

## 2554 – DIVERSION OF INCOME

<b>POLICY STATEMENT</b>	The income of a recipient in a nursing home, Institutionalized Hospice, CCSP, MRWP/CHSS or ICWP may be diverted to a spouse and/or children at home to meet their needs.
<b>BASIC CONSIDERATIONS</b>	<p>Diversion of income is allowed when a recipient with a spouse and/or dependents resides in a nursing home, Institutionalized Hospice or CCSP.</p> <p>The amount of income diverted is determined by subtracting the spouse/dependents(s) income from the appropriate need standard. Income placed in a Qualified Income Trust (QIT) may be used for diversion to community spouse and/or dependent family member.</p>
<b>Income Diverted to a Community Spouse</b>	<p>The Community Spouse Maintenance Need Standard (CSMNS) is used to determine the amount of diverted income if the following conditions are met:</p> <ul style="list-style-type: none"> <li>• The community spouse is available to receive the allowance.</li> <li>• The recipient chooses to make the allowance available to the community spouse or to someone else for the benefit of the community spouse.</li> </ul>
<b>Income Diverted to a Dependent Family Member</b>	<p>The Dependent Family Member Maintenance Need Standard (DFMNS), Chart A1.10, is used to determine the amount diverted to a financially dependent family member who lives with the community spouse.</p> <p>The family member must fall within the acceptable degree of relationship. The degree of the relationship can be either to the recipient or the community spouse and is restricted to the following:</p> <ul style="list-style-type: none"> <li>• a minor child</li> <li>• dependent child</li> <li>• dependent parent</li> <li>• dependent sibling, including half-sibling.</li> </ul> <p>The family member must be claimed as a dependent on the most recent IRS tax return and have income less than the Individual FBR for LA-A in order to be considered financially dependent.</p>

**BASIC  
CONSIDERATIONS  
(cont.)**
**Income Diverted to a  
Dependent Family  
Member  
(cont.)**

Income is diverted to a dependent family member regardless of the following factors:

- whether the recipient makes the income available to the dependent family member or to someone else on behalf of the dependent family member.
- whether income is diverted to the community spouse with whom the dependent family member is living.

**Non-Legal Spouse**

Income of the recipient may be diverted to a non-legal spouse/children at home to meet their needs.

- Use the Individual FBR for LA-A as the diversion standard for a non-legal spouse with no minor children at home.
- Use the TANF standard of need ([Appendix A2](#)) as the diversion standard for a non-legal spouse with minor children at home.

**NOTE:** If the spouse and/or minor children are receiving TANF or SSI, the spouse may decide not to receive the diverted income to avoid possible ineligibility for SSI or TANF.

**Couples Under CCSP**

Diversion of income applies when both members of a Medicaid couple are in CCSP.

When one member of the couple (Spouse A) has income less than the individual FBR for LA-A, divert the income of his/her spouse (Spouse B) as follows:

- Subtract the income of Spouse A from the individual FBR for LA-A.
- Divert the amount from the above calculation (deficit) to Spouse A from Spouse B's income.

**PROCEDURES****Community Spouse**

Obtain a Notification Requirement: Transfer of Assets to Spouse, Form 129, from the recipient or PR during the initial application process.

Obtain a statement from the recipient if the income being diverted is being provided to someone else for the care and upkeep of the community spouse/dependent family member.

Determine the amount to be diverted using the adjusted gross income of the spouse and/or dependent family member, including In-Kind Support and Maintenance. The adjusted gross income is the individual's income after allowing mandatory deductions from earned and unearned income, such as federal and state income taxes, FICA and Medicare taxes. Refer to [Section 2552](#), Mandatory Deductions.

**NOTE:** Garnishments, child support and alimony payments are not considered to be mandatory deductions.

To calculate the income of the community spouse, use the same averaging procedures used to calculate the income of the A/R. Refer to [Section 2557](#), Averaging Income and Incurred Medical Expenses.

Subtract the community spouse's average adjusted gross income from the CSMNS to obtain the amount of income to be diverted, known as the Community Spouse Maintenance Allowance (CSMA).

**Dependent Family Member**

Verify if the family member meets the following conditions for a dependent family member:

- falls within the degree of relationship
- meets the definition of financial dependency
- lives with the community spouse.

Verify the amount of gross income of the dependent family member. To calculate the income of the dependent family member, use the same averaging procedures used to calculate the income of the A/R. Refer to [Section 2557](#), Averaging Income and Incurred Medical Expenses.

Subtract the dependent family member's average adjusted gross income from the DFMNS to obtain the amount of income to be diverted, known as the Dependent Family Member Allowance (DFMA), Chart A1.10. Refer to [Appendix I](#), "How to Divert Income from L01/IH/CCSP to Children at Home".

**PROCEDURES**  
(cont.)

**NOTE:** You may divert to a dependent family member when there is NO community spouse in the home. Use the appropriate TANF standard of need, [Appendix A2](#), for the number of dependents as the diversion standard.

Complete the appropriate fields so the system will calculate patient liability/cost share.

Use the following chart to determine the need standard to use when calculating the amount of the recipient's income to divert to a non-legal community spouse and child(ren).

<b>Chart 2554.1 - Diversion to a Non-Legal Spouse and Child(ren)</b>	
<b>IF</b>	<b>THEN</b>
the spouse is potentially SSI eligible	divert up to the SSI FBR for the month of admission through the month following the month of case approval <b>AND</b> refer the spouse to SSA to apply for SSI.  <b>NOTE:</b> Diversion of income can extend beyond 2 months only with approval from DMA. Secure approval from the following office: Eligibility Policy Officer Division of Medical Assistance P. O. Box 38445 Atlanta, Georgia 30334
the spouse and child(ren) are potentially eligible for TANF <b>OR</b> the child(ren) are potentially TANF eligible	divert up to the TANF standard of need for the month of admission through the month following the month of case approval <b>AND</b> refer this spouse to a TANF intake worker to file a TANF application.  <b>NOTE:</b> Diversion of income can extend beyond 2 months only with approval from DMA.
the spouse is ineligible for SSI for reasons other than income	divert indefinitely up to the SSI FBR.  <b>NOTE:</b> Potential eligibility for SSI must be explored at each review.
the spouse and child(ren) <b>OR</b> the child(ren) are ineligible for TANF	divert indefinitely up to the TANF standard of need.  <b>NOTE:</b> Potential eligibility for TANF must be explored at each review.