

## Medicaid & Long-Term Care

For more information call the LREP toll-free Legal Helpline at 1-800-876-6657 or 505-797-6005 (Albuquerque area) or visit us online at [www.nmbar.org](http://www.nmbar.org).

Paying for **long-term care**, whether in a nursing home or through care provided in the home, is a cause of concern for many seniors. Medicaid is a publicly-funded program that can help with these costs, either through **Institutional Care Medicaid** for nursing home care or through the **CoLTS C Waiver Program** for home care. Medicaid is a **needs-based** program, meaning recipients are required to pay for their own care as long as their income and assets exceed the eligibility guidelines. All Medicaid recipients must meet the Medicaid **financial eligibility requirements**. This requires an examination of the individual's and, if the applicant is married, the couple's income and assets.

### Medical Eligibility

To qualify medically for **Institutional Care Medicaid** benefits, you must meet certain threshold requirements, including age (65 years old) or disability (including blindness), U.S. citizenship and New Mexico residency. You must require nursing home level care as certified by a physician. If you are younger than 65, your disability must be expected to last at least 12 months.

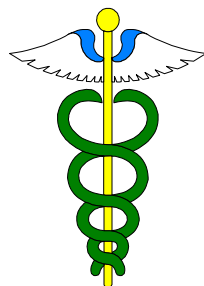
To qualify medically for the **CoLTS C Waiver**, you must be medically eligible for nursing home care but be able to receive services at home or in assisted living. The CoLTS C Waiver pays for specific services, but in most cases not for the whole cost of assisted living. Funding for this program is limited and there is usually a waiting list.

### Financial Eligibility

#### Person in Need of Long-Term Care

If you are **single, divorced, widowed or your spouse is also in a nursing home**, you are eligible for Medi-

caid if you require long-term care, and you meet **both the income and assets requirements**. Your **monthly income** must be less than about \$2022 per month (the amount changes every year in January). You are allowed to keep about \$60 of your income in a personal needs account, with the rest of your monthly income paid directly to the nursing home for your care. Medicaid then pays the rest of the monthly cost.



You can have no more than \$2,000 in "**assets**" such as life insurance cash value, bank accounts, IRA's, etc. You can also have no more than \$1,500 in a **burial account** (or you may have a pre-paid burial agreement in any amount as long as it is pre-paid and irrevocable, meaning you cannot get your money back). You can have one **vehicle** worth any amount. If you own a **home**, you are not required to sell it as long as you state you intend to return home and you do not have over \$750,000 in equity. After your death, the state can recover the costs paid by Medicaid for your care by making a claim against the assets in your estate.

#### Stay-at-Home Spouse

The **stay-at-home spouse** of a person in need of long-term care is able to keep at least half of the couple's income (sometimes more than half). The stay-at-home spouse is also allowed to keep a significant portion of the couple's community assets including the family **home** (with no limit on the amount of equity) and one **vehicle** of any value as long as the vehicle is needed for transportation to work or medical care. In addition to the home and vehicle, the stay-at-home spouse is allowed to keep a maximum of one half of the **community assets** up to about \$109,560 (the amount changes every January). This protects the stay-at-home spouse financially when the other spouse requires long-term care.

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# Medicaid and Long-Term Care (Cont.)

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## Transfer of Assets

Medicaid is a needs-based program that operates on the principle that people who can afford to pay for their own care should do so before requesting public funds. To be sure people are truly needy, Medicaid reviews an applicant's financial records to see if any assets have been given away within the last 5 years. This "**look back period**" covers all types of transfers, whether directly to another individual or into a trust, except for transfers made between spouses. Transfers between spouses must be completed within one year of the initial resource determination of Medicaid eligibility for the spouse requiring nursing home care.

If you have given away assets within the look back period, Medicaid requires those assets be returned to you so you can spend them on your care. If assets transferred cannot be returned to the recipient, a **penalty** will be assessed against the recipient. The penalty is based on the value of the asset transferred and begins running as of the date of application for Institutional Care Medicaid. During this penalty period, you will be responsible for paying the costs of your care.

For example, if nursing home care costs \$6,000 per month, and you give away \$60,000 of assets within 5 years of needing care, Medicaid won't pay for your care for 10 months (\$60,000 divided by \$6,000 = 10).

## Frequently Asked Questions

**Q. Am I required to sell everything I own before Medicaid will pay for long-term nursing home care?**

A. You are allowed to keep some assets, even if you are single. If you are married, your spouse is able to keep many of your assets to live on. But if you sell or

give away your assets in the 5 years before you need long-term care, you may be subject to penalties and be unable to receive Medicaid assistance for some period of time. You can spend your assets on your own needs in order to qualify for Medicaid, but you can't give your assets away or save them to pass on to your children after you die.

**Q. Will I have to sell my home to meet the eligibility requirements for Medicaid?**

A. In most cases, your home will not be considered an asset which must be sold, provided you state that you intend to return home. For most people, it's better not to sell the home because the cash from the sale would have to be used to pay for long-term care before Medicaid would assist. Medicaid will only consider your home as an asset if you are single and have \$750,000 or more in equity in the home, even if you intend to return home. Additionally, the state may recover reimbursement of the amount Medicaid paid for your care under the Medicaid Estate Recovery Act. This recovery may occur when your estate is probated.

**Q. What about transferring my home to my children or adding their name to the title?**

A. Both of these are considered giving away an interest in your assets and will result in penalties that will delay your access to Medicaid funds. Also, once someone else owns your property in whole or in part, you can't make them give it back.

**Q. What if my income is too high for Medicaid, but I can't afford the whole cost of long-term care?**

A. If your income is too high, but you meet the asset tests, you may be able to consult a lawyer to prepare an **income diversion trust** that sets aside your excess income and makes you eligible for Medicaid funding. After you die, the excess income accumulated in the trust goes to reimburse Medicaid for your care.