum maintenance allowance in exceptional circumstances of significant financial duress. If you have already applied for Medicaid and believe you or your spouse fall within one of these two exceptions, or if you disagree with the above calculations, you may request a fair hearing. If you have not already applied for Medicaid, you will need to do so before requesting a fair hearing.

In order to apply for Medicaid or to apply for a fair hearing, contact the county welfare agency of the county in which the nursing facility is located. In order to request a fair hearing, you must write to: Division of Medical Assistance and Health Services, Fair Hearing Unit, CN-712, Trenton, New Jersey 08625. If you need assistance, please call (609) 588-2655. You must request a fair hearing within 20 days of the date of this notice.

*These figures change annually.