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Medicaid Eligibility – Frequently Asked Questions

Why might I need Medicaid?

Even though you might have other health insurance, Medicaid is the primary payor of long-term care services in New York State. Medicaid can help you pay for your general health care costs, but it can also provide services above and beyond what your other insurances would pay for. For example, while Medicare does cover some limited home care services, Medicaid will cover up to 24/7 skilled nursing care care in your home, if you qualify both in terms of medical need and financial eligibility.

There are multiple eligibility categories for Medicaid in New York State. This blog post focuses on Medicaid for the “Disabled, Aged, Blind” category of Medicaid. If you have been deemed disabled, or are age 65+, or are blind, you would fit into this eligibility category.

How much money can I make if I want to qualify for Medicaid?

Medicaid is a program that has specific eligibility guidelines, and not everyone is eligible for the benefit. People who are age 65+ and/or disabled must meet an income and resource test in order to qualify. If you are aged, blind, and/or disabled and above the levels of income or resources, you may still receive the benefit, but you will be subject to a “spend down” requirement. A spend down is the amount of income over the allowed level of income that you must actually "spend down" in order to meet the income guideline and actually qualify for Medicaid each month.

2020 Income and Resource Limits:

Resources (includes savings/checking accounts, CDs, stocks, other liquid assets):

Single: \$15,750

Married Couple: \$23,100

Income:

Single: \$875

Married Couple: \$1,284

What is a Medicaid Spend Down and how does it work?

Currently in 2020, if you are single and have a higher monthly income than \$875, or married with a higher joint monthly income than \$1,284, you have "excess income" and must spend down to this limit each month if you want to have Medicaid benefits. You cannot use the excess income to pay just any bills or expenses - there are very specific rules on what you can do with the income you have that is over the Medicaid limit if you want to be able to qualify for Medicaid.

There are 3 ways you can manage a monthly income spend down:

1. Submit unpaid Medical bills equal to, or greater than your excess income to the Department of Social Services (you must get approval for this option through the Department of Social Services, as only certain bills will qualify); or
2. Pay the excess income amount directly to the Department of Social Services or your Medicaid plan each month; or
3. A **disabled individual** may divert excess into a *Supplemental Needs Trust/Pooled Trust* to deposit "excess" income monthly. Money put into the trust is exempt from Medicaid, so the spend down is reduced or eliminated.*

*Please note that while money diverted into a Special Needs Trust is diverted for Medicaid purposes, it may negatively impact other public benefits. For example, diverting excess income in this manner can decrease your benefit amount under the Supplemental Nutrition Assistance Program (SNAP/food stamps).

What is a Pooled Trust and how does it work?

A pooled trust is a type of special needs trust that is run by a non-profit organization. Generally, a pooled trust is a tool that can be used by disabled individuals to divert excess income and resources that are above the levels of Medicaid in order to qualify for Medicaid and retain access to their excess income and resources. You would have to be formally deemed disabled in order to use a pooled trust. A pooled trust can only be used to divert excess income for someone receiving Medicaid services in the community - you cannot use a pooled trust to qualify for Medicaid if you are in a nursing home.

Each month once you receive your monthly income, you would have to write a check to the trust account for the excess income amount, which is an amount determined by the Department of Social Services. In some cases, you may be able to set up direct deposit. Once you no longer have the money in your direct possession,

it would be considered "diverted" and "spent down" so you would qualify for Medicaid in that month. You do not get a debit card or check book for the trust account - it is not a traditional bank account. Instead, you would submit requests to the trust to pay for various expenses, such as monthly utility bills, mortgage, groceries, household items, and more. Generally, the trust pays third parties directly, based on the beneficiary's requests of what to pay for, and subject to approval processes of the specific trust in which you are enrolled.

If you are interested in learning more about Pooled Trusts, we recommend contacting the WNY Coalition Pooled Trusts directly to discuss eligibility, enrollment requirements, and general procedures. Visit their website www.wnypooledtrust.org or call 1-866-362-5081.

For information on other types of special needs trusts, you should consult with a private attorney.

Example:

Martha is age 72 and lives alone. Martha is starting to have some difficulty with her household chores, such as cleaning, grocery shopping, and meal preparation. Martha also has been feeling weak and could use some help getting dressed and bathing.

Martha receives \$1,200 per month from Social Security Retirement, and \$400 per month from a pension. Martha's Medicare premium is \$144 per month. She has no other income or insurances. Martha has \$2,000 in her checking account, and \$10,000 in her savings account. She owns a car and rents a senior apartment.

