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LONG-TERM CARE IN BRIEF: EXPLAINING THE HCBS SPOUSAL IMPOVERISHMENT PROTECTIONS

HR 3590, Sec. 2404. Protection for Recipients of Home and Community-Based Services Against Spousal Impoverishment

Current federal law, the Social Security Act (42 USC 1396r-5(h)(1)(A), protects the financial interests of spouses of certain Medicaid beneficiaries by allowing the spouse of a nursing facility resident to keep a minimum share of the couple's combined income and assets. The Patient Protection and Affordable Care Act (PPACA), signed into law on March 23, 2010, addresses the institutional bias that applies these spousal protections only to nursing home residents by extending the protections to spouses of Medicaid beneficiaries who receive home and community-based services.

Who can participate in the program? By amending the Social Security Act (SSA) to mandate that states extend current spousal impoverishment provisions to spouses of Medicaid beneficiaries receiving home and community based services, the spousal impoverishment protections that are currently afforded to spouses of nursing home residents covered under Medicaid will be temporarily extended to spouses of individuals receiving Medicaid home and community based services in 2014. Thus, the spouses of all Medicaid beneficiaries receiving such services under a waiver, a state plan, or through PPACA's Community First Choice Option, will have these protections available to them.

How will the program operate? For a period of five years, beginning on January 1, 2014, and ending December 31, 2019, states will be required to apply the SSA's spousal impoverishment protections to the spouses of Medicaid-enrolled home and community based services recipients. The expanded spousal impoverishment protections help ensure the financial solvency of the Medicaid beneficiary's spouse by providing the spouse with guaranteed minimum income and asset allotments, the levels of which are adjusted annually. According to the 2010 levels, Medicaid will permit the spouse of a nursing home resident to keep one-half of the couple's combined monthly income, up to about $2,700, and either a minimum of approximately $22,000 in assets, or 50% of the couple's combined assets, whichever is greater, up to a ceiling of about $110,000. When the five year period expires, the SSA will be interpreted to no longer mandate the application of these provisions to home and community based service waiver enrollees, state plan beneficiaries, or Community First Choice participants.

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IMPORTANT DATES

January 1, 2014	On this date, for a five year period, the protections will be applied
December 31, 2019	The protections will no longer be applied