

Starting Soon.....

Medicaid Mondays

"The 'Well' Spouse's Rights in Medicaid"

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Welcome

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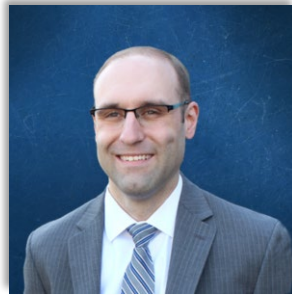
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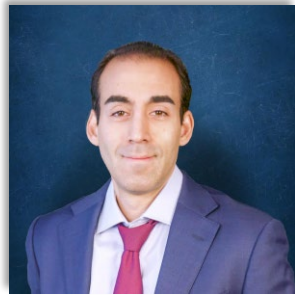
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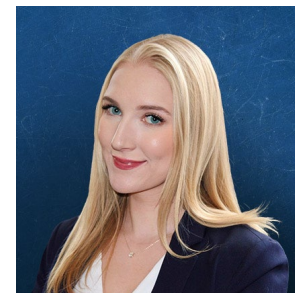
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Agenda 2.7.24



- Recap of 2024 eligibility numbers: surprise?
- Acronyms that will be helpful to know
- Spousal Protections for Income
- Spousal Protections for Assets
- Fair Hearing Rights
- Spousal Refusal



NEW 2024 MEDICAID ELIGIBILITY NUMBERS

Monthly Income

	2024	2023	Difference
Individual (at home)	\$1,677 +\$20	\$1,677 +\$20	\$0!
Couple (both at home)	\$2,268 +\$20	\$2,268 +\$20	\$0!
Community Spouse Income Allowance	\$3,853.50	\$3,715.50	+\$138
Institutionalized Spouse Income Allowance	\$ 50		

NEW 2024 MEDICAID ELIGIBILITY NUMBERS

Resources

	2024	2023	Difference
Individual	\$30,182	\$30,182	0!
Couple	\$40,821	\$40,821	0!
Comm. Spouse Resource Allowance	\$74,820 ¹		

1 - \$74,820 (or the spousal share of 1/2 combined resources up to a maximum of \$154,140)

2024 NYS Medicaid Regional Rates

Region	Counties	2024	2023
New York City	Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)	\$14,273	\$14,142
Long Island	Nassau, Suffolk	\$14,668	\$14,136
Northern Metropolitan	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester	\$14,165	\$13,906
Western (Buffalo)	Alleghany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming	\$12,241	\$12,130
Northeastern (Albany)	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington	\$13,235	\$12,744
Rochester	Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates	\$14,419	\$13,421
Central (Syracuse/Utica)	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins	\$12,196	\$11,726



Acronyms You'll Hear Today

- ▶ **MMMNA** – Minimum Monthly Maintenance Needs Allowance
- ▶ **CSRA** – Community Spouse Resource Allowance
- ▶ **PNA** – Personal Needs Allowance
- ▶ **CSMIA** – Community Spouse Monthly Income Allowance



If only one spouse is applying for Medicaid, there are “spousal impoverishment rules” in place to protect the non-applicant spouse (often called the community spouse)

What Are Spousal Impoverishment Rules and How Did They Come to Be?



- ▶ **Created in 1998**, this legislation allowed a spouse of a nursing home resident on **Medicaid** to keep a reasonable level of income and resources to live on while the nursing home received Medicaid payments for the institutionalized spouse's care
- ▶ At the time of the passage of these laws, many elderly "community spouses" were practically starving or seeking out divorces to escape the financial burden
- ▶ An important sidelight of this legislation was that it permitted states to budget couples on home-and-community-based services (HCBS) "waiver" programs under these same income and asset rules, giving these couples a much-needed financial cushion even though their spouse was in the community rather than in a facility.

Which Married Couples Can Use Spousal Impoverishment Protections?



- When **Managed Long Term Care** plans began to be phased into Medicaid between 2012-2014, the State agreed to give spousal impoverishment protections not just to married persons transitioning to **MLTC** from the previously available Lombardi program, but to ALL married couples where one spouse receives MLTC services.
- The Affordable Care Act, effective January 1, 2014, required all States to **expand spousal impoverishment protections** for all married couples with a spouse receiving Managed Long Term Care (MLTC) or other Home-and-Community-Based Services under a waiver -- Traumatic Brain Injury (TBI), Nursing Home Transition and Diversion (**NHTD**), and **OPWDD** [waivers](#).
- July 2016: Spousal impoverishment protections are also available to consumers receiving immediate need personal care services pursuant to [16 ADM 02](#).

Married Couples



Minimum Monthly Maintenance Needs Allowance (MMMNA)

- ▶ *Deals with income*
- &

Community Spouse Resource Allowance (CSRA)

- ▶ *Deals with Assets*

Minimum Monthly Maintenance Needs Allowance (MMMNA)



- ▶ **Income allowance** allows a married Medicaid applicant to transfer a portion, or all, of his/her income to the non-applicant spouse who earns little to no income
- ▶ Community spouse's income must fall under a certain level in order for the applicant spouse to transfer funds

Current New York State MMMNA limit: \$3,853.50
(up from \$3,715.50)

What are the Spousal Impoverishment Protections for Income?



1. The allowance provided to a non-applying spouse from the Medicaid spouse's income is called the "**community spouse** monthly income allowance" (CSMIA). The CSMIA is calculated by subtracting the non-applying spouse's own income and the monthly cost of his/her health insurance premiums from the MMMNA.

