

WHAT YOU NEED TO KNOW ABOUT

# Medicaid Planning

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AN EASY-TO-USE FAMILY GUIDE

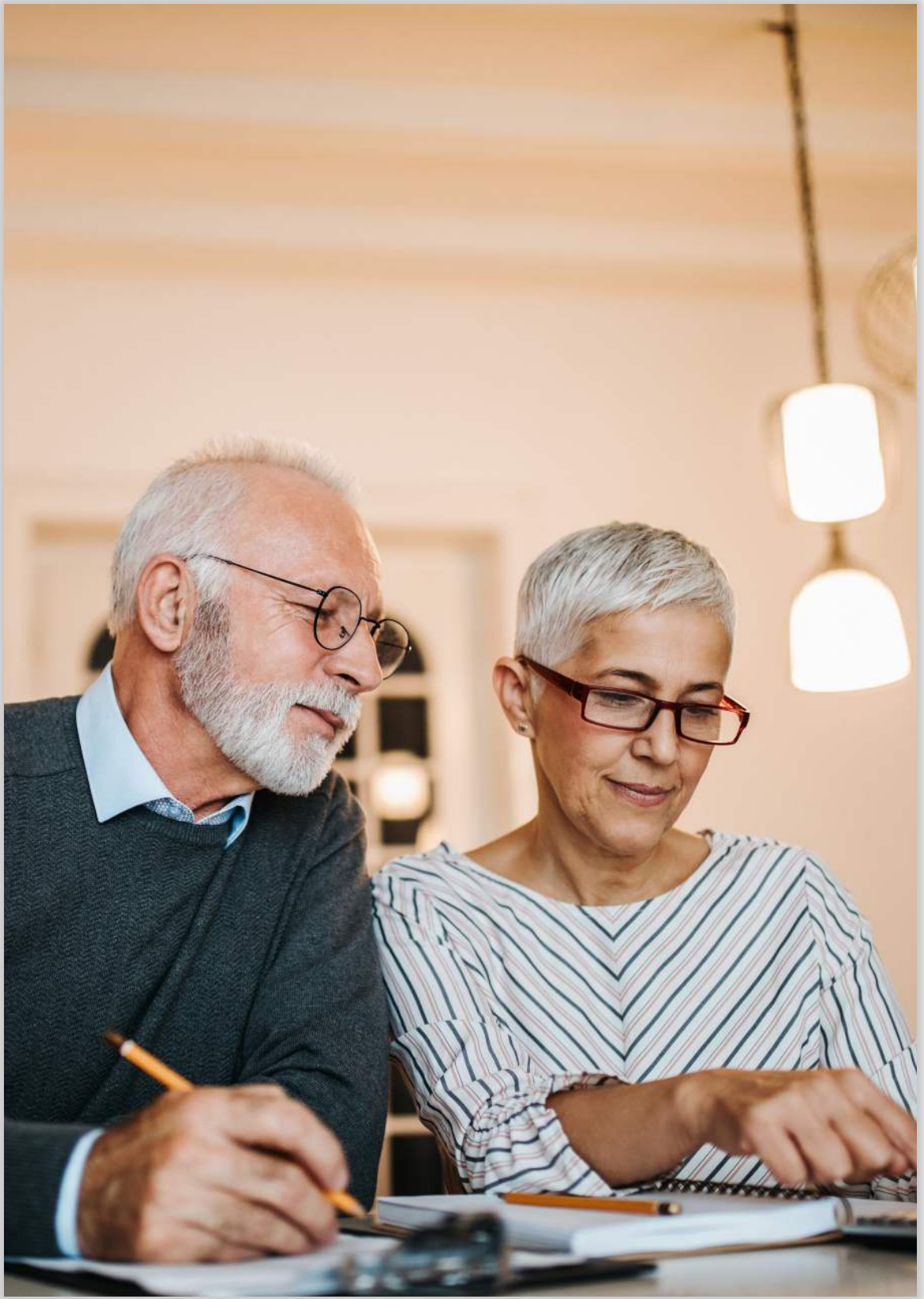


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# Get the help (and protection) that you deserve

Though there are many complexities to Medicaid planning, it's important to understand Medicaid is there to help families like yours. Medicaid planning is the best way to ensure you receive the benefits to assure you protect as much of your hard-earned assets as the law allows, and to receive the care you need.

