

Starting Soon...

Nursing Home Medicaid

July 14, 2025

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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**





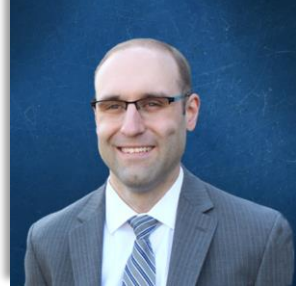
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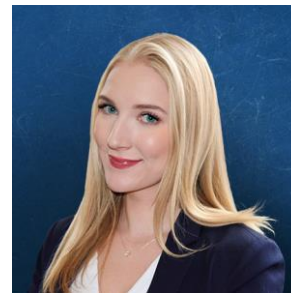
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Serving New York State Residents Through Offices in:

Albany, New York City, Ronkonkoma, Garden City, Hudson, Lake Placid, Utica
Also serving clients in Massachusetts, Hawaii, Florida.

Not Pictured

Robert Bosman, Esq.



Alert: Eligibility Rule Change Coming!

- June 30th - New policy issued by NYS Department of Health
- Requirement for Community Medicaid eligibility for personal care services is **increasing** from needing assistance with two (2) to three (3) Activities of Daily Living (ADLs).
- Individuals with Alzheimer's disease or dementia:
 - Require Supervisory Assistance with two (2) ADLs to qualify
- **Taking effect on September 1, 2025.**
- GET ALL THE DETAILS ON MEDICAID MONDAY, AUGUST 11



TODAY: NURSING HOME MEDICAID

- Recap: Income and Resources
- Exempt Assets and Transfers
- Preserving Non-Exempt Assets
 - The “Rule of Halves”
 - Spousal Refusal
- Steps you can take now if you need Medicaid or want to plan ahead





Cost of Nursing Home Care

Average Monthly Cost of Nursing Home Care (2024)*

Albany	\$15-17,000/month
New York City	\$18-20,000/month

Better Facilities Cost More...

*Genworth Cost of Care Survey

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))

EXEMPT ASSETS

Some assets that are exempt:

- \$32,396
- 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





Medicaid: Nursing Home v. Home Care



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
- 30 month lookback – 2026?

5 Year Look Back



Applies to Nursing Home/ Chronic Care Medicaid

- DSS audits 5 years of records
- All transfers of non-exempt assets are added up- 5 years (60 months) worth
- The total is then divided by the NYS divisor- which is dependent on where the facility is located

5 Year Look Back and Medicaid Penalty

Common examples of transactions that can lead to a penalty:

- Money gifted to a grandchild for college
- Vehicle sold to a family member for a dollar
- Large gift to your church



Exceptions

Transfers to a spouse or disabled child

Transfers of the home to certain beneficiaries



2025 NYS Medicaid Regional Rates

Region	Counties	2025	2024
New York City	Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)	\$14,582	\$14,273
Long Island	Nassau, Suffolk	\$14,914	\$14,668
Northern Metropolitan	Dutchess, Orange, Putnam, Rockland, Sullivan, Ulster, Westchester	\$14,569	\$14,165
Western (Buffalo)	Alleghany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans, Wyoming	\$12,842	\$12,241
Northeastern (Albany)	Albany, Clinton, Columbia, Delaware, Essex, Franklin, Fulton, Greene, Hamilton, Montgomery, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Warren, Washington	\$13,916	\$13,235
Rochester	Chemung, Livingston, Monroe, Ontario, Schuyler, Seneca, Steuben, Wayne, Yates	\$15,127	\$14,419
Central (Syracuse/Utica)	Broome, Cayuga, Chenango, Cortland, Herkimer, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, St. Lawrence, Tioga, Tompkins	\$13,042	\$12,196

The Medicaid Penalty

The penalty is a number of months of ineligibility



- ▶ For example, transfers of \$166,992 are discovered within past 5 years:
 $\$166,992 / \$13,916 = 12 \text{ months w/o Medicaid}$
- ▶ Penalty period begins when person is:
 1. Receiving Care in a Nursing Home
 2. Is otherwise eligible - \$32,396 or less of countable assets
 3. Has submitted a Medicaid application
- **Who pays during the penalty period?**

What if No Planning Has Been Done?

Rule of Halves

- A **gift and loan** are made of approximately 50% of countable assets.
- The promissory note has been ruled by the Courts to be a **non-countable asset**, just income (used to pay the nursing home)
- The loan payments are calculated to private pay the nursing home while the penalty period runs- a **complex calculation**

Rule of Halves Example – Bob A.

