



Family Care Connections, LLC

ELDERCARE GUIDE

NEW YORK HOME CARE MEDICAID



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NY HOME CARE MEDICAID

Home Care & Community Medicaid

Individuals facing a catastrophic long-term illness will often require Medicaid Health Insurance coverage to pay for their care. New York Medicaid is a health insurance program for people with limited assets and income, (\$15,750.00 in Assets and \$875.00/month of Income for the year 2020 in New York State). It also is the only insurance that pays for long term care for an indefinite period and Medicare has limited coverage for a limited period of time.

Consequently, most middle-class individuals facing a catastrophic long-term illness must do special planning to limit the availability of their income and assets in order to become Medicaid Eligible. This process is called “spending down,” or “transferring assets.”

There are special rules governing spend-down and transferring of assets and there are certain protections for transferring assets when applying for Medicaid if a disabled child or spouse is involved. There are also certain protections available for the non-applicant spouse. Assets and income subject to certain limitations can be protected without a transfer of assets penalty being imposed. Community spouses may also keep greater amounts of income and assets if their spouse is institutionalized. Medicaid planning requires extensive planning with a knowledgeable Medicaid advocate. An overview of this process is set forth below.

There are several types of Medicaid in New York including: Community Medicaid, Home Care Medicaid, Assisted Living Program (ALP) Medicaid and Long-Term Care/Nursing Home Medicaid.

Medicaid Rule Prior to October 1, 2020

Individuals applying for Community Medicaid, Home Care Medicaid, and Assisted Living Program (ALP) Medicaid can transfer their assets without penalty in order to get their resource level down to \$15,750.00. In addition, the primary residence does not count as part of the computation for eligibility up to \$893,000.00 equity (2020). IRA's in payout status are also not included in the resource computation regardless of value. However, the income will be counted as part of the income limit of \$875.00/month as described above.

NY HOME CARE MEDICAID

Example #1:

Mr. Smith has \$30,000 in resources and requires Home Care services because he is having increased difficulty with mobility. In order to qualify for Home Care Medicaid, Mr. Smith will need to spend down the \$30,000 to \$15,750 or transfer \$15,000 of excess resources out of his name. Because there is no penalty period for transferring assets (for applications prior to October 1, 2020), once the transfer or spend down is complete, Mr. Smith will be eligible for Home Care Medicaid.

Note: For the most recent updates to Resources and Income, see the Medicaid Update attached to this publication

Medicaid Rule After October 1, 2020

Individuals applying for Medicaid in the community and for home care after October 1, 2020 will be subject to a 30 month look back on transfers of assets. The amount of the penalty will be determined by the amount of assets transferred. However, the penalty period will never be more than 30 months. In addition, transfers to spouses or disabled children will still be exempt.

Example:

Mr. Smith has \$100,000 in resources. He wants to apply Home Care Medicaid after October 1, 2020. He transfers \$85,000 of his resources to his son and daughter. They do not qualify as exempt individuals. This transfer will result in a period of ineligibility.

Note: The ineligibility period will be discussed in a separate article and individuals are strongly urged to consult with a Medicaid expert when contemplating transfers of assets in the context of Home Care Medicaid.

Surplus Income Spend Down

In addition to the resource limit, there is also an income limit. A Medicaid applicant cannot have more than \$875.00 in income (2020). If a Medicaid applicant has income greater than the \$875.00 (2020) he/she can “spend down” the excess income on medically related expenses such as insurance premiums, supplies, medication, health aides, equipment, etc. If a person does not have sufficient medically related expenses or if the surplus spend down will interfere

NY HOME CARE MEDICAID

with other necessary expenses such as rent, food, mortgage, telephone, etc., it is possible to apply the excess income to these expenses through the use of a Pooled Income Trust (The Pooled Income Trust is described in a separate section below). The Pooled Income Trust is managed by a not-for-profit agency and the excess income is paid to the Trust. Specific bills are identified to be paid from the Trust on a monthly basis. This type of Trust allows the Medicaid recipient to continue to pay necessary monthly bills and continue to receive Medicaid at home and in the community.