The best advice we can give you is this: Start planning now. No one knows what the future will bring. The sooner you start preparing for your golden years, the fewer surprises there are likely to be. And a little planning now can make a big difference for you and your loved ones later on.

The first step in Medicaid planning is education. The more you know about how Medicaid works, the better you will be able to look out for the interests of your family.

Provided within is a brief look at some aspects of Medicaid law. It will hopefully dispel much of the confusion around medicaid qualification. For more detailed information, it's best to consult with a qualified legal advisor. So think of this as an introduction.

*Let's get started...*

# Things to Remember

## **IT'S NEVER TOO LATE**

Medicaid planning can begin anytime, even if your loved one is already living in a skilled care facility. But the sooner you plan, the more options you will have to protect what's important to you.

## **YOU CAN KEEP YOUR HOME**

If you're married, and you or your spouse needs to go into a nursing home, your home is exempt from Medicaid's calculation of what your contribution to the cost of care should be. If you are unmarried or widowed, and you go into a nursing home, your house may be exempt if you follow certain procedures. Even though your house is safe while you reside in a nursing home, it will likely be lost to Medicaid after your death. Planning is key to preserving your home whether married, single or widowed.

## **DON'T GIVE AWAY THE STORE**

Since major changes to laws in 2006, "gifting" away your assets creates unforeseen circumstances and can make you ineligible for Medicaid benefits for 5 years or more! Far from protecting yourself, you will be undermining your own security.

## **MIND THOSE SAFE HARBORS**

Congress has created a number of "safe harbor" provisions for protecting your assets. These provisions exempt certain assets and allow transfers to children or siblings, who meet certain eligibility requirements, as well as putting assets in certain kinds of trusts.

## **CAREFULLY CHOOSE WHEN YOU APPLY**

Applying too early can mean a longer wait for Medicaid qualification than necessary, while applying too late can mean having to pay for months of care you may not have had to pay. Rule of thumb: Do not apply for Medicaid without a plan to ensure you qualify.

## **GET THE RIGHT HELP**

Medicaid planning is a complex matter. You need expert assistance to keep your assets safe. Be sure to find legal counsel who limits their practice to this area – someone with proven expertise in Medicaid law.



## Rule of Thumb

DO NOT APPLY FOR MEDICAID WITHOUT  
A PLAN TO ENSURE YOU QUALIFY.



# What are the rules for Medicaid qualification?

Medicaid is a federal program that provides health coverage for people with limited assets and incomes. It covers the cost of nursing home care for those who meet the program's economic requirements for eligibility, and in several states, it will also pay for care in your home!

Though it's a federal program, Medicaid is administered by the states. Federal law empowers each state to enforce Medicaid eligibility rules according to its own interpretation. This means that application of these rules can vary significantly from state to state and, in some states, from county to county. Qualification for care in your home is also different for qualifying for care in a nursing home.

Your Medicaid planning advisor can best help you determine how the rules apply to your specific circumstances in your specific locality. Before you get into the specifics, however, it's a good idea to familiarize yourself with the general federal guidelines for Medicaid qualification that apply everywhere.

## ASSETS

Generally speaking, assets fall into two categories: "countable" and "non-countable." To qualify for Medicaid benefits, a nursing home resident can have \$2,000 in countable assets in 2025. The spouse of a nursing home resident, or "community spouse", can retain between a minimum of \$68,301 and a maximum of \$157,920 of the couple's joint countable assets. A Medicaid asset protection trust can be a highly effective estate planning tool. Strategic planning can protect excess assets in order to qualify for benefits sooner.

