

# DEPARTMENT OF HEALTH AND SOCIAL SERVICES

## DIVISION OF SOCIAL SERVICES

Statutory Authority: 31 Delaware Code, Section 512 (31 **Del.C.** §512)

### FINAL

### ORDER

#### 20910.1 Institutionalized Spouse

##### Nature of the Proceedings:

Delaware Health and Social Services ("Department") / Division of Medicaid and Medical Assistance (DMMA) initiated proceedings to amend a rule in the Division of Social Services Manual (DSSM) used to determine eligibility for medical assistance.

The Department's proceedings to amend its regulations were initiated pursuant to 29 **Delaware Code** Section 10113 and its authority as prescribed by 31 **Delaware Code** Section 512.

##### Nature of the Exempt Regulation:

##### Citations

- 29 **Del.C.** §10113, *Adoption of Regulations; Exemptions*
- 1924(h) of the Social Security Act, *Definitions: Institutionalized Spouse*

##### Summary of Proposed Changes

The purpose of this amendment is to add examples to the policy at DSSM 20910.1, *Institutionalized Spouse*. DMMA is not changing existing policies or procedures, but clarifying the DSSM to reflect current programs and practices.

##### Findings of Fact:

The Department finds that these changes are exempt from the procedural requirements of the Administrative Procedures Act (Title 29 Chapter 101).

**THEREFORE, IT IS ORDERED**, that the proposed revision regarding clarification changes to the policy at DSSM 20910.1 by adding examples be adopted informally as an exempt regulation and shall become effective April 10, 2006.

Vincent P. Meconi, Secretary, DHSS, 3/14/06

##### DSS EXEMPT REGULATION #06-12

##### REVISIONS:

#### 20910.1 Institutionalized Spouse

An individual who is in a medical institution or nursing facility and is married to a spouse who is not in a medical institution or nursing facility and who is not receiving Medicaid under any of the Long Term Care Medicaid programs such as Home and Community Based Services, Nursing Home Medicaid or Assisted Living Waiver.

##### 9 DE Reg. 1187 (2/1/06)

##### Example 1

Mr. Smith is a resident of a Nursing Home. Mrs. Smith is living at home and is not receiving any Long Term Care Services. In this situation, a spousal calculation would be needed.

Example 2

Mr. Brown is in a Nursing Home. Mrs. Brown is in an Assisted Living Facility and is NOT on LTC Medicaid. In this situation, a spousal calculation would be needed.

Example 3

Mr. Jones is in a Nursing Home. Mrs. Jones is in an Assisted Living Facility and is receiving LTC Medicaid. In this situation, a spousal calculation would not be needed. Mr. and Mrs. Jones should be looked at as two separate individuals.

Example 4

Mr. Jackson is in a Nursing Home. Mrs. Jackson is at home receiving Home and Community Based Services on LTC Medicaid. In this situation, a spousal calculation would not be needed.