

State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1811

04/29/2013 Authored by Faust, Sawatzky, Fritz, Sundin, Anzele and others

The bill was read for the first time and referred to the Committee on Health and Human Services Policy

1.1 A bill for an act  
1.2 relating to human services; modifying spousal income requirements for medical  
1.3 assistance eligibility; amending Minnesota Statutes 2012, section 256B.058,  
1.4 subdivision 4.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2012, section 256B.058, subdivision 4, is amended to  
1.7 read:

1.8 Subd. 4. **Treatment of income.** (a) No income of the community spouse will  
1.9 be considered available to an eligible institutionalized spouse, beginning the first full  
1.10 calendar month of institutionalization, except as provided in this subdivision.

1.11 (b) In determining the income of an institutionalized spouse or community spouse,  
1.12 after the institutionalized spouse has been determined eligible for medical assistance,  
1.13 the following rules apply.

1.14 (1) For income that is not from a trust, availability is determined according to items  
1.15 (i) to (v), unless the instrument providing the income otherwise specifically provides:

1.16 (i) if payment is made solely in the name of one spouse, the income is considered  
1.17 available only to that spouse;

1.18 (ii) if payment is made in the names of both spouses, one-half of the income is  
1.19 considered available to each;

1.20 (iii) if payment is made in the names of one or both spouses together with one or  
1.21 more other persons, the income is considered available to each spouse according to the  
1.22 spouse's interest, or one-half of the joint interest is considered available to each spouse  
1.23 if each spouse's interest is not specified;

(iv) if there is no instrument that establishes ownership, one-half of the income is considered available to each spouse; and

(v) either spouse may rebut the determination of availability of income by showing by a preponderance of the evidence that ownership interests are different than provided above.

(2) For income from a trust, income is considered available to each spouse as provided in the trust. If the trust does not specify an amount available to either or both spouses, availability will be determined according to items (i) to (iii):

(i) if payment of income is made only to one spouse, the income is considered available only to that spouse;

(ii) if payment of income is made to both spouses, one-half is considered available to each; and

(iii) if payment is made to either or both spouses and one or more other persons, the income is considered available to each spouse in proportion to each spouse's interest, or if no such interest is specified, one-half of the joint interest is considered available to each spouse.

(c) To the extent allowed by federal law, for a community spouse age 65 or older, income received from the proceeds of any retirement account, including an individual account, 401(k) plan, 403(b) plan, Keogh plan, and pension plan is not considered available to an eligible institutionalized spouse.

## Sec. 2. **FEDERAL WAIVER OR APPROVAL.**

The commissioner of human services shall seek any federal waivers or approvals necessary to implement section 1.