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## **Medicaid**

Medicaid is a government program that can help pay for the cost of long-term care if you or your loved one lives in a nursing home. A similar benefit, called Special Assistance, provides financial assistance to persons living in an assisted living facility.

Medicaid has rules which govern the amount of assets you may own and still receive this benefit. In addition, there can be serious consequences if you give away or transfer any of your property in the five years before you apply for Medicaid benefits.

It is important to meet with an experienced elder law attorney who understands the Medicaid rules before making any changes to your property.

At Schell Bray PLLC, we can help you determine if you will qualify for Medicaid benefits, assist you in preserving your assets (including your home), and prepare the application for Medicaid benefits on your behalf.

## **Requirements**

The following requirements must be met in order for an individual to qualify for Nursing Home Medicaid in North Carolina:

- At least 65 years of age or disabled.
- Citizen of United States or non-citizen in lawful immigration status.
- Social Security number (provided or applied for).
- Resident of North Carolina (anyone residing in a nursing home or assisted living facility certified for Medicaid is considered a resident of North Carolina).
- Medical need for care.
- Appropriately placed in a Medicaid facility that is able to provide the needed level of care, and actually receiving the needed services.
- Countable assets of less than \$2,000.00.
- Spouse's countable assets of no more than \$120,900.00 at time of Medicaid application, unless increased by a judge's order.
- Under no penalty for transfer of assets.
- Has filed for all other benefits to which applicant may be entitled.



## **Patient Responsibility**

“Patient responsibility” is the amount that the Medicaid recipient pays to the nursing home for each month of Medicaid coverage. It is equal to the recipient’s gross income with the following deductions:

A “personal needs allowance” of \$30.00 each month to pay for any extras not covered by Medicaid.

Health insurance premium, if recipient is paying the premium.

If married, an amount for the spouse’s needs, based on the spouse’s monthly income and the Minimum Monthly Maintenance Needs Allowance (MMMNA), up to \$3,022.50.

Gross income is the amount of income from the following sources, before deductions (such as the Medicare Part B premium and the Medicare Part D premium deductions from Social Security, income tax deductions, life or health insurance premium deductions, etc.):

- Social Security
- Pensions
- Civil Service
- Railroad Retirement
- IRA distributions
- VA pension
- Rental income
- Wages
- Alimony
- Interest and dividends

The Minimum Monthly Maintenance Needs Allowance (MMMNA) may allow the Medicaid recipient to allocate a portion of income to meet the needs of the spouse, depending on the amount of monthly income available to the spouse, plus excess shelter costs of the spouse.

Patient responsibility should be adjusted any time there is a change in income or health insurance premiums.

## **Income and Medicaid Qualification**

Most types of income are included for Medicaid qualification purposes, for example:

- Social Security
- Civil Service
- Pension, including Veterans Administration (VA) pension
- Annuity payments



- Retirement accounts
- Interest
- Dividends
- Alimony
- Rental income
- Life insurance proceeds

### **Assets and Medicaid Qualification**

In order to qualify for Medicaid, an applicant can have no more than \$2,000.00 worth of countable assets. If married, the applicant's spouse can have up to an additional \$120,900.00 of countable assets, unless increased by a judge's order. Available assets are counted toward these limits and excluded (or exempt) assets are not, as discussed below.

### **Available Assets (Counted for Medicaid Qualification)**

The following assets are available for Medicaid qualification purposes and counted in the asset limit, whether owned by the applicant or the applicant's spouse, or owned by either of them jointly with someone else:

- Checking accounts
- Savings accounts
- Brokerage accounts
- Certificates of deposit
- Stocks and bonds
- U.S. savings bonds
- Primary residence if applicant does NOT intend to return home
- Real property, other than primary residence (with certain exceptions)
- Limited partnerships
- Cash value of life insurance if the total face value of all such policies is greater than \$10,000.00
- Vehicles other than the one excluded vehicle
- Boats, unless your primary residence
- Recreational vehicles, unless your primary residence or your only vehicle
- Loans payable to applicant
- Deferred annuities and some immediate annuities, depending on how they are structured and the date purchased
- Retirement funds, generally (please contact us for more information)

### **Excluded Assets (Not Counted for Medicaid Qualification)**



The following assets are *excluded* for Medicaid qualification purposes and not counted in the asset limit:

- Primary residence if applicant intends to return home (note there may be some equity limitations)
- Primary residence, regardless of equity, if spouse, child under age 21, or blind or disabled child of any age lives there
- One vehicle
- Life insurance with no cash value
- Life insurance with cash value if the total face value of all such policies is less than or equal to \$10,000.00
- Irrevocable burial contracts
- \$1,500.00 designated for burial expenses (revocable burial contracts, burial savings accounts, or life insurance policies). This exclusion may not apply if there is also an irrevocable burial contract.
- One burial plot per family member

### **Primary Residence**

The Medicaid applicant's primary residence will generally be an excluded asset if the applicant is living in the home or intends to return home although some equity limits may apply. The home will also be excluded if the applicant's spouse resides in the home, or if a minor, blind, or disabled child resides in the home. This exclusion only applies if the property served as the recipient's primary residence prior to nursing home admission.

Home equity is calculated by subtracting any debt, such as a mortgage, from the current market value, which is the tax-assessed value on the property's tax statement for the most recent year.

If the home is sold during the Medicaid recipient's lifetime, the proceeds of the sale become an available asset. After the Medicaid recipient's death, if the home is included in the probate estate, then it will be a probate asset subject to creditor claims, including a claim by North Carolina for reimbursement of Medicaid benefits.

Certain planning strategies may be employed prior to application for Medicaid benefits (and after application for Medicaid benefits in the case of spouses) in order to avoid Medicaid's claim for recovery against the home after the death of the Medicaid recipient, and to prevent the sale of the home from disqualifying the Medicaid recipient from benefits.

Please call our office to learn more, 336-370-8800.

*As of 1/11/18*