

STARTING SOON.....



MEDICAID MONDAYS IN MARCH

***“Eligibility and How
to Quality”***

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Your lines are muted

Type questions in the
Q & A section at the
bottom of your screen

Presentation is posted:
Pierrolaw.com/Resources
Under “Medicaid
Planning”

Fill out our Survey with
feedback

WELCOME - HOUSEKEEPING





OUR ATTORNEYS



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AGENDA 3.7.22



- Medicaid Basics
- Eligibility: 2022 numbers
- How to qualify
- Penalties
- Next steps

GOALS OF ESTATE PLANNING



Appoint individuals to handle various management functions during life and after death

Protect and preserve assets from creditors, taxes and probate, and to **qualify for long-term care benefits**

Provide a legacy to secure your family's future by preserving wealth

VIRTUAL ESTATE PLANNING

*Consult with your attorney by phone, video conference or in-person

*Review docs virtually with audio and video

*Doc. Execution must be 'in-person'



KEY QUESTIONS ON PAYING FOR LTC

1. **Where** would you want to live?
2. **Who** would take care of you?
3. **How** would you pay for it?

Self-
Insuring

Private LTC
Insurance
+ Life
Products

Medicaid



NEW 2022 MEDICAID ELIGIBILITY NUMBERS

Monthly Income

Individual (at home)	\$934 (+\$20) ¹
Couple (both at home)	\$1,367 (+\$20) ¹
Minimum Monthly Maintenance Needs Allowance (MMMNA) ²	\$3,435

Resources

Individual	\$16,800 ²
Couple (both at home)	\$24,000 ²
Comm. Spouse Resource Allowance	\$74,820 (or the spousal share of 1/2 combined resources up to a maximum of \$137,400)

1 - The first \$20 of monthly income per household will not be counted when determining the eligibility of those Medicaid applicants who are aged, blind, or disabled. Income includes monies coming in each month such as Social Security, pension, rent payments, and disability payments

2 – If Community Spouse makes less than \$3,435 of their own income, they will receive a portion of their spouse's to reach \$3,259.50

EXEMPT ASSETS



Some assets that are exempt:

- \$16,800
- Pre-paid burial
- Income producing property – business assets
- Life insurance – face value less than \$1,500!
- IRA in “Periodic Payment Status”- *major exception*
- One Car

Non-Exempt Assets= EVERYTHING ELSE!

YOUR HOME



- Exempt if you, a spouse or minor or disabled child lives there
- Transfer exemptions
- Intent to return home
- Liens + Estate Recovery



ALSO NEW IN 2022: RESTRICTIONS TO ELIGIBILITY FOR MEDICAID HOME CARE

Do Your Clients Want to Age at Home? New York Rules Made 10/1/20 – Effective Spring and Summer 2022* Will Make it Harder to Qualify



Chronic Care

- **Nursing home care**
- 5-year lookback
- Transfer penalties = # of mos.
- “Rule of Halves” planning

Community

- **Home health care**
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- *No lookback under current rules*
- *2 1/2 yr. lookback passed*

*Awaiting NYS DOH Guidance

5 YEAR LOOK BACK



- Applies to **Nursing Home/ Chronic Care Medicaid**
- All transfers of non-exempt assets are added up- 5 years worth
- The total is then divided by the NYS divisor = average monthly nursing home cost



5 YEAR LOOK BACK AND MEDICAID PENALTY



Common examples of transactions that can lead to a penalty:

- Deeding a house to your children
- Money gifted to a grandchild for graduation
- Large gift to your church or charity

Exceptions

- Transfers to a spouse or disabled child
- Transfers of the home to certain beneficiaries



