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Senate of Pennsylvania

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STROKE PREVENTION TASK FORCE

November 20, 2002

Hon. Feather O. Houston
Secretary of Public Welfare
Room 333
Health & Welfare Building
Harrisburg, PA 17105

Re: Department of Public Welfare (DPW)
Proposed Regulation 14-478:
Resource Provisions for Categorically Needy NMP-MA and MNO-MA; Income
Provisions for Categorically Needy NMP-MA and MNO-MA

Dear Secretary Houston:

I am writing in my capacity as Minority Chair of the Senate Public Health & Welfare Committee. In this letter, I write to specifically object to the manner in which you propose to implement the "income first" rule for spouses of nursing home residents. My objection is to your decision to force the community spouses to make a material change in her financial circumstances based on the assumption of the availability of income that will terminate, or at least be reduced, upon the death of the nursing home resident.

Let us consider an example. The couple owns \$60,000 in assets. The institutionalized husband has monthly income in his name of \$1,200 - \$600 in Social Security benefits and \$600 in a private pension that will terminate upon his death. The wife living in the community has monthly income of \$600 in her name - \$300 in Social Security, \$75 in interest earned on her \$30,000 and \$225 in a private pension. Her monthly maintenance allowance is \$1500. Under the proposed rule, the family would have to spend down \$30,000 in resources while the husband contributed \$900 per month towards his wife's monthly needs. On his death, the community spouse will see her income drop from \$1500 per month to \$900 per month - her deceased husband's Social Security of \$600, her \$75 interest and her \$225 pension.

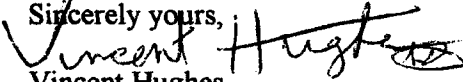
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My recommendation is to assume the availability of only the income that will survive the nursing home spouse. DPW should allow the family to purchase an annuity using both spouses' resources to the extent that the "surviving income" is inadequate to meet the community spouse's monthly maintenance needs. In the example, only \$300 survives the nursing home spouse - his \$600 in Social Security minus her presently received \$300 in Social Security. Therefore, the community spouse will need an additional \$600 per month on the death of her husband in the nursing home. The husband should be allowed to transfer his \$30,000 to his spouse so she can purchase an annuity with it.

This regulation should be reconsidered.

Given the volume of public comments, and given the concerns that we have with these proposed regulations, I suggest that agency staff, IRRC staff and committee staff meet to discuss appropriate changes to your proposal.

Thank you for your time and consideration.

Sincerely yours,

Vincent Hughes
Minority Chair
Public Health & Welfare Committee

cc: Sen. Harold F. Mowery, Jr., Majority Chair, Public Health & Welfare Committee
John R. McGinley, Jr., Esq., Chair, Independent Regulatory Review Commission

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