DATE: February 8, 2019
FROM: Timothy B. Hill, Deputy Center Director
Center for Medicaid and CHIP Services
SUBJECT: Temporary Extension of the Affordable Care Act’s Spousal Impoverishment
Provision for Married Recipients of Home and Community-Based Services

The purpose of this CMCS Informational Bulletin is to advise you that the recently enacted
Medicaid Extenders Act of 2019 (P.L. 116-3) modifies section 2404 of the Patient Protection and
Affordable Care Act (ACA) to require that state Medicaid agencies apply the spousal
impoverishment rules to married applicants and beneficiaries eligible for home and community-
based services (HCBS) through March 31, 2019.1

On November 9, 2018, the Centers for Medicare & Medicaid Services (CMS) published a
separate CMCS Informational Bulletin (the November bulletin) advising stakeholders that the
ACA’s spousal impoverishment-related provision was set to expire on December 31, 2018
(“Sunset of Section 2404 of the Affordable Care Act, Relating to the Spousal Impoverishment
Rules for Certain Home and Community-Based Services Applicants and Recipient”).2 CMS
instructed states in the November bulletin that, if the provision were to expire, eligibility
redeterminations and post-eligibility treatment-of-income (PETI) recalculations would be
necessary for many married individuals receiving HCBS. States that have completed
redeterminations for married HCBS recipients and informed any such beneficiaries that (due to
the expiration of the ACA provision) they are no longer eligible for Medicaid or will have their
PETI calculation modified should revise their decisions and immediately inform these
individuals that they remain eligible for Medicaid or that their PETI calculation will not change.
Unless the ACA provision is further extended, however, states will need to conduct
redeterminations and recalculations, upon the new March 31, 2019 expiration, in accordance
with the instructions in the November bulletin.

The Medicaid Extenders Act of 2019 did not modify the terms of the ACA spousal
impoverishment-related provision beyond the extension of its sunset date. States should therefore
continue to follow the guidance CMS published in SMDL #15-001 through March 31,
2019.3 Section 3(b) of the Medicaid Extenders Act of 2019, however, contains a “rule of
construction” provision relating to the manner in which the spousal impoverishment rules should
be construed pertaining to a state’s application of income or resource disregards for married
individuals receiving certain HCBS. CMS is presently reviewing this provision and will provide
additional guidance to states after completing its review. If you have any questions, please
contact Gene Coffey at Gene.Coffee@cms.hhs.gov.

1 Section 3(a) of the law contains the extension.