Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES *v.* BLUMER

CERTIORARI TO THE COURT OF APPEALS OF WISCONSIN

No. 00–952. Argued December 3, 2001—Decided February 20, 2002

In developing standards for determining Medicaid eligibility, participating States must "tak[e] into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary [of Health and Human Services (Secretary)], *available* to the applicant." 42 U. S. C. §1396a(a)(17)(B) (emphasis added). Because spouses typically possess assets and income jointly and bear financial responsibility for each other, Medicaid eligibility determinations for married applicants have resisted simple solutions. Until the Medicare Catastrophic Coverage Act of 1988 (MCCA or Act), state standards often left a spouse living at home (called the "community spouse") destitute, the couple's assets drained to qualify his or her mate (the "institutionalized spouse") for Medicaid, and the couple's posteligibility income diminished to reduce the amount payable by Medicaid for institutional care. The MCCA's "spousal impoverishment" provisions responded to this problem by including in the Medicaid statute requirements with which States must comply in allocating a couple's income and resources. The Act's income allocation rules direct that, in any month in which one spouse is institutionalized, "no income of the community spouse shall be deemed available to the institutionalized spouse," §1396r–5(b)(1); require States to set for the community spouse a "minimum monthly maintenance needs allowance" (MMMNA), §1396r–5(d)(3); and prescribe that, if the community spouse's posteligibility income is insufficient to yield income equal to or above the MMMNA, the shortfall—called the "community spouse monthly income allowance" (CSMIA)—may be deducted from the institutionalized spouse's income and paid to the community spouse, §1396r–5(d)(1)(B). The MCCA's resource allocation rules provide, *inter alia*, that, in determining the institutional-

ized spouse's Medicaid eligibility, a portion of the couple's resources—called the "community spouse resource allowance" (CSRA)—shall be reserved for the benefit of the community spouse, §1396r–5(c)(2). To calculate the CSRA, the couple's jointly and separately owned resources are added together as of the time the institutionalized spouse's institutionalization commenced; half of that total, subject to certain limits, is then allocated to the community spouse, §§1396r–5(c)(1)(A), (2)(B), (f)(2)(A), (g). The CSRA is deemed unavailable to the institutionalized spouse in the eligibility determination, but all resources above the CSRA (excluding a $2,000 personal allowance reserved for the institutionalized spouse under federal regulations) must be spent before eligibility can be achieved, §1396r–5(c)(2). Section 1396r–5(e)(2)(C) provides a "fair hearing" mechanism through which a couple may obtain a higher CSRA by establishing that the standard CSRA (in relation to the amount of income it generates) is inadequate to raise "the community spouse's income" to the MMMNA. The States have employed two methods for making this determination; the two methods differ in their construction of the subsection (e)(2)(C) term "community spouse's income." Under the "income-first" method used by most States, "community spouse's income" includes not only the community spouse's actual income at the time of the eligibility hearing, but also an anticipated posteligibility CSMIA authorized by §1396r–5(d)(1)(B). The income-first method, because it takes account of the potential CSMIA, makes it less likely that the CSRA will be increased; it therefore tends to require couples to expend additional resources before the institutionalized spouse becomes Medicaid eligible. In contrast, the "resources-first" method employed in the remaining States excludes the CSMIA from consideration. The Secretary has circulated for comment a proposed rule allowing States the threshold choice of using either the income-first or resources-first method.

After entering a Wisconsin nursing home, respondent Irene Blumer applied for Medicaid through her husband Burnett. The Green County Department of Human Services (County) determined that the Blumers could retain $74,822 in assets—$72,822 as Burnett's standard CSRA and $2,000 as Irene's personal allowance. The County next found that, as of the date of Irene's application, the couple possessed resources exceeding their $74,822 limit by $14,513. The County accordingly concluded that Irene would not be eligible for Medicaid until the couple's spending reduced their resources by the $14,531 amount. Irene sought a hearing to obtain a higher CSRA, arguing that, because Burnett's monthly income ($1,639) fell below the applicable MMMNA ($1,727), the hearing examiner was obliged to increase Burnett's CSRA. Because a Wisconsin statute adopts the

income-first rule, the examiner concluded that he lacked authority to increase Burnett's CSRA: The difference between Burnett's posteligibility income and the MMMNA could be erased if, after achieving eligibility, Irene transferred to Burnett, as a CSMIA, a portion of her monthly income. Because Irene's posteligibility income would be sufficient to allow the transfer, the examiner found no reason to reserve additional assets for Burnett and, consequently, no cause for advancing Irene's Medicaid eligibility. The Circuit Court affirmed, but the Wisconsin Court of Appeals reversed, concluding that the State's income-first statute conflicts with the MCCA, which, the appeals court held, unambiguously mandates the resources-first method.

Held: The income-first method qualifies as a permissible interpretation of the MCCA. Pp. 13–21.

