

STARTING SOON.....

Medicaid Mondays **"2023 Update and the New Surprising Numbers"**

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Welcome

- ▶ **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**





Our Team Of Attorneys



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Agenda 1.9.23



- Bold Moves: the eligibility numbers are up, dramatically
- How is income calculated?
- What assets are countable or exempt?
- What this means for applicants and their families





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





Medicare vs. Medicaid

**Medicare does not
cover long-term care**



**Medicaid is the only
government program
that pays for
long-term care**

NEW 2023 MEDICAID ELIGIBILITY NUMBERS

Monthly Income			
	2023	2022	Difference
Individual (at home)	\$1,563 +\$20	\$ 934 (+\$20) ¹	+\$629
Couple (both at home)	\$2,106 +\$20	\$1,367 (+\$20) ¹	+\$739
Community Spouse Income Allowance	\$3,715.50 ²	\$3,435	+\$280.50
Institutionalized Spouse Income Allowance	\$ 50		

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 \$3,715.50 of their own income, they will receive a portion of their spouse's to reach \$3,715.50

NEW 2023 MEDICAID ELIGIBILITY NUMBERS

Resources			
	2023	2022	Difference
Individual	\$28,133	\$16,800	+\$11,333
Couple	\$37,902	\$24,600	+\$13,302
Comm. Spouse Resource Allowance	\$74,820 ¹		

1 - \$74,820 (or the spousal share of 1/2 combined resources up to a maximum of \$148,620)



Exempt Assets

Some assets that are exempt:

- \$28,133
- 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





Home? Or The Nursing Home?



Chronic Care Medicaid

- **Nursing home care**
- 5-year lookback
- Transfer penalties = # of mos.



Community Medicaid

- **Home health care**
- Assisted living facility
- Medicaid managed long-term care
- Adult day care
- No lookback under current rules



Home Care: Window Of Opportunity Still Open

No lookback for asset transfers until April 2024

–based on current DOH Guidance

- Implementation of law imposing a 30-month lookback on applicants for asset transfers after Oct. 2020 has been **delayed** multiple times due to Federal Health Emergency

Impacts Today:

- Legal planning can be done to become Medicaid-eligible without penalty
- Higher income/asset limits allow seniors to keep more of what they have
- Many who would benefit still require a plan to become eligible



Putting It All Together With An Example: Meet Patricia

- ▶ Income \$3,000/ Month
- ▶ Assets
 - ▶ IRA \$75,000
 - ▶ Savings & Checking \$27,000
 - ▶ Home \$250,000
 - ▶ \$100K in Stock
- ▶ 3 Children – 1 lives locally, but all are involved





Medicaid Home Care Example

When can Patricia be eligible for
Medicaid Home Care if we start planning
today?



Medicaid Home Care Example

February 1, 2023
How is that Possible?



Medicaid Home Care Example

- ▶ Patricia's IRA: Already Exempt!
- ▶ Step 1 – Create Medicaid Asset Protection Trust*
 - ▶ Transfer in home, stock and \$48,133
- ▶ Step 2 –Fund Pooled Trust* with approx. \$1,417 income per month
 - ▶ \$1,583 to personal checking
 - ▶ \$1,417 used by Trustee to pay bills



*MAPT and Pooled Trusts will be discussed in detail in upcoming Medicaid Monday programs

Pooled Trusts – The Key to Medicaid Home Care



- ▶ Excess Income above \$1,583 per month goes in
- ▶ Expenses get paid by Pooled Trust Trustee
 - ▶ What expenses qualify?
 - Mortgage Payments
 - Utility Payments
 - Tax Payments
 - Home Improvements
 - Food Payments
 - Additional Care if Medicaid isn't providing all that's needed
 - Monthly service costs for in-home technology



Medicaid Home Care Example

- ▶ Step 3 – Patricia applies for Medicaid
What counts?
 - ▶ Assets = \$28,133
 - ▶ Income = \$ 1,583
- ▶ Income and assets protected
- ▶ No Waiting Period! Eligible as of February 1, 2023
- ▶ Once financially eligible, the # of hours, and finding aides are key.