Remember it is important to understand that there is no limit on the transfer of resources/assets in New York State when qualifying for Home Care, Community or Assisted Living Program Medicaid for applications prior to October 1, 2020. There will be a 30 month look back and a penalty period imposed for applications made after October 1, 2020.

Pooled Income Trust

If an individual has excess income, he/she can enroll in a Pooled Income Trust and have the excess income (the amount greater than \$875 for 2020) applied to other household expenses such as rent, food, utilities, telephone, cable, insurance etc. This is done via a not for profit Pooled Trust organization. All expenses are identified and the excess income is paid to the Trust. The Trust then pays the expenses with the excess income. There is a fee associated with the creation and operation of the Pooled Trust and the Trust must pay over any remaining funds to Medicaid if the Medicaid recipient dies. Medicaid applicants should discuss the Pooled Trust thoroughly with a knowledgeable advocate before establishing the Trust. It can be a useful option when there is excess income that will be subject to a spend down.

Example #1:

Mrs. Johnson has \$1,500/month in income and she is applying for Home Care Medicaid. Her excess income totals \$625/month (2020). She needs the \$625 to pay for household expenses such as rent and food. She can do this by establishing the Pooled Income Trust.

NY HOME CARE MEDICAID

Example #2:

Mr. Williams has applied for Home Care Medicaid. His monthly income is \$950. Therefore, his excess income is \$75. He may not want to create the Pooled Income Trust for \$75/month since the fees to create the Trust and the ongoing cost to manage the Trust may outweigh any benefit. A financial amendment must be done.

Establishing Home Care Services

Once an individual has been approved for Home Care Medicaid that person must obtain a Universal Assessment to establish the amount of care that is needed by the patient. This is done through the conflict free evaluation enrollment center at the New York State Department of Health. The NYS Department of Health can be reached at (855) 222-8550 (2018) or online at health.ny.gov. Look for the CFEEC Conflict Free Evaluation and Enrollment Center. After the evaluation is complete the individual must select an MLTC (Managed Long-Term Care) agency. This agency will serve as the administrator of the care and select the Home Care agency to provide the care. The MLTC will also determine the number of hours of care per day and the number of days needed. The number of hours and days is subject to review and can be modified with proper information and advocacy.

To qualify for personal care an individual must enroll in an MLTC plan and all new applicants must require physical maneuvering assistance with more than two Activities of Daily Living (ADL). People with dementia or Alzheimer's are required to be in need of supervision with more than one Activity of Daily Living (ADL). All housekeeping services under Level 1 are now eliminated. Currently individuals could receive up to eight hours a week of housekeeping. This service will be eliminated as of October 1, 2020.

Note: It is important to have an accurate assessment of the physical needs of the patient so that the proper amount of care is provided.

For further information about Home Care Medicaid or Community Medicaid in New York State contact Frank G. D'Angelo, J.D., Director of Medicaid & Medicare Services at Family Care Connections, LLC. He can be reached at (516) 248-9323 or FGDangelo@FamilyCareConnections.com

NY HOME CARE MEDICAID

Frequently Asked Questions when Applying for Home Care and Community Medicaid

Q: What is the “look back” or “penalty period” for Home Care and Community Medicaid?

A: There is no penalty period or look back period when applying for Home Care or Community Medicaid. Individuals may transfer any amount of money out of their name and still qualify for Medicaid without a penalty. This is for application prior to October 1, 2020. For applications after October 1, 2020 there is a 30 month look back and a penalty period may be imposed on asset transfers.

Q: If a Home Care or Community Medicaid applicant has more than \$875/month in income, will he/she be disqualified for Medicaid?