2022 NYS MEDICAID REGIONAL RATES



Region	Counties	2022	2021	2020
New York City	Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)	\$13,415	\$13,307	\$12,844
Long Island	Nassau, Suffolk	\$14,012	\$13,834	\$13,407
Northern Metropolitan	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester	\$13,389	\$13,206	\$12,805
Western (Buffalo)	Alleghany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming	\$11,884	\$11,054	\$10,720
Northeastern (Albany)	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington	\$12,560	\$11,689	\$11,280
Rochester	Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates	\$13,376	\$12,020	\$12,342
Central (Syracuse/Utica)	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins	\$11,328	\$10,857	\$10,068

THE MEDICAID PENALTY



The penalty is a number of months of ineligibility



- For example, transfers of \$140,268 are discovered within past 5 years:
 $\$150,720 / \$12,560 = 12$ months without Medicaid
- Penalty period begins when person is:
 1. Receiving Care in a Nursing Home
 2. Is Otherwise Eligible - \$16,800, or less of countable assets
 3. Has submitted a Medicaid application
- Who pays during the penalty period?

CURRENT HOME CARE RULES



- No Lookback, No Penalty
- Medical Need – 2 ADL's, etc.
- Changes coming – WHEN?
- Sign up for our March 21 Webinar

HOW TO QUALIFY

- 1. Spend-Down
- 2. Transfer and Wait
- 3. Rule of Halves
- 4. Exempt Transfers
- 5. Spousal Refusal





I. SPEND-DOWN ITEMS

- Funeral + Burial
- New Car
- Home Improvements
- Professional Fees

Non-Exempt Assets < \$16,800

2. TRANSFER + WAIT

- Advance Planning
- Create and Fund a Medicaid Asset Protection Trust
- 60 month wait for Nursing Home Medicaid
- Soon: 30 month wait phased in for Community Medicaid
- Private Pay, LTCI used during the lookback

3. “RULE OF HALVES” GIFT / PROMISSORY NOTE STRATEGY



- When nursing home care is needed immediately
- Roughly half of applicant's assets saved from Medicaid
- Exempt assets placed into Revocable Living Trust
- Will result in Penalty period

CRISIS PLANNING EXAMPLE – RULE OF HALVES

Example – Applicant has \$318,240 of non-exempt assets

- \$16,800 remains with Medicaid applicant
- \$150,720 – gifted to Applicant's Family/used as side fund to help pay for Applicant's expenses
- \$150,720 – loaned to family and then used to pay nursing home (Promissory Note)
- **Penalty before Medicaid starts paying = 12 months** ($\$150,720 \div \$12,560$)

RESULT: Second half - \$150,720 is SAVED for beneficiaries
instead of Medicaid!

4. EXEMPT TRANSFERS



- Any transfer to a disabled or blind child
(not grandchildren, etc.)
- Any transfer to a spouse
- Home
 - Caregiver child (2 yrs.)
 - Sibling with equity interest
 - All of the above

SPOUSAL PROTECTIONS



- CSRA \$74,820
- MMMNA \$3,435
- Home – Exempt for spouse
- IRA's – Exempt if in payout status
- Transfers to spouse okay

5. SPOUSAL REFUSAL

A spouse who is not applying for Medicaid can **refuse to turn over income or assets to support the spouse who is**, in order to obtain Medicaid eligibility



**March 14 – Medicaid
Asset Protection Trusts
(30 min.)**

**March 21 – Medicaid
Home Care
(60 min.)**

**March 28 – Nursing
Home Medicaid
(30 min.)**

**REGISTER:
Pierrolaw.com/events
(518) 459 - 2100**

**GO DEEPER
“MEDICAID MONDAYS IN MARCH”
STARTS AT NOON**



REGISTRATION HAS OPENED!



- Thurs., May 19
- 8:30am-3pm
- The Desmond, Albany
- Or Live Stream
- Free to Attend
- 6 CEUs for Social Workers

<https://www.pierrolaw.com/events/>

THANK YOU! QUESTIONS?

Email us to
Request a copy of our 2022 Medicaid Guide
Schedule a free consultation:
info@pierrolaw.com
(866)951-PLAN