Martha's Medicaid eligibility is as follows:

Total income: \$1,600. Medicaid limit for 2020: \$875

Income disregards: \$1,600 - \$144 (Martha's Medicare premium) = \$1,456. Every Medicaid beneficiary is also given an automatic \$20 disregard, which brings Martha down to \$1,436 in countable income. Martha pays monthly rent, but this is not deducted from her income for purposes of determining her Medicaid eligibility.

Martha's spend down: \$1,436 - 875 = \$561

Martha's resources: Martha is below the 2020 resource limit for a single individual - she has \$12,000 in resources, and the limit is \$15,750. Martha's car is an exempt resource.

Martha's options: Martha can apply for Medicaid to get personal care services, which provide assistance with activities of daily living – a service Medicare does not cover. Martha can pay her spenddown of \$561 per month directly to her Medicaid plan in order to get the care she needs each month, or Martha can look into her eligibility for a Special Needs Trust.

If Martha has never received Social Security Disability benefits, and/or if she has never been formally deemed disabled, that does not mean she would not qualify. Since Martha is in need of some help with her activities of daily living, Martha can talk to her doctor about getting deemed disabled if she wants to look into her Medicaid options. To be deemed disabled, Martha would have to fill out a questionnaire and have her doctor certify that she has medical needs which deem her disabled. These documents would get submitted to the New York State Department of Health for a formal determination. If Martha is found to be disabled in this process, Martha would then be able to use a pooled trust to divert her excess monthly income of \$561, and use that money to pay her monthly bills while also receiving the care she needs through Medicaid.

*Please note: Martha is a fictional character for illustrative purposes – we strongly advise you to talk about your specific circumstances with an attorney so that you can get advice tailored to your actual facts and needs.

What if I'm married but only my spouse has long-term care needs – if I do not need Medicaid, does my income count?

Generally, yes. There are different budgeting schemes that can be used for married couples, depending on your specific circumstances.

What are the different budgeting options for married couples?

Spousal Impoverishment Budgeting

New York State recognizes that it would be unfair to force a couple to deplete their income and assets to pay for high health care costs for one spouse, and so it has created some different options in an attempt to prevent this from happening.

The spouse who is not a Medicaid recipient is allowed to keep combined income of up to \$3,216.00 per month in 2020. If the Medicaid recipient is permanently absent from the home (living in a nursing home), he or she retains a personal expenditure allowance of \$50.00 per month in most cases. Medicaid allows the non-Medicaid spouse to hold on to at least \$74,820.00 in non-exempt resources and the Medicaid-recipient spouse an additional \$15,750.00. The resource limits for the non-Medicaid spouse may be increased in some cases.

Please note: You cannot use a pooled trust AND spousal impoverishment budgeting - you must select one or the other. Spousal impoverishment budgeting is only available for married couples where one receives Medicaid long-term care services (either at home or in a nursing home), and the other does not receive Medicaid at all.

Spousal Refusal

For married couples where only one needs Medicaid, the non-Medicaid spouse can choose to refuse to contribute to the costs of care for the Medicaid spouse. The refusing spouse must indicate to the Department of Social Services that they are refusing during the pendency of the Medicaid application - this cannot be done once an eligibility determination is made, and it should always be done in writing. This forces the local Department of Social Services to budget the Medicaid spouse as a single individual and disregard the non-Medicaid spouse's income and resources. However, the non-Medicaid spouse *may* have actions brought against them later by the County to recover for their portion of the care costs for the Medicaid spouse. Under the law, spouses can be obligated to pay for some necessary living expenses including shelter and medical care - under this theory, there are a few types of legal actions that can be taken to later compel the refusing spouse to pay. Each spouse should consult with their own attorney if they wish to learn more about the right to refuse to contribute, as spouses may have differing legal interests.

How do I know what budgeting option to choose?

If both spouses are applying for or in receipt of Medicaid, than Spousal Impoverishment and Spousal Refusal would not apply to your situation. When it comes to choosing the right option, it depends on each individual circumstance. **It is important to consult with an attorney to fully discuss the pros and cons of all of your options.**

What are my options if I have resources above the eligibility limits?

Some of the rules for managing excess resources are changing in New York State, effective October 1, 2020. We recommend checking out our blog post that specifically covers the recent changes, and giving us a call to discuss your specific circumstances at 716-853-3087.

What can I do if I have more questions?

Give us a call at 716-853-3087 – we would be happy to discuss your individual circumstances.

Eligibility guidelines in this post are subject to change at any time. This blog post is intended as general information only, and should not be considered legal advice. You should consult with an attorney about your specific circumstances to learn more about your eligibility and options.