



Date Issued: 12/24/2013
Effective: Immediately
Revised:
2013 MAP INF - 04

NYC Human Resources
Administration
Department of
Social Services

Spousal Refusal Instructions: Supplement to MAP Procedure 90-10

Tracy Grant-Victor, Director of MAP Procedures

Introduction

This Informational provides staff with updated information in regard to Spousal Refusal. The instructions provided below supplement and supersede those provided on pages 7, 9, 10, 14, 21 and 22 of MAP Procedure 90-10, **Treatment of Income and Resources of Institutionalized Individuals and Their Spouses**.

Impact of Spousal Refusal

When the Community Spouse **fails or refuses to provide information** concerning income and resources, **the Community Spouse is not entitled to the Community Spouse Monthly Income Allowance (CSMIA) to meet the Minimum Monthly Maintenance Needs Allowance (MMMNA)** because HRA would not be able to determine whether the Community Spouse has sufficient income on their own to meet the MMMNA, or if applicable, HRA would not be able to determine the amount of income generated by any of the resources. (Medicaid Reference Guide [MRG] page 396 updated 11/2009, 91 ADM-33.)

- Therefore, the Institutionalized Spouse is ineligible for Medicaid unless the denial would result in an **undue hardship**, and the Institutionalized Spouse:
 - Executes an assignment of support or
 - Is unable to execute an assignment because of physical or mental impairment. (MRG page 395 updated 11/2009, 89 ADM-47, 91 ADM-33, MAP Procedure 90-10).

Note: A medical statement is required to support the inability to execute an assignment.

- **Undue hardship** exists when the Institutionalized Spouse is:
 - Otherwise eligible for Medicaid **and**
 - Unable to obtain appropriate medical care without the provision of Medicaid.

Note: Under this circumstance, there is no CSMIA deduction for the Community Spouse from the Net Available Monthly Income (NAMI) of the Institutionalized Spouse.

- When the Community Spouse provides complete information concerning income and resources but refuses to make resources in excess of the Community Spouse Resource Allowance (CSRA) available to the Institutionalized Spouse, the Community Spouse is allowed the appropriate CSMIA to reach the MMMNA, if necessary. (MRG page 396, updated 11/2009, 91 ADM-33.)
- When the Community Spouse provides incomplete information concerning income and resources, regardless of whether s/he refuses to make resources available to the institutionalized Spouse,
 - Defer the case for missing documents.

References: 98 ADM-47
MAP Procedure 90-10
91 ADM-33
Medicaid Reference Guide (MRG) pages 291, 333.1, 394-396