Navigating Home Care Once Approved

There are many different kinds of Medicaid programs one can choose from, including:

1. **Managed Long-Term Care (MLTC)**
 - Personal Care Services Program (PCSP)
 - Consumer Directed Personal Assistance Program (CDPAP)
2. **Nursing Home Transition and Diversion Medicaid Waiver Program (NHTD)**
3. Program for **All-Inclusive Care** for the Elderly (PACE)

****Key is to work with a qualified team of professionals to help select the base fit for all involved****



Nursing Home Still Has 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



2023 NYS Medicaid Regional Rates

Region	Counties	2023	2022	2021
New York City	Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)	\$14,142	\$10,857	\$13,307
Long Island	Nassau, Suffolk	\$14,146	\$14,012	\$13,834
Northern Metropolitan	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester	\$13,906	\$13,389	\$13,206
Western (Buffalo)	Alleghany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming	\$12,130	\$11,884	\$11,054
Northeastern (Albany)	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington	\$12,744	\$12,560	\$11,689
Rochester	Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates	\$13,421	\$13,376	\$12,020
Central (Syracuse/Utica)	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins	\$11,726	\$11,328	\$10,857



The Medicaid Penalty

The penalty is a number of months of ineligibility



- ▶ For example, transfers of \$152,928 are discovered within past 5 years:
 $\$152,928 / \$12,744 = 12 \text{ months w/o Medicaid}$
- ▶ Penalty period begins when person is:
 1. Receiving Care in a Nursing Home
 2. Is otherwise eligible - \$28,133 or less of countable assets
 3. Has submitted a Medicaid application
- Who pays during the penalty period?

EXAMPLE: Carol Needs Skilled Nursing Placement



- ▶ Widow with high level of care needs, needs nursing home level of care
- ▶ Transfers Home worth \$305,856 to her only child in January 2021
- ▶ Enters nursing home October 2021
- ▶ Spends down to \$28,133 in checking account (\$11,333 more than last year!)
- ▶ Applies for Medicaid this month



Calculating The Medicaid Penalty For Carol



- ▶ \$305,856 (value of transfer made within the look-back period)
- ▶ Divided by \$12,744 (Northeastern Regional Rate)
- ▶ = 24 month penalty before Medicaid pays for LTC Benefits
- ▶ Who pays for Carol's care for that time period?



Solution – Promissory Note/Gift a/k/a “Rule of Halves”



- ▶ **Step 1** – House is returned to Carol
- ▶ **Step 2** – House is sold for \$325,000.00
- ▶ **Step 3** – Promissory Note and Gift plan executed
 - ▶ \$20,000 remains with Carol
 - ▶ Approximately \$152,500 is gifted to Carol's children
 - ▶ Approximately \$152,500 is loaned to Carol's children and pays nursing home for 12 months



Solution – Promissory Note/Gift a/k/a “Rule of Halves”



► **Step 4:**

After 12 months, Carol receives Nursing Home Medicaid for remainder of her life



Wrap Up: How Do 2023 Rules Impact Medicaid Applicants?



Medicaid Home Care:

1. More income and resources allowed to enhance lifestyle
2. Delayed implementation of 30-month lookback = Time for Planning/Asset Protection or help NOW if needed

Nursing Home Medicaid

1. More income and resources allowed to enhance lifestyle
2. Previous planning opportunities still viable
3. Shorter penalties statewide due to increases in penalty divisor

NEXT MEDICAID MONDAY

February 13, 2023 Qualifying for Medicaid: Why It's Become Harder

REGISTER:

<https://www.pierrolaw.com/events/>
(518)459-2100

- ▶ Once you are financially eligible for LTC benefits, what happens next?
- ▶ For home care, the rocky rollout of the Independent Assessor continues!
 - ▶ Delays in determining the number of hours of care
- ▶ New Immediate Needs Procedure
- ▶ Covid Challenges
- ▶ Nursing Home Bed Availability – Lack of Staff
- ▶ Solutions: Spousal Refusal, CDPAP, Care Management, Technology

REGISTRATION OPENING SOON*

* Pre-Register on today's Post-Webinar Survey



- Thurs., May 11
- 8:30am-3:00pm
- The Desmond, Albany
- Or Live Stream
- Free to Attend
- 6 CEUs for Social Workers

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

Thank You! **QUESTIONS?**

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