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What is Medicaid?

What is Medicaid? Who Needs it?



(http://lyndahinkle.com/wp-content/uploads/2013/10/800px-CNMI_Medicaid_Agency.jpg) Medicaid is a needs-based program that is jointly funded by the federal and state governments, and it has become the primary source of long-term care financing for many Americans. Medicaid has very strict eligibility rules that require applicants to spend almost all of their assets before they become eligible for Medicaid benefits. To enforce those rules, when you apply for Medicaid your state will not only evaluate whether you currently have assets you could be using to pay for

health care, but also whether you had the assets but gave them away so you could become eligible for Medicaid. And the states assume that, if you gave an asset away, it was so you could become eligible for Medicaid.

The five-year look-back rule requires states to apply a disqualification period against Medicaid applicants who made gifts, including transfers of property for less than fair market value, less than five years before their application to Medicaid. The length of the disqualification period is relative to the size of the gifts made within the five-year look-back period and varies from state to state. At the

time of the application for Medicaid, the state totals the value of all gifts that were made within the five-year look-back period and divides that amount by a penalty divisor to determine the length of the applicant's disqualification period, during which the applicant is ineligible to receive Medicaid Benefits. The disqualification period begins running from the time the applicant applies for Medicaid, not from the time that the gift was made.

The penalty divisor represents the average monthly/daily cost of nursing home care. Each state Medicaid agency determines its own penalty divisor based upon the cost of nursing home care in that particular state. As of November 1, 2012, the penalty divisor in New Jersey is \$7,870 per month, or \$261.00 per day. The below examples illustrate how an applicant's Medicaid disqualification period, if any, is determined.

Example 1 – Jane makes a gift of her home, worth \$155,740, to her daughter in November 2007. In January 2013, Jane enters a nursing home and applies for Medicaid. Since the transfer of property took place more than five years before the application for Medicaid, there would be no disqualification period.

Example 2 – Jane sells her home, worth \$155,740, for full market value to her daughter in February 2008. In January 2013, Jane enters a nursing home and applies for Medicaid. Since the house was sold at full market value, no disqualification period is applied even though the transfer occurred within the five-year look-back period.

Example 3 – Jane makes a gift of her home, worth \$155,740, to her daughter in February 2008. In January of 2013, Jane enters a nursing home and applies for Medicaid. Since the gift took place within the five-year look back period, there will be a disqualification period. To find the length of the disqualification period, divide the size of the gift by the penalty divisor. In this case, \$155,740, divided by the penalty divisor of \$7,787.00 per month equals 20 months. Jane will be ineligible for Medicaid benefits for twenty months after the date she applies for Medicaid benefits.

Example 4 – Jane adds her daughter's name to the title of Jane's house, worth \$155,750, giving Jane's daughter 50% interest in the house, in February 2008. In January 2013, Jane enters a nursing home and applies to Medicaid. Since the gift took place within the five-year look back period, there will be a disqualification period. To find the length of the disqualification period, divide the size of the gift by the penalty divisor. In this case, only 50% of the house was gifted, so the size of the gift is \$77,870. Dividing \$77,870 by the penalty divisor of \$7,787 per month gives a disqualification period of 10 months. Jane will be ineligible for Medicaid benefits for 10 months after the date she applied for Medicaid benefits.

The above examples are provided only as a guide. There are various exemptions to the above rules that could apply to your specific situation. Also, the penalty divisor is updated from time to time. For a more in-depth look at how the five-year look-back may affect your situation, contact The Law Offices of Lynda L. Hinkle for a free half hour consultation by calling 856-227-7888 or emailing hinklelaw@lyndahinkle.com. We have locations in Camden, Burlington, and Gloucester counties, and are happy to discuss your matter either by phone or at our Marlton (<http://www.lyndahinkle.com/directions-to-our-marlton-nj-law-office>), Blackwood (<http://www.lyndahinkle.com/directions-to-our-blackwood-nj-law-office>) or Woodbury (<http://www.lyndahinkle.com/directions-to-our-woodbury-nj-law-office>), NJ law offices.

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