- ▶ Bob has **\$2,050/month of income**, **\$400,000 of non-exempt assets**, and has not made any substantial gifts (more than \$2,000) in the past 5 years
- ▶ Bob has nursing home costs of \$16,000/month
- ▶ His family pre-pays his funeral (could pay for others), buys him a television, clothes, furniture and pays legal fees– **a total spend down of \$34,000**
- ▶ Bob **gifts \$168,000 to a Medicaid Asset Protection Trust**, and **loans \$168,000 to Robert Jr.**, all on July 28, 2025



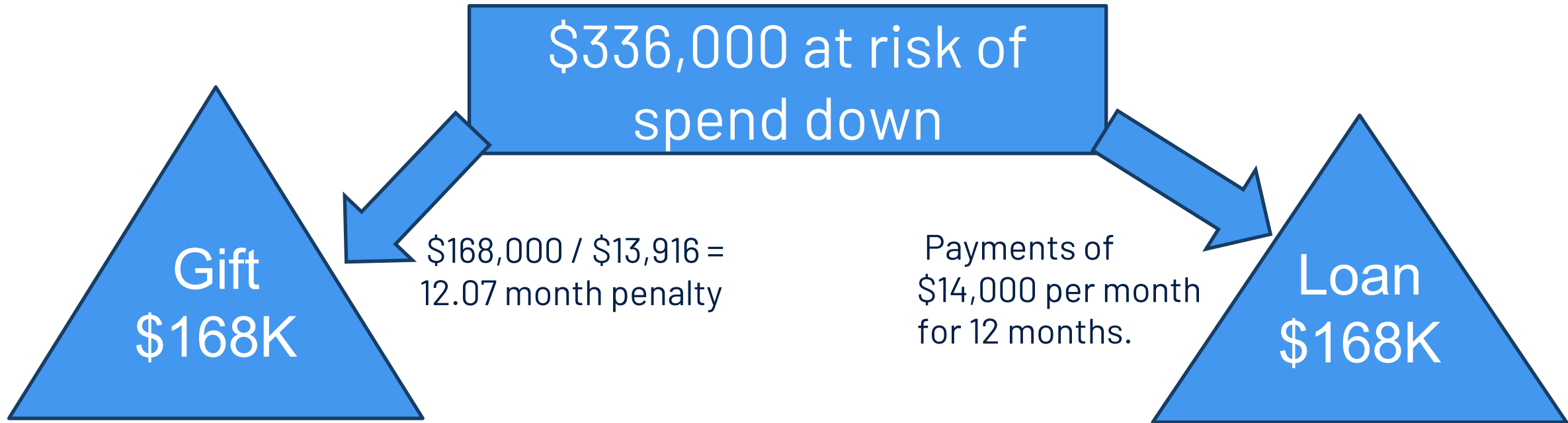
When is Bob eligible for Medicaid, and how much has he saved?

Example (cont.)

- ▶ Income- \$2,050 - \$50 allowance = \$2,000 net

Nursing Home Cost	\$16,000
-Income	- \$2,000
Needed from Assets/ Month	\$14,000/mo.
Non-Exempt Assets	\$400,000
-Spend-Down	- \$34,000
-Funds to Remain with Bob (Slightly less than \$32,396)	- \$30,000
At Risk Capital	\$336,000

Bob's Rule of Halves Planning:



- ▶ Apply for Medicaid August 1
 - ▶ Penalty runs 8/1/25 - 7/31/26
 - ▶ Note pays 8/1/25 - 7/31/26
- ▶ **Medicaid Eligible August 1, 2026**

What Has Bob Saved?

Bob's Remaining Assets



Trust	\$168,000
Allowance	\$30,000
Pre-Paid Contract	\$12,000
Personal Property	\$10,000
TOTAL SAVED:	\$220,000

- 8/1/26 forward- Medicaid Pays
- Bob's Trust- Protected from Medicaid, but his children can access it and use the money to supplement his care, upon death they inherit. (See last month's Medicaid Monday for more on Irrevocable Trusts)



MARRIED COUPLES

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)

Married Couples



Minimum Monthly Maintenance Needs Allowance (MMMNA)

- *Deals with income*

&

Community Spouse Resource Allowance (CSRA)

- *Deals with Assets*

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: \$3,948

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 \$157,920 *if greater*)



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
- **State cannot deny Medicaid coverage, even if the spouse has assets over the allowed limit**
- **But, NYS may seek a contribution towards the cost of care**

Plan Ahead To Avoid These Issues

Trust Planning 5 years in advance can help you avoid having to “spend down” to qualify for Medicaid. Take the first step today.

- **Schedule a free consultation with Pierro, Connor & Strauss:**
 - Medicaid Asset Protection Trusts
 - Advance directives and Medicaid Planning
 - Medicaid Applications
 - Estate planning for the well spouse
- Take control. Plan ahead with confidence

NEXT MONTH MEDICAID MONDAY

Home Care Update: Are You Ready for Big Changes?

August 11 @ 12PM

- 3 ADLs instead of 2
- CDPAP Class Action Settlement
- Impact of Federal Medicaid
Spending Cuts
- ...and more!

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