A: No. The individual can spenddown excess income on medically related expenses, create a Pooled Income Trust to pay for other monthly expenses or simply pay the excess as a “deductible” to stay in the program.

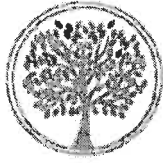
Q: How will the scope of Home Care services be determined?

A: Once approved the individual must have a universal assessment done to determine the level of care needed. This is done by the Department of Health. It is called a Conflict Free Evaluation. Call (855) 222-8550 (2018) to schedule the evaluation. For more information go to the website at health.ny.gov or call Family Care Connections at (516) 248-9323 or (718) 470-6300.

Individuals must also choose an MLTC to conduct an assessment and determine the number of hours to be provided. This assessment will be used to determine how much care is needed. Individuals should consider obtaining a separate evaluation if there is a potential for disagreement about the scope of hours. The scope of care has become a very difficult phase of the process and a strong and knowledgeable professional advocate may be necessary in order to insure the proper amount of hours is approved.

Q: Is the home “exempt” when applying for Medicaid?

A: The home does not count for eligibility purposes. However, Medicaid can recover against the home when the Medicaid recipient sells the home or if it becomes part of his/her Estate. Therefore, planning should be done with a knowledgeable advocate, Medicaid Consultant, Elder Law or Estate Planning attorney to prevent recovery from the Estate.



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Dear Reader,

Thank you for taking the time to review the Family Care Connections Eldercare Guide. Please note the information contained in this publication is to be used for information and educational purposes only. This publication is not intended to provide legal, financial or healthcare advice to any one individual. The information should be used as a resource to supplement all professional advice. Do not rely on this publication solely when confronting the issues addressed in the publication. Rather, seek the advice of knowledgeable and reputable professionals who can advise and guide you regarding your particular needs and concerns.

We hope you have found this publication helpful and we invite your feedback. Please contact us with any questions, concerns or to set up an appointment.

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Advanced Practice Nurse Care Management • Senior Living Planning & Counseling*

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Family Care Connections, LLC

ABOUT US

Family Care Connections, LLC, founded, owned and operated by Dr. Ann Marie D'Angelo and Frank G. D'Angelo, J.D., provides Senior Living Planning, Eldercare & Medicaid Consulting Services, as well as Comprehensive Health Care Management including PRI/SCREEN, Nursing Home Placement, Advanced Practice Nurse Care Management and Geriatric Care Management, Supportive Counseling and Advocacy. We also provide educational information in the context of seminars and written publications. The firm has offices in Garden City and New York City. In addition, home visits, as well as hospital and nursing home consultations may be arranged by appointment.

Dr. Ann Marie D'Angelo, is a Doctor of Nursing Practice and a Board-Certified Clinical Nurse Specialist with expertise in both geriatrics and psychiatric mental health. She received her Doctorate in Nursing Practice from Chatham University (2016), Masters in Psychiatric Mental Health Nursing from Columbia University (1990), Bachelor of Science in Nursing from Adelphi University (1987), and Associate Degree in Nursing from Nassau Community College (1980)

Dr. Ann Marie has been in private practice for over 30 years. She is an adjunct professor at Adelphi University in Garden City, New York. She has lectured and published in the areas of geriatric nursing, nurse care management, psychiatric/mental health and aging at home.

Frank G. D'Angelo, J.D., is a graduate of Brooklyn Law School Juris Doctor (1985), and Brooklyn College CUNY BS in Psychology (1981). For 30 years Frank was a practicing attorney in New York State concentrating in Elderlaw, Trusts and Estates, Estate Planning and Real Estate. Frank is Co-Founder of Family Care Connections, LLC and now serves full time as Director of Medicaid, Medicare & Eldercare Consulting Services. A licensed Real Estate Broker, he also coordinates on issues involving Housing Options for Aging. Frank has lectured and published extensively on the many challenging aspects of eldercare and aging.

Call for our complete list of free information brochures.

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