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PRACTICING EXCLUSIVELY IN:

ELDER LAW
ASSET PROTECTION
MEDICAID & NURSING HOME PLANNING
ESTATE PLANNING
DISABILITY PLANNING
MEDICAID APPLICATIONS
GUARDIANSHIP
WILLS & TRUSTS
ESTATE ADMINISTRATION
ELDER LAW LITIGATION

MEDICAID FACT SHEET – 2009

Criteria for Qualification

Medical

- Evaluation by CARES Unit upon application

Note: If medical qualification may be questionable, you may call to arrange a free private assessment *prior* to applying (call the Dept. of Elder Affairs, CARES Unit at 954-746-1773).

- Applicant must need skilled nursing care on a 24 hour-a-day, 7 day-a-week basis

Note: Mere dementia is not enough; custodial care needs are not “skilled” care.

Income

- Applicant's income cannot exceed \$2,022 gross income per month

Note: If income exceeds this figure, a qualified irrevocable income trust must be executed (and the bank account funded) in the month of application

- If married, spouse's income is NOT available for eligibility purposes. Spouse's income is only considered after applicant qualifies and for purposes of diversion of some of applicant-spouse's income to the community spouse at home

Note: Spousal Diversion is not applicable to the Home Care Medicaid waiver.

Assets

- Applicant's assets cannot exceed \$2,000 + “exempt” assets

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Assets (con't)

- ❑ If married, and applying for nursing home (ICP) program, the community (at home) spouse's assets may be an additional \$109,560 + "exempt" assets

Note: If the community spouse's assets produce very little income (less than \$1,712 per month), he or she may receive income from the institutionalized spouse and if a shortfall still exists, the community spouse may be entitled to a greater Community Spouse Resource Allowance (CSRA) through appeal processes.

- ❑ Asset Transfers: Have any assets been gifted (transferred for less than fair market value) to anyone other than a spouse in the past 5 years? If so, a penalty period is imposed by the Department of Children and Families during which time the applicant will not qualify for Medicaid ICP benefits.
- ❑ Penalties for Gifting: If during the 5 year look back period, gifts appear on bank statements, the amount gifted is divided by \$5,000 to determine how long the penalty period will run. One cannot apply during a penalty period, if any.
- ❑ A Medicaid Application is now required to be filed in order to trigger a penalty period. This is a new rule effective November 1, 2007 in Florida.
- ❑ A penalty period can only be triggered if an individual is "otherwise eligible" for Medicaid benefits. This is a new rule effective November 1, 2007 in Florida.
- ❑ Intra-spousal transfers/gifts do not result in a penalty period.



ICP/Nursing Home

Income

Applicant: \$2,022/ month cap (gross figures)

Community Spouse: not applicable (other than for diversion)

Assets

Applicant: \$2,000 + exempt

Community Spouse: \$109,560 + exempt



Augmented elective estate: If an applicant is married and receiving Medicaid, and if the community spouse living at home (i.e., the "well spouse") predeceases the spouse on Medicaid, Medicaid benefits could be discontinued or suspended if the community spouse fails to properly create a Special Needs Trust in his or her estate planning documents.

Please speak with one of the attorneys at Elder Law Associates PA if you have any questions regarding the foregoing.