

OAST & HOOK

Offices in
Portsmouth and
Virginia Beach, Virginia
Tel: 757-399-7506
Fax: 757-397-1267
Web: www.oasthook.com



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Editor
Sandra L. Smith,
Certified Elder Law
Attorney

2008 LONG-TERM CARE SPOUSAL STANDARDS

The Center for Medicare and Medicaid Services (CMS) has announced changes to the Long-term Care Spousal Standards that apply to a community spouse. A community spouse is a person who is not an inpatient in a medical institution or a nursing facility, but is married to a person who is an inpatient in a medical institution or a nursing facility (the institutionalized spouse). The standards that will change in 2008 include, but are not limited to, the Maximum and Minimum Spousal Resource Standards and the Maximum Monthly Maintenance Needs Allowance (MMMNA).

The Protected Resource Allowance (PRA) is the amount of assets that the community spouse is allowed to retain when the institutionalized spouse is eligible for Medicaid. The PRA is the greatest of either: 1) the Spousal Share (one-half of the total amount of joint countable assets as of the first day of continuous institutionalization for the institutionalized spouse), or 2) the Maximum Spousal Resource Standard at the time of application, or 3) the amount actually transferred to the community spouse as court-ordered spousal support, or 4) an amount determined at a hearing by the Department of Medical Assistance Services (DMAS). The PRA can be no more than the Maximum Spousal Resource Standard and no less than the Minimum Spousal Resource Standard. The Maximum and Minimum Spousal Resource Standards increase each year based on changes in the Consumer Price Index. On January 1, 2008, the Maximum Spousal Resource Standard will increase by \$2,760 to \$104,400. (The maximum for 2007 is \$101,640.) The Minimum Spousal Resource Standard will increase by \$552, from \$20,328 in 2007 to \$20,880 in 2008.

The Spousal Resource Standard is often called the Community Spouse Resource Allowance (CSRA), but technically this is incorrect. According to the Virginia Medicaid Manual, the CSRA is the amount of assets that can be transferred from the institutionalized spouse to the community spouse in order to bring the community spouse's protected assets up to the PRA. For example,

if the total joint countable assets are \$150,000, (and there is no court-ordered spousal support or DMAS hearing amount), then the Spousal Share (and thus the PRA) is \$75,000. If the community spouse has \$50,000 in countable assets, and the institutionalized spouse has \$100,000 in countable assets, then the amount that can be transferred from the institutionalized spouse to the community spouse (the CSRA) is \$25,000.

The MMMNA has a minimum allowance amount and a maximum allowance amount. The MMMNA for 2007 is \$1,711.25, and this amount will remain as the minimum allowance for the first half of 2008. The maximum maintenance needs allowance for 2008 will increase by \$69.00, from \$2,541.00 in 2007 to \$2,610.00 in 2008. The community spouse excess Shelter Standard for 2007 is \$513.38, and this amount will remain the same for the first half of 2008.

Oast & Hook can assist seniors in determining the effect of these changes on their Medicaid eligibility. Oast & Hook can also help seniors develop integrated plans that include estate planning, long-term care planning, and financial planning.

Correction

Last week the *Elder Law News* incorrectly stated the website for the Norfolk Community Trust. The correct website is www.norfolkcsb.org/PDF%20Files/LeaveBehind.pdf. The *Elder Law News* apologizes to the Norfolk Foundation and Norfolk Community Trust for this error.

Announcement

The elder law firm of Oast & Hook is holding an Advocacy Networking breakfast meeting. This breakfast meeting is designed for professionals and volunteers who work closely with families that have members with disabilities. It will be held on December 10, 2007, and is entitled: "Planning for Families of Persons with Disabilities." This informative breakfast meeting will address issues facing your patients, clients or family members, and it will provide an opportunity to network with other professionals and volunteers. For more information about this breakfast meeting, please phone Jennifer Lantz at 757-967-9724.

Speakers

If you are interested in having an elder law attorney from Oast & Hook speak at an event, then please call Jennifer Lantz at 757-399-7506.

Oast & Hook

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and

trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying, account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Oast & Hook is a Virginia member of the Special Needs Alliance, a nationwide network of disability attorneys. As members of this alliance, we assist personal injury attorneys in resolving their cases to enhance the judgments and awards of their disabled clients and to maintain the eligibility of these clients for SSI and Medicaid. We are experienced in protecting the public benefits of persons with special needs and in assisting with the management of their assets. For more information about the Special Needs Alliance, visit its website at www.specialneedsalliance.com.

Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Elder Law News*, then please e-mail us at eln@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

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Our website contains information about Oast & Hook and an archive of our newsletters and other estate planning, estate administration, and elder law articles in searchable form at.

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