

Medicaid Planning

A two-tiered test to receiving financial assistance

Medicaid, also known as Title 19, is a medical insurance program operated jointly between the federal and state governments. Medicaid provides a broad range of medical assistance and services, including nursing home and hospital stays. Because Medicaid eligibility is based on both medical and financial needs, qualifying for the program's benefits can be very difficult.

Medical Need

Medicaid provides coverage if the individual has a long term or irreversible health condition that is intended to last greater than 90 days or result in a loss of life within the next year. Moreover, individuals at risk of losing their independence without assistance may also qualify.

Financial Need

Financial need is a two-pronged test based on the applicant's income and assets. At the time of application, an assessment is made of the applicant's income and assets to determine if and/or when the applicant will be eligible for Medicaid benefits.

- **Income** – An applicant's available income (broadly defined) must be used first to pay for the cost of care. Medicaid will cover the shortfall, if any, between the cost of care and the applicant's income.
- **Assets** – Generally, a single applicant's countable assets must be less than \$2,000 for Medicaid eligibility. In some cases, certain assets may be considered "unavailable" or "exempt", such as the applicant's home or car. Moreover, the Institutionalized Individual's Spouse, known as the Community Spouse, may be permitted to retain up to \$120,900 of countable assets.

Asset Considerations

The Medicaid eligibility assessment process divides the applicant's assets into three categories:

- **Countable Assets** – These assets must be spent down by the applicant prior to being eligible for Medicaid. All assets that are not Unavailable or Exempt are considered Countable.
- **Unavailable Assets** – Assets that are non assignable or non transferrable are not included in the ineligibility period calculation. Examples of Unavailable assets include:
 - Life estate interest in property
 - Non-primary residence real estate listed for sale
 - Self-Settled Special Needs Trust
- **Exempt Assets** – The type and value of Exempt assets varies based on the applicant's marital status. Exempt assets are not included in the ineligibility period calculation. The following table gives some examples of Exempt assets.



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Asset Type	Institutionalized Individual	Institutionalized Individual & Community Spouse	
Liquid Assets	\$2,000	\$2,000	
Personal Property/Furnishings	Reasonable value	Reasonable value for each spouse	
Wedding Ring	Reasonable value	Reasonable value for each spouse	
Automobile	One car, though some states place a dollar limit on its value unless used for medical appointments	One car with a reasonable value	
Life Insurance	\$2,500 death benefit	\$2,500 death benefit	
Prepaid Funeral	Yes, but amount eligible varies by State	Yes, but amount eligible varies by State	
Qualified Long Term Care Policy Proceeds	Dollar for Dollar exemption (State Specific)	Dollar for Dollar exemption (State Specific)	
Primary Residence (may be subject to medical lien)	\$560,000 - \$840,000 (if intent to return home)	\$560,000 - \$840,000	
Retirement Plans	N/A	State Dependent	
Community Spousal Resource Allowance	N/A	Total Countable Assets at the time of application:	Community Spouse retains:
		≤ \$48,360	\$24,180
		> \$48,360 but < \$241,800	50% of total countable assets
		≥ \$241,800	\$120,900

Ineligibility Period

The Ineligibility Period refers to the time after the applicant’s request for Medicaid benefits during which they’re not eligible to collect benefits. Ineligibility can be caused by the following:

- Owning Countable Assets at the time of application for benefits
- Gifting (or “divestment”) of assets within 60 months of the application date to a non spouse or dependent child

The Deficit Reduction Act of 2005 (DRA of 2005) modified the ineligibility period by changing the divestment period rules. Under these rules, the ineligibility period due to having divested assets does not begin until the countable assets are eliminated and the applicant would otherwise be eligible for Medicaid benefits. The divestment period of ineligibility equals:

- The divestment amount
- Divided by the statewide average daily nursing home cost to a private patient

Divestments can be fully or partially cured if the donee returns the assets back to the original donor. Upon this event, the divestment period will be recalculated. The cured amount may result in countable assets that must be spent prior to the divestment period beginning.

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Ineligibility Period Example

John Doe, single, applies for Medicaid with \$50,000 in countable assets, a car valued at \$10,000 which he uses for medical appointments and a home valued at \$500,000 which he intends to return to. The car and home are both considered Exempt assets. In addition, John has gifted (or divested) \$40,000 to his non-dependent child each year for the past six years, for a total of \$240,000.

John then applies for Medicaid benefits. John eligibility for benefits is calculated as follows:

- Because he has \$50,000 of Countable assets, he must use those before he is eligible for Medicaid. Assuming an average daily cost of care of \$250, that \$50,000 will provide 200 days of coverage.
- Once his Countable assets are depleted, John is subject to an ineligibility period because of his gifting. Of the \$240,000 gifted, only the portion gifted in the five years prior to applying for benefits, or \$200,000, would cause an ineligibility period.
 - The divestment amount is divided by the statewide average daily nursing home cost to a private patient.
 - Assuming that amount is \$333, the ineligibility period is 600 days ($\$200,000/\333).

John will not be eligible for Medicaid benefits until the countable assets have been depleted (200 days) and the divestment period is completed (600 days). Therefore, John is not eligible to receive Medicaid benefits until the 801st day after his initial application.

Specialized Planning

Medicaid planning is a highly specialized and very complicated area of financial and estate planning. A qualified Elder Law Attorney should be consulted to discuss the various federal and state specific rules that apply.

This information is not provided as legal advice, but for information purposes only. You are strongly advised to seek advice from competent legal and tax counsel to determine the applicability of this information to your estate and financial planning decisions. You are also encouraged to seek qualified legal counsel to determine if any estate planning documents should be prepared which relate to this information and to have legal counsel prepare all estate planning documents you may need to carry out your estate plan.