

Medicaid

This section will give you the guidelines for qualifying for assistance under the Medicaid program. You should consult with an Elder Law Attorney for the laws and regulations concerning the care of an elderly parent with Medicaid.

Financial Rules for Long-Term Care Recipients in North Carolina

Medicaid pays for medically necessary nursing home care for patients in skilled or intermediate care nursing homes or in intermediate care facilities for the mentally retarded. The patient's income must be less than the cost of care in facility at the Medicaid rate, and there is a limit on resources. If the patient or his representative gives away assets or sells them for less than market value, he/she may be ineligible for payment of the cost of care. The sanction period is based upon the value of the assets transferred away.

Financial Protection for a Spouse

Medicaid policy specifies that when a legally married individual needs Medicaid to help pay for nursing facility services, a portion of the couple's income and assets may be protected for the spouse at home, the community spouse. The following is a summary of spousal protection rules:

- Medical services: nursing home care, hospital care that exceeds 30 days, or services provided by the Community Alternatives Program (services which enable an individual to remain at home who would otherwise be institutionalized)
- The community spouse is allowed to keep one half of the couple's assets, with a minimum of \$20,880 and a maximum of \$104,440 (current as of 1/1/2008)
- The protected share is calculated by assessing the value of all assets owned separately or jointly by either spouse at the point the individual becomes institutionalized. The homesite is generally not counted in determining the value of assets since the homesite is protected for the spouse.
- The nursing facility spouse must spend half of his assets on his care prior to becoming Medicaid eligible. A nursing home recipient is allowed a maximum of \$2,000 in assets.
- The protected assets, including the homesite, must be transferred to name of the community spouse.
- Once assets have been allocated following spousal impoverishment rules, spousal financial responsibility ends and each spouse will be treated separately for Medicaid purposes.
- A portion of a married institutionalized Medicaid recipient's income may also be allocated to the community spouse.
- Income is allocated for the needs of the community spouse if the community spouse's income is less than 150 % of the poverty level (currently \$1,750). It is also possible to allocate additional income to the community spouse for excessive shelter costs.
- Income may also be allocated for the needs of other dependents.

Transfer of Assets

Medicaid law prohibits the transfer of assets for less than fair market value by an institutionalized Medicaid applicant/recipient or anyone acting on their behalf.

- Certain transfers are allowable, such as the transfer of a homesite to a spouse or disabled child and transfers of property which would not have made the individual ineligible.
- The look back period is 3 years (5 years for transfers to a trust) from the date of application or institutionalization, whichever occurs later. In February 2006, President Bush signed the Deficit Reduction Act that made the "lookback" 5 years
- A sanction is applied for a period of time based on the value of the asset. The length of the sanction is determined by dividing the value of the transferred assets by the average monthly private cost for nursing home care (currently \$5,000). Several factors determine when a sanction period begins, including when the transfer occurred and when the individual applies for Medicaid.
- During the sanction period the individual may be eligible for Medicaid but Medicaid will not pay for institutional services.

Estate Recovery

- When a Medicaid recipient in a nursing home, receiving CAP, PACE or Personal Care services dies, Medicaid files a claim against the estate to recover expenses paid by Medicaid
- Estate recovery is waived if there is a spouse or dependents who continue to live on the property, the total assets in the estate are less than \$5,000, Medicaid charges are less than \$3,000, or in cases of hardship.

Qualifying for Medicaid Assistance for Long-Term Care

If you need assistance for a loved one that falls with income that falls below \$1,750 a month and assets below \$100,000 you may want to contact your local **NC Department of Social Services**, or call the Medicaid Eligibility Unit through the toll free CARE-LINE at 1-800-662-7030.