

Revision: HCFA-PM-97-2  
December 1997

SUPPLEMENT 12 TO  
ATTACHMENT 2.6-A  
Page 1  
OMB No.:0938-0673

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

State: Kansas

VARIATIONS FROM THE BASIC PERSONAL NEEDS ALLOWANCE

Not Applicable

TN No. \_\_\_\_\_  
Supersedes  
TN No. MS-91-11

Approval Date APR 27 1998

Effective Date 1-1-98

STATE PLAN UNDER TITLE XIX OF THE SOCIAL SECURITY ACT

STATE KANSAS

**SPOUSAL IMPOVERISHMENT PROVISIONS UNDER SECTION 1924 OF THE ACT  
(P.L. 100-360, SECTION 303)**

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The 90 day/1 year time periods referred to above can be further extended for good cause. Potential good cause reasons would include legal impediments which may prohibit liquidation of some property or extenuating circumstances beyond the control of either or both spouses that delay transfer activity such as an unexpected illness or hospitalization or ultimately cooperation by a necessary third party (joint property owner, life insurance company, etc.). In such instances, the couple or spouse must continue to try to overcome these obstacles and present evidence of their attempts. The transfer period can then be extended for as long as necessary to complete the division. In instances in which the transfer was not completed due to a legal impediment on a piece of property, once the impediment is overcome and the property becomes available, such property would then be subject to transfer pursuant to the determined community spouse resource allowance.

Resources to be transferred to the community spouse in accordance with his or her resource allowance shall be deemed to have been transferred during the 90 day/1 year transfer period described above. Eligibility could then be approved as early as the month of application if the institutionalized spouse is otherwise eligible.

**II. INCOME PROVISIONS**

A. Community Spouse Income Allowance - Based on the total nonexempt income of the couple, the community spouse allowance shall be determined as follows:

1. If their combined total nonexempt gross income (or adjusted gross for the self-employed) is \$902 or less per month, the income can be made totally available to the community spouse.
2. If the combined total nonexempt gross income (or adjusted gross for the self-employed) is \$902 or less per month, income sufficient enough to bring the spouse's income up to \$902 per month can be made available. The \$902 protected income level can be increased to a maximum of \$1662 per month if there are excess shelter expenses as defined below.

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TN No. MS-91-20

Approval Date JUL 19 1991

Effective  
Date 4-1-91

Supersedes

TN No. MS-91-11

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If the applicant's/recipient's spouse has excess shelter expenses, the amount of the allowance can be increased such that the spouse has up to \$1662 per month. Excess shelter expenses are defined in the law as the amount by which the spouse's monthly expense for rent or mortgage payment, including principal, interest, taxes, and insurance (or in the case of a condominium or cooperative, monthly maintenance charges) when added to the Food Stamp standard utility allowance (SUA) exceeds 30% of the previously mentioned \$902 division cap (i.e. \$270). In instances in which utilities are included in the rental payment, the full rental payment shall still be used in computing the excess shelter allowance.

As the standard utility allowance is \$175/month, the amount of the excess shelter allowance would equal the amount by which the spouse's shelter payment exceeds \$95/month. This allowance would be added to the base \$902 allocation amount and, therefore, increase the amount of income the spouse could receive. The amount of the excess shelter allowance cannot exceed \$760/month for a total allocation cap of \$1662 (\$902 base and \$760 excess shelter). Thus, if the spouse's shelter payment equals or exceeds \$855/month, all that can be provided for excess shelter is \$760. Any payment less than \$855 but greater than \$95 would produce a varying allowance.

- B. Dependent Family Member Income Allowance - Each dependent family member who lives with the community spouse can receive \$300 per month of the income of the institutionalized spouse as long as that member's gross monthly income does not exceed the minimum community spouse income allowance standard references above. If the income is in excess of this standard, no income allowance can be provided to that member.

A family member is defined as a child, parent, or brother or sister of either spouse. Dependency may be of any kind (e.g. legal, financial, medical, etc.). The spouse's or dependent member's allegation shall be accepted without challenge unless there is a reason to question it.

- C. Increase to Community Spouse Allowance Based on Financial Duress - A fair hearing officer may increase the amount of the community spouse income allowance if either spouse establishes that a greater allowance

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TN No. MS-91-20

Approval Date APR 19 1991

Effective Date 4-1-91

Supersedes

TN No. MS-91-11

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is necessary due to exceptional circumstances resulting in significant financial duress. These circumstances shall be defined as expenses which are unforeseen or which are ongoing and are reasonable and necessary for the health, safety, and/or well-being of the community spouse. An additional allowance would only be provided to the extent that the originally determined community spouse income allowance is inadequate to cover the expenses. Expenses which could result in significant financial duress would include costs associated with prescribed special diet foods or supplements, costs of medical, remedial, or other support services necessary for community spouses to maintain themselves in the community, cost of repairs which are necessary to maintain the home in a livable condition, and other costs associated with unforeseen circumstances such as a fire or flood which result in loss of housing, clothing, household goods, or other necessities. Substantiating documentation will be necessary. Financial duress could not be claimed for usual increases in the cost of rent, food, housing, or clothing.

If a finding of financial duress is made, the hearings officer will establish a new community spouse income allowance sufficient to cover such expenses and specify whether the condition is temporary or will be continuing. If temporary, the hearing officer will establish the duration of the additional allowance and advise the client that if the circumstances continue, he or she may request an extension through the fair hearings process. If continuing, the circumstances shall be reviewed on an annual basis at the time of redetermination. In addition, the community spouse is responsible for notifying the agency at any time should the circumstances change. When the exceptional circumstances no longer exist, the community spouse allowance is to be readjusted.

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TN No. MS-89-33

Approval Date 11/18/90

Effective Date 10-1-89

Supersedes

TN No. MS-89-12