

Starting Soon...



**MEDICAID
MONDAY**
PIERRO, CONNOR & STRAUSS, LLC

Home Care: Legal and Financial Strategies to Qualify

April 14, 2025

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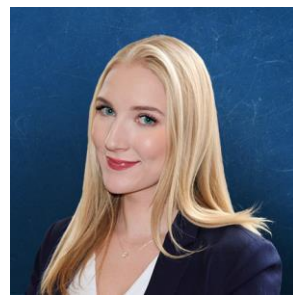
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Agenda

- Recap: 2025 Eligibility **Numbers**
- **Financial and Medical Eligibility**
- **Window of Opportunity for Medicaid Home Care**
- **Legal Strategies**
 - What if you have too much monthly income?
 - What if you have too many resources?
 - Spousal Refusal
- **Differences between Nursing Home and Home Care eligibility**
- **Why this matters**



2025 MEDICAID ELIGIBILITY NUMBERS

Monthly Income			
	2025	2024	Difference
Individual (at home)	\$1,820	\$1,752	\$68
Couple	\$2,453	\$2,371	\$82
Community Spouse Income Allowance	\$3,948.00	\$3,853.50	+\$94.50
Institutionalized Spouse Income Allowance	\$ 50		

2025 MEDICAID ELIGIBILITY NUMBERS

Resources

	2025	2024	Difference
Individual	\$32,396	\$31,175	\$1,221
Couple	\$43,781	\$42,312	\$1,469
Comm. Spouse Resource Allowance	\$74,820 ¹		

1 - \$74,820 (or the spousal share of 1/2 combined resources up to a maximum of \$157,920 (up \$3,780 from 2024))



Home Care: Window of Opportunity Still Open

No lookback for asset transfers is in effect

- based on current DOH Guidance
- new lookback expected later this year?
- Implementation of law imposing a 30-month lookback **delayed** multiple times since Oct. 2020



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

Understanding NY Medicaid Home Care Eligibility



In order to qualify for Medicaid homecare, an applicant must be:

1. **Financially Eligible:** In order to qualify for Medicaid Homecare, a single applicant can have no more than \$32,396 of assets (also known as resources) and their monthly income limit is \$1,820
- ▶ **Many resources do not count towards this amount, including:**
 - ▶ Home (as long as it's occupied by applicant, spouse, minor or disabled child)
 - ▶ Retirement Accounts (IRA, 401k, etc...) – but account has to be in periodic payment status
 - ▶ Pre-Arranged irrevocable burial/funeral account
 - ▶ 1 Vehicle





Understanding NY Medicaid Home Care Eligibility, Cont.

- ▶ **2. Medically Eligible:** To be eligible from a medical perspective the applicant must require assistance with two activities of daily living (ADLs).
- ▶ Activities of Daily Living Include:
 - ▶ Bathing
 - ▶ Dressing
 - ▶ Grooming
 - ▶ Eating
 - ▶ Transferring
 - ▶ Ambulating
 - ▶ Toileting





What If the Applicant has Too Much **Income**?

- ▶ **Create and Fund a Pooled Income Trust** for person who has been approved for Community Medicaid
 - ▶ Pooled Trust helps avoid a monthly “Spend Down” by accepting income over \$1,820 monthly allowance
 - ▶ Administered by a nonprofit entity
 - Preserved excess income can be used to pay expenses
 - ▶ Allows an individual with higher than allowable monthly income to qualify for Medicaid and to maintain their monthly benefits
 - ▶ Also can protect recipient from unexpected windfalls of monthly income



What Can Funds In Pooled Trust Pay For?

- ▶ Funds within pooled trust can be used for monthly expenses for the applicant, including:
 - Housing Payments (Rent/Mortgage Payments)
 - Food
 - Clothing
 - Entertainment
 - Additional Homecare not covered by Medicaid
 - And more...



What If The Applicant Has Too Many Resources?



- ▶ *Best Option:
Create and Fund Irrevocable Trust (MAPT) prior to
Applying for Medicaid Home
Care*
- ▶ *Another Option:
Spousal Refusal*



Medicaid Asset Protection Trust (MAPT)

- ▶ *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



TRUST FUNDING – IRREVOCABLE TRUST

KEEP OUT

Cash
Bank Account
IRA, 401(k)



SECURITY FEATURES

- Power to change Trustee
- Power to change beneficiaries
- Can revoke under NY Law with consent of beneficiaries

MAPT Advantages

ASSET PROTECTION NOT COUNTABLE BY MEDICAID

PLUS:

INCOME: Retained for yourself and/or your spouse

PRINCIPAL: Preserved for yourself and spouse,
children or other beneficiaries

TAX BENEFITS

Trust is a "Grantor" Trust

Gift tax avoidance

Reduction of capital gains taxes

Married Couples – 1 Needs Medicaid



Minimum Monthly Maintenance Needs Allowance (MMMNA)

- ▶ Amount of allowable monthly income for well spouse
- ▶ Currently \$3,948.00

&

Community Spouse Resource Allowance (CSRA)

- ▶ Amount of allowable resources of the well spouse
- ▶ Currently \$74,820.00



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)

Spousal Refusal



- ▶ 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





Nursing Home vs. Home Care Eligibility

NOTE: Nursing Home Medicaid will be covered in detail at a future Medicaid Monday

In brief, the difference:

- ▶ No Lookback for Home Care (only require current financial information)
 - ▶ **60-month Lookback** for Nursing Home Applications
 - ▶ **Pooled Trusts can** be used to preserve income in a homecare case
 - ▶ **Pooled trusts cannot** be used to preserve income in nursing home cases
- ▶ No Retroactive benefits for Homecare in most cases
 - ▶ Nursing Homes benefits can go retroactive for up to 3 months plus the month of application

Plan to Avoid the Spend Down

RECAP: these three proven strategies can help successfully qualify an applicant

- Pooled Income Trust
- Medicaid Asset Protection Trust
- Spousal Refusal

RESULTS: Protects home, retirement and life savings

- > age at home instead of skilled nursing facility
- > establishes legacy for future generations
- > Trusts preserves \$\$ for essential needs

**NEXT
MEDICAID MONDAY
WEBINAR**

**May 12, 2025
12:00-12:30PM**

Elder Law Forum Preview



**Thurs. May 15
8:30am – 4:00pm
The Desmond or by Zoom**

**REGISTER:
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Questions?

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THANK YOU!

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