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- [MONTHLY INCOME OVER \\$2,205?](#)
- [The Alzheimer Prayer](#)
- [Nursing Home Bound?](#)
- [Nursing Home Care](#)
- [Single People](#)
- [Married People](#)
- [What About Medicare?](#)
- [What is Medicaid?](#)
- [What You May Not Know](#)
- [Medicaid Asset Rules](#)
- [Medicaid Joint Accounts](#)
- [Giving Assests Away?](#)
- **[Division of Assets](#)**
- [Giving Away Money Per Year?](#)
- [Will I Lose My Home?](#)
- [Medicaid Planning Consultaion](#)
- [Regular Estate Planning](#)
- [Caregiver Child](#)
- [When to Bypass a Spouse](#)

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Married Couples And Medicaid Division Of Assets

Division of Assets is the name commonly used for the Spousal Impoverishment provisions of the Medicare Catastrophic Act of 1988. It applies only to couples. The intent of the law was to change the eligibility requirements for Medicaid where one spouse needs nursing home care while the other spouse remains in the community (i.e., at home). The law, in effect, recognizes that it makes very little sense to impoverish both spouses when only one needs to qualify for Medicaid assistance for nursing home care.

As a result of this recognition, division of assets was born. Basically, in a division of assets, the couple gathers all their countable assets together in a review. Exempt assets (discussed in other articles) are not counted.

The countable assets are then divided in two, with the at-home or "community spouse" allowed to keep one half of all countable assets to a maximum of approx. \$120,900. The other half of countable assets must be "spent down" until \$2,000 remains. The amount of the countable assets which the at-home spouse gets to keep is called the Community Spouse Resource Allowance (CSRA).

Each state also establishes a monthly income floor for the at-home spouse. This is called the Minimum Monthly Maintenance Needs Allowance (MMMNA). This permits the community spouse to keep a minimum monthly income ranging from about \$2,418 to \$2,980.

If the community spouse does not have at least \$1,966.25 in income, then he or she is allowed to take the income of the nursing home spouse in an amount large enough to reach the MMMNA (i.e. up to \$2,980). The nursing home spouse's remaining income goes to the nursing home. This avoids the necessity (hopefully) for the at-home spouse to dip into savings each month which would result in impoverishment.

The floor can be raised by certain living allowances and utility allowances which are allowed by the state. Under no circumstances, will the at-home spouse be allowed to keep more than \$2,980 of total income. If "hardship" circumstances warrant, this allowance can be appealed.

James E. De Martino is licensed to practice in the State of New Jersey.

Our practice is limited to estate planning, long-term care planning, and NJ Medicaid asset protection.

Elder Law and NJ Estate Planning Strategies

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