

§3174-H. Availability of income between married couples in determination of eligibility

Notwithstanding this chapter, for the purpose of determining medical indigency and eligibility for assistance for an individual residing or about to reside in an institution eligible for Medicaid participation under this section, there shall be a presumption, rebuttable by either spouse, that each spouse has a marital property interest in 1/2 of the total monthly income of both spouses at the time of application for medical assistance. Only the 1/2 interest of the applicant spouse shall be considered available to the spouse in determining eligibility for medical indigency and eligibility for assistance. [PL 1989, c. 502, Pt. A, §72 (NEW).]

The marital property interest of the applicant spouse in the income of both spouses may be rebutted upon a showing of one of the following: [PL 1989, c. 502, Pt. A, §72 (NEW).]

1. Court order. A court order allocating marital income pursuant to alimony, spousal support, equitable division of marital property or disposition of marital property; [PL 1989, c. 502, Pt. A, §72 (NEW).]

2. Individual ownership. The establishing of sole individual ownership of income from current active employment; or [PL 1989, c. 502, Pt. A, §72 (NEW).]

3. Supplementary allocation of spousal income. By applying to the Department of Health and Human Services for a supplementary allocation of spousal income pursuant to this section. [PL 1989, c. 502, Pt. A, §72 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

The Department of Health and Human Services shall establish standards for the reasonable and adequate support of the community spouse and the community residence of the couple. The standards shall consider the cost of housing payments, property taxes, property insurance, utilities, food, medical expenses, transportation, other personal necessities and the presence of other dependent persons in the home. [PL 1989, c. 502, Pt. A, §72 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

The community spouse may apply to the Department of Health and Human Services for a determination pursuant to the standards that the community spouse requires a larger portion of the marital income. Therefore, a smaller portion of the marital income will be available to the applicant spouse in determining medical indigency and eligibility for assistance. [PL 1989, c. 502, Pt. A, §72 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

As soon as authorized by federal law, the department shall implement this section. [PL 1989, c. 502, Pt. A, §72 (NEW).]

SECTION HISTORY

PL 1989, c. 502, §A72 (NEW). PL 2003, c. 689, §B6 (REV).

The State of Maine claims a copyright in its codified statutes. If you intend to republish this material, we require that you include the following disclaimer in your publication:

All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication reflects changes made through the First Special Session of the 132nd Maine Legislature and is current through January 1, 2026. The text is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.

The Office of the Revisor of Statutes also requests that you send us one copy of any statutory publication you may produce. Our goal is not to restrict publishing activity, but to keep track of who is publishing what, to identify any needless duplication and to preserve the State's copyright rights.

PLEASE NOTE: The Revisor's Office cannot perform research for or provide legal advice or interpretation of Maine law to the public. If you need legal assistance, please contact a qualified attorney.