

Starting Soon...

Medicaid Asset Protection Trusts (MAPT)

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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
- ▶ Technical Problems? Email info@pierrolaw.com



Agenda 3.13.23

- Recap: 2023 Medicaid Numbers
- Exempt Assets
- Medicaid Asset Protection Trust
- Example: Medicaid Home Care Using MAPT
- Documents & Deadlines
- Spousal Refusal



MEDICAID INCOME & ASSET LIMITS INCREASED IN 2023

Landmark Medicaid Increases Passed in NYS Budget:
Same income limit will be used for younger people under
Affordable Care Act and for Age 65+, blind & disabled

YEAR	INCOME / MTH		ASSET LIMIT	
	SINGLES	COUPLES	SINGLES	COUPLES
2023	\$1,677 + \$20	\$2,268 + \$20	\$30,182	\$40,821
Difference over 2022	+\$743	+\$901	+\$13,382	+\$16,221

Institutionalized Individual Income Allowance remains the same: \$50

EXEMPT ASSETS

Some assets that are exempt:

- \$30,182
- Pre-paid burial
- Income producing business assets
- Life insurance – face value less than \$1,500!
- IRA in “Periodic Payment Status”- *major exception, include Roth IRA's*
- One Car

Non-Exempt Assets= EVERYTHING ELSE!

Your Home

- Exempt if you, a spouse or minor or disabled child lives there
- Transfer exemptions
 - Caretaker Child (2 yrs.)
 - Sibling with an Equity Interest (1 yr.)
 - Disabled Child
 - Spouse
- Intent to return home
 - Subjective Intent OK
- Liens + Estate Recovery



Transfer of Assets

- Lookback Period
 - Nursing Home, 5 yrs.
 - Home Care,
 - 2 ½ yrs. lookback expected April 2024
- Penalties for Transfers
 - Penalty = number of months before Medicaid will pay for care



Medicaid Asset Protection Trust



Used to hold assets (house, stock, life insurance with cash value) in excess of Medicaid allowance

Medicaid Asset Protection Trust (MAPT)

Clients

Assets



Income

- Trustee – manages trust assets
- Beneficiaries
 - Client – income for life and right to use real property
 - Heirs = Remaindermen – inherit when trust ends

MAPT

- ▶ Home
- ▶ Bank Accounts
- ▶ Stocks & Bonds
- ▶ Annuities
- ▶ Life Insurance
- ▶ Business
- ▶ Real Estate

Medicaid Asset Protection Trust

- Income is yours if you want it
- Principal can NOT be given back to you directly, but
- Principal can be given to children or other beneficiaries

MAPT

KEEP OUT

Cash

Bank Acct.

IRA, 401(k)

Security Features

- Choose initial Trustee, and change at any time
- Choose initial beneficiaries, and change at any time
- With the consent of all beneficiaries, in some jurisdictions the trust can be “amended or revoked”

MAPT Advantages

- › **Probate avoidance**
- › **Ability to distribute assets** outright or in further trust upon death of Grantor
- › **Ability to hire and fire** trustees at any time
- › **Access to income and assets** within the trust, if done properly
- › **Ability to revoke** an irrevocable trust with consent of beneficiaries

MAPT Advantages

- › Ability to qualify for **Nursing Home Medicaid** in 5 years
- › Ability to qualify for **Community Medicaid** immediately*

*** IF you apply prior to April 1, 2024. We expect rules to phase in a 30-month lookback -> awaiting final guidance from NYS DOH**

Meet Rachel

Rachel Brooks | Age 84 | Widow

Last Week:
Hospitalized After a Fall

This Week:
Rehab ... **Future Unknown**



Background

- Mild memory loss
- Disorientation
- Possible mini strokes
- Still verbal
- Her daughter lives near by and helps when she can



Rachel is a good candidate for Medicaid Home Care (~10 hours a day of personal care)

Using MAPT

Income

Social Security: \$1,345

Pension: \$1,000

TOTAL: \$2,345/month

Assets

Home: \$150,000

IRA: \$75,000

Savings & Checking: \$25,000

Brokerage: \$250,000

First: Rachel creates and funds the Medicaid Asset Protection Trust with her home and brokerage account

Second: Rachel creates a Pooled Trust & sends \$648 of income per month to her pooled trust account (learn more about Pooled Trusts next month)

Applying For Medicaid

Rachel can now apply for Medicaid- What Counts?

- ▶ Assets: \$25,000
- ▶ Income: \$1,697

Eligible by April 1



Timing for Eligibility and Approval

- ▶ **Medicaid looks at eligibility as of the 1st of a month**
 - ▶ Therefore, if assets are transferred prior to 1st of April for Rachel, she can apply for community Medicaid within the month of April based upon her eligibility as of April 1
- ▶ **Once submitted, the local Medicaid office has 45 days** to process the application and render a decision or issue a notice requesting additional information or documentation
 - ▶ If a pooled trust is needed, this timeframe increases to 90 days.

Documents Needed to File

- ▶ **Identifying documents** – Birth certificate, IDs, health insurance cards, etc...
- ▶ **Financial documents** – bank statements showing balances as of 1st of the month you are applying for (April 1 for Rachel), documentation showing current gross income
- ▶ If application signed by agent under Power of Attorney, Power of Attorney document also must be submitted
- ▶ **If application is for nursing home, 5 years of records needed for **all** financial accounts in existence during the lookback period**

Spousal Refusal

- ▶ Happens when the spouse living in the community **refuses to turn over income or assets to support the spouse** who is living in the nursing home in order to obtain Medicaid eligibility



Spousal Refusal



- ▶ Applicant must assign his or her right to support from the spouse to the State, then the **State cannot deny Medicaid coverage, even if the spouse has assets over the allowed limit**
- ▶ **But**, the State may seek a contribution towards the cost of care

Next Steps

If You Are:

- a. Planning ahead to qualify for Medicaid in the future, consider a MAPT now
- a. Caring for someone who needs home care immediately or who is already bringing care aides in, a MAPT can preserve assets and help qualify for benefits
- ▶ **Seek guidance from an elder law attorney** – Pierro, Connor & Strauss offers free consultations via phone, Zoom or in person



MONTHLY MEDICAID MONDAY WEBINARS

April 10, 2023

**Using a Pooled Trust to Qualify
for Medicaid Home Care**

REGISTER:

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

JOINED BY



Sarah Grimes

Director of Outreach and
Community Relations





RESERVE YOUR SEAT!

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



Thank You!
QUESTIONS?

**Schedule a
Consultation for
your loved one or
clients:**

**info@pierrolaw.com
(518) 459-2100**

Please Fill Out Your Survey Following the
Program