**Certain assets are not counted in arriving at this amount.**

## THEY INCLUDE

- All or part of applicant's principal residence (see "Some simple planning options")
- Personal possessions (furniture, clothing, jewelry, etc.)
- One motor vehicle (some limitations apply to unmarried people)
- Prepaid funeral plan for applicant, spouse or family members
- Life insurance (up to a certain limit)
- "Other assets" needed to raise the community spouse's total income up to the statutory minimum (see allowable income on the next page)
- If you don't own a home, you may purchase a "life estate" in a child's or other's home.
- A life estate is the right to live in a residence without owning it.
- A home owned with a sibling for one year.

## ESTATE RECOVERY

What happens to a Medicaid recipient's estate when he or she passes away? Like so much else, that depends on whether they have properly planned to protect it.

When a Medicaid recipient dies, the state must attempt to recover the benefits paid to that individual from his or her estate – that is a requirement under federal Medicaid law. However, the state cannot proceed with this recovery process if any of the following applies:

- If the recipient's spouse is still living
- If the recipient has a child under age 21
- If the recipient has a child who is blind or disabled

Some states have expanded the scope of assets from which they can recover the cost of a Medicaid recipient's care. Trusts are often used to protect your assets both during your life and after your death. A qualified Medicaid Planning Attorney can advise you on the many types of trusts available.

## PROPERTY LIENS

In addition, the state can place a lien on an unmarried Medicaid recipient's home, unless certain dependent relatives live on the premises or the state permits a "Homestead Exemption" (see "Some simple planning options"). Sale of the property, while the recipient is still living, could result in the loss of Medicaid coverage (due to excessive assets) and an obligation to use the sale proceeds to satisfy the lien. There are exceptions to this rule, as well. Satisfaction of the lien is not required if the applicant returns home prior to their death or one or more of the following individuals reside on the property:

- The recipient's spouse
- A child under age 21
- A child who is blind or disabled
- A sibling with an equity interest in the home
- A child who cared for the recipient for the two years preceding his or her application for Medicaid coverage

Note: The lien is solely for the purpose of recovering the cost of Medicaid care paid prior to the recipient's death. Consult your Medicaid planning advisor for more details.



## ALLOWABLE INCOME

How much income are you allowed under Medicaid law? There are different answers for the “community spouse” and the individual who resides in a nursing home.

**Nursing home residents in Washington** can only keep up to \$105.00 (2025) a month as a personal needs allowance – the rest of their income must go to help cover the cost of their care.

If your spouse goes into a nursing home and you remain at home, Medicaid always allows you to keep all income paid in your name, no matter how much.

In addition, if the income paid in your name is less than \$2,555, you may be allowed to keep as much of your spouse's income as is necessary to bring your income up to \$2,555 per month. And, if your housing costs (rent or mortgage, taxes, insurance, maintenance fee for a condominium or cooperative, and utilities) exceed \$767 per month, then the \$2,555 can be increased up to \$3,948 by the amount of this excess. In calculating housing costs, your actual costs for rent, mortgage, maintenance fee, taxes, and insurance are used. For utilities, however, a standard figure of \$502 per month is used.



# Do I have to wait 60 months?

## THE ASSET TRANSFER “BOX”

Many people believe that if you give your assets away, you must wait 60 months to qualify for Medicaid. This is not the case. The 60 month requirement only applies to the financial disclosure you must provide, not eligibility.

Think of it this way: When you go to apply for Medicaid, imagine you're bringing a box with you. In that box is every financial transaction you've made for the previous 60 months. That is all you need to provide – if you made a transaction 61 months ago, it's not in the box. So 60 months is just the size of the “box”...it's that simple. However, this has nothing to do with determining your qualification for Medicaid. It is what Medicaid sees in the “box” that determines whether you will qualify. If you make the proper planning decisions, you may qualify immediately even if the “box” contains information that might otherwise make you ineligible for Medicaid.

This 60 month period is what is referred to as the Medicaid “look back period.” With appropriate planning and expert assistance, you can give yourself the best opportunity to qualify for Medicaid coverage when you need it.