(a) Neither §1396r–5(e)(2)(C)'s text nor the MCCA's structure forbids Wisconsin's approach. This case turns on whether the words "community spouse's income" in §1396r–5(e)(2)(C) may be interpreted to include potential, posteligibility transfers of income from the institutionalized spouse permitted by §1396r–5(d)(1)(B). According to Blumer, the plain meaning of "community spouse's income" precludes such inclusion; by choosing the possessive modifier "community spouse's," Blumer maintains, Congress clearly expressed its intent that only income actually *possessed* by the community spouse at the time of the hearing may count in the calculation. The Court rejects this argument. Use of the possessive case does not demand construction of the quoted phrase to mean only income actually possessed by, rather than available or attributable to, the community spouse; to the contrary, use of the possessive is often indeterminate. Cf., *e.g.*, *Smiley* v. *Citibank (South Dakota), N. A.,* 517 U. S. 735, 739. The Court finds similarly unpersuasive Blumer's argument that the Act's design as a whole precludes use of the income-first method. In this regard, Blumer contends that, because the (e)(2)(C) hearing to obtain an enhanced CSRA occurs at the time an eligibility assessment is conducted, while no CSMIA income may be transferred until after eligibility has been achieved, the Wisconsin statute reverses the priority ordered by the MCCA. The Court disagrees with Blumer's conclusion: The (e)(2)(C) hearing is properly comprehended as a preeligibility projection of the couple's posteligibility financial situation; it is not unreasonable for a State to include in its estimation of the "community spouse's income" in that posteligibility period an income transfer the law permits at that time. The same misunderstanding of the (e)(2)(C) hearing also underlies the contention that the income-first method renders meaningless §1396r–5(b)(1)'s key prohibition against deeming income of the community spouse available to the institutionalized spouse. This argument confuses the inclusion of an

anticipated CSMIA in the preeligibility *calculation* of the community spouse's posteligibility income with the actual *transfer* of income permitted by the CSMIA provision. Far from precluding Wisconsin's approach, the MCCA's design offers affirmative support for the income-first method. Subsection (b)(1) has no counterpart prohibiting attribution of the institutionalized spouse's income to the community spouse. Indeed, §1396r–5(d)(1)(B) specifically permits a transfer of income from the institutionalized spouse to the community spouse through the CSMIA. Mindful that spouses may be expected to support each other, see, *e.g., Schweiker* v. *Gray Panthers,* 453 U. S. 34, 45, the Court is satisfied that a State reasonably interprets the MCCA by anticipating the CSMIA in the (e)(2)(C) hearing. This conclusion is bolstered by a further consideration: A fair hearing is not limited to a CSRA redetermination, but may also be used to adjust the CSMIA itself, §1396r–5(e)(2)(A)(i); therefore, it cannot be concluded that the States are barred from taking account of the potential CSMIA in the hearing to increase the CSRA. Pp. 13–18.

(b) Because the parties have not also disputed the permissibility of the resources-first approach, this Court does not definitively resolve that matter. The Court notes, however, that the leeway for state choices urged by Wisconsin and the United States is characteristic of the Medicaid statute, which is designed to advance cooperative federalism. See *Harris* v. *McRae,* 448 U. S. 297, 308. When interpreting other statutes so structured, the Court has left a range of permissible choices to the States, at least where the superintending federal agency has concluded that such latitude is consistent with the statute's aims. See, *e.g., Batterton* v. *Francis,* 432 U. S. 416, 429–431. The Secretary, who possesses authority to prescribe standards relevant here, §1396a(a)(17), has proposed a rule explicitly recognizing that the MCCA permits both the income-first and resources-first methods. That position statement warrants respectful consideration. Cf., *e.g., Gray Panthers,* 453 U. S., at 43–44. The MCCA affords the States large discretion regarding two related variables: the level of the MMMNA, §1396r–5(d)(3), and the amount of assets the couple is permitted to retain, §1396r–5(f)(2)(A). Nothing in the Act indicates that similar latitude is inappropriate with respect to the application of §1396r–5(e)(2)(C). Eliminating a State's discretion to choose income-first would hinder the State's efforts to strike its own balance in implementing the Act. *Lukhard* v. *Reed,* 481 U. S. 368, 383. States that currently allocate limited funds through income-first would have little choice but to offset the greater expense of the resources-first method by reducing the MMMNA or the standard CSRA. That would benefit the relatively few applicant couples who possess significant resources, while offering nothing to, and perhaps disadvantaging,

couples who lack substantial assets. Nothing in the Act contradicts the Secretary's conclusion that such a result is unnecessary and unwarranted. Pp. 18–21.

2000 WI App. 150, 237 Wis. 2d 810, 615 N. W. 2d 647, reversed and remanded.

GINSBURG, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and KENNEDY, SOUTER, THOMAS, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion, in which O'CONNOR and SCALIA, JJ., joined.