Example:

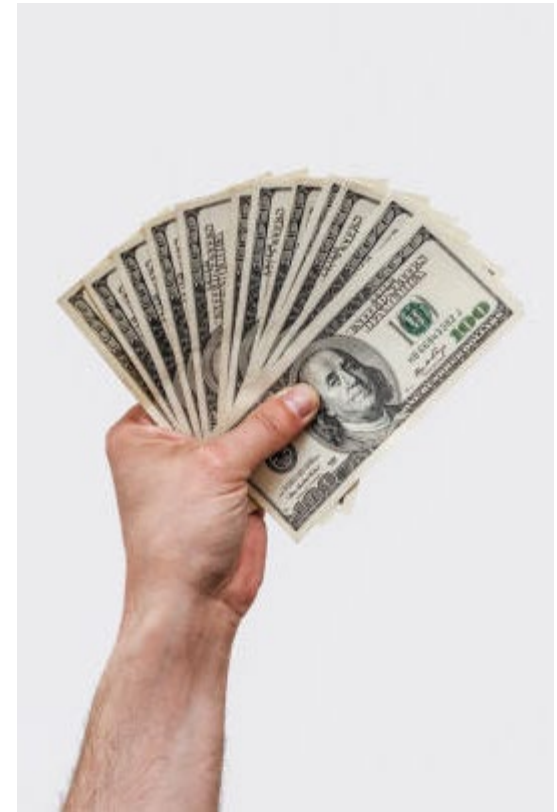
Community spouse's income = \$2,000.00 (after deductions)

Medicaid spouse's income = \$5,000.00 (after deductions)

CSMIA to Community spouse = \$1,853.50

RESULT – Community Spouse's Income = \$3,853.50 (\$2,000 + 1,853.50)

Medicaid Spouse's Income – \$3,146.50 (\$5,000 – \$1,853.50)



What are the Spousal Impoverishment Protections for Income?



2. **Personal Needs Allowance (PNA)** for the spouse receiving Medicaid at home –

This is \$591 in 2024 (the difference between the regular Medicaid level for ONE PERSON and TWO PERSON households).

Example:

- Sam enrolls with MLTC after Medicaid Approval and has a monthly income of \$2,500.00
- Spouse Chris has income of \$1,648.50
- Spouse Chris' CSMIA = \$2,205.00 ($\$3,853.50 - \$1,648.50$)
- Remaining Income of Sam after shift to Chris = \$295.00 ($\$2,500.00 - \$2,205.00$)

RESULT – NO Spenddown for Sam since his income allowance is \$591.00.

When are Spousal Protections for Income Not Favorable?



Example:

- Sam enrolls with MLTC after Medicaid Approval and has a monthly income of \$6,500.00
- Spouse Chris has income of \$1,648.50
- Spouse Chris' CSMIA - \$2,205.00 ($\$3,853.50 - \$1,648.50 = \$2,205.00$)
- Remaining Income of Sam after shift to Chris - \$4,295.00 ($\$6,500.00 - \$2,205.00$)

RESULT - Spenddown of \$3,704.00.

BETTER RESULT - Sam uses Pooled Trust for his excess income of \$4,803.00 where all income is saved.

- ▶ **Tune in March 11th for a Discussion on Pooled Trusts**

Community Spouse Resource Allowance (CSRA)



Assets held jointly by a husband and wife can be allocated to the non-applicant spouse.

- ▶ The assets the non-applicant spouse is permitted to retain is referred to as the Community Spouse Resource Allowance (CSRA)

Current CSRA in New York is **\$74,820** (or $\frac{1}{2}$ of the couples' resources up to a maximum of \$154,140)





Community Spouse Resource Allowance (CSRA) – Example

Husband needs nursing home coverage

Wife is healthy and lives in the community in their jointly held residence

Assets – All held jointly

- ▶ Cash \$100,000.00
- ▶ Stocks \$150,000.00
- ▶ CDs \$25,000.00
- ▶ House – EXEMPT (Spouse resides in residence)
 - Total – \$275,000.00
 - Spousal Share – \$137,500.00 (Half of Total)
- ▶ Total – \$275,000.00
 - Minus Spousal Share – \$137,500.00
 - Minus Medicaid Allowance – \$30,182.00
 - **Total Excess Resources = \$107,318.00**



Increasing the MMMNA and CSRA

- ▶ If MMNA of \$3,853.50 is insufficient, a fair hearing can be scheduled
- ▶ Strict Standard of “need” – not standard of living
- ▶ CSRA can be increased to produce income to satisfy the MMMNA

Spousal Refusal



- ▶ The spouse living in the community **refuses to turn over income and/or assets to support the spouse** who is in the nursing home or receiving home care, in order to obtain Medicaid eligibility for the applying spouse





Spousal Refusal

A refusing spouse's assets are not counted BUT:

- Applicant must assign his or her right to support from the spouse to the County
- **Medicaid coverage**, even if the well-spouse has **assets over the allowed limit, is approved.**
- The County/State may then seek a contribution towards the cost of care
 - Family Court = Support
 - Supreme Court = Recoupment





The Planning for Medicaid Home Care

- No lookback or penalty periods
- Can transfer assets to trust and qualify for home care
- How to navigate the 5-year lookback?



NEXT MEDICAID MONDAY

12-12:30pm
March 11, 2024

Qualifying for Medicaid Home Care and Pooled Trusts

with Special Guest Sarah Grimes from NYSARC



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