## LOOK-BACK EXCEPTIONS

You can make certain asset transfers without negatively affecting your prospects for timely Medicaid qualification. These include transfers to:

- A spouse
- A child who is blind or disabled
- Trusts that solely benefit the applicant or applicant's spouse
- Trusts that benefit a blind or disabled child
- Trusts that solely benefit a disabled person under the age of 65 (in some cases, the recipient)

## Some simple planning options

- If you are married, your home is exempt and cannot be taken if one spouse applies for Medicaid. If you are single or widowed, up to \$1,097,000 (2025) of equity in your home. Transferring your home to your children will result in immediate ineligibility for Medicaid.
- A nursing home or hospital that offers to file a Medicaid application for you has no obligation (and often is unable) to advise you on how to protect your assets. Only a qualified Medicaid planning attorney can provide you with the options you need to make an informed decision.
- Long-term care insurance should always be considered. An annual premium for a couple is usually less expensive than one month of nursing home care, and when incorporated with proper planning it may also enable you to stay home if you become ill.

# Special needs

## SUPPLEMENTAL NEEDS TRUSTS

In 1993, Congress enacted new laws that entitle disabled individuals to get the same estate planning benefits as non-disabled individuals without affecting their eligibility for state or federal benefits. A Supplemental Needs Trust can be created by an individual with their own funds or be created by someone other than a disabled individual, typically a parent or relative.

## GUARDIANSHIP

As a parent of a special needs child, you are the minor child's "natural guardian" and can make all decisions regarding the child. However, your rights as guardian do not allow you to have access or control over your child's assets. In addition, when your child turns 18, you lose your rights as natural guardian to make health care and other life decisions for them.

To maintain these rights, you must commence a guardianship proceeding in Court or the state will have legal authority over your disabled loved one. To avoid losing your authority, you should contact a qualified attorney to begin a guardianship proceeding at least six months prior to your child's 18th birthday.

# Spousal protections

The spouses of nursing home residents are provided certain protections under Medicaid law. Here is a brief overview:

- **Snapshot of couple's assets** – With married applicants, Medicaid takes a "snapshot" of the couple's assets when the ill spouse enters a hospital or long term care facility for at least a 30-day stay.
- **Community spouse resource allowance** – This rule allows the community spouse to keep up to \$157,920 (2025) of additional assets above and beyond the non-countable assets. You may be permitted to keep even more assets if you meet certain criteria.
- **Minimum monthly maintenance needs allowance** – If the nursing home resident is the principal breadwinner, and the community spouse does not have enough income to live on, the community spouse can keep some or all of the nursing home spouse's monthly income. The total amount the community spouse may retain is \$3,948 (2025).

For updated amounts and special exceptions, consult your Medicaid planning advisor.

# “COPEs” Community Options Program Entry System

Washington State's Medicaid program has a separate program that allows for payment for individuals who are not receiving institutional care in a nursing home. This program is called COPEs (Community Options Program Entry System).

For most people, the thought of spending their final years in a nursing home is incredibly unpleasant. However, many individuals who need assistance can stay in their homes or in another residential setting and still receive the care they need. COPEs, like the general Medicaid program, is needs based. To qualify for COPEs, you must be financially eligible and need extensive help with two of the six activities of daily living including eating, bathing, getting dressed, toileting, transferring and continence.

Clients may pay a portion of the cost of services based on their income with state and federal funds providing the balance of the money. To be both income and resource eligible a person's monthly income, minus reductions, must not exceed certain levels. Various assets, such as a home and car, are often exempt and will not count against you. However, it is important to note that assets in the name of the COPEs recipient, even if exempt, may be subject to estate recovery for payments made at a later time.

Once you qualify for COPEs assistance, the amount you receive is determined by the level of care needed, the type of place you are residing (home, adult family home, assisted living facility) and your location. For instance, you may receive slightly more money if you reside in an assisted living facility in Seattle rather than an adult family home in Everett.

COPEs rules can be complicated. Many people need help applying for COPEs or Medicaid. To find out if you or a loved one qualifies for COPEs, and if you need assistance protecting your assets while qualifying, please contact us.

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