Medicaid Eligibility for Age 65+ or People with Disabilities in NYS

NYC Dept. for the Aging
Meet the Expert Series (2022)

Valerie Bogart, Director
Rebecca Wallach, Associate Director
Anna Arellano, Staff Attorney
Evelyn Frank Legal Resources Program

INTAKE – CALL 212-613-7310 on Mondays from 10am to 2pm; eflrp@nylag.org

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ABOUT NYLAG

The New York Legal Assistance Group (NYLAG) is a leading non-profit that provides free civil legal services, financial counseling, and engages in policy advocacy efforts to help people experiencing poverty.

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About the Evelyn Frank Legal Resources Program (EFLRP)

- Focuses on fighting for seniors and people with disabilities, ensuring that they have access to health care and home care services they need to age safely in their home and communities
- Counseling client on Medicaid, Medicare and home care eligibility and services
- Educating the public through the website NYHealthAccess.org

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Agenda for Session 1:

Medicaid Eligibility – Age 65+ and People with Disabilities

A. How is Medicaid different from Medicare?
B. Why might a Medicare beneficiary also need Medicaid?
C. Who is eligible for Medicaid for services in the community? (i.e., not in a nursing home)

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Medicare vs. Medicaid

	Medicare	Medicaid
Financial Criteria	• No income or resource test • Applicant, spouse, or sometimes parent must have sufficient work history • State "buys-in" Medicare for 65+ if lack work history & poor	Must be poor (low income and resources); how poverty is measured depends on "category" (age, disability)
Age/ Disability criteria	Age 65 or older OR Disabled in receipt of SSDI for 2 years, or have ALS or ESRD	Any age or living situation (although eligibility differs by category)
Coverage & cost	Covers most medical care, but DOES NOT COVER dental, glasses, hearing aids, medical transportation. Long Term Care (LTC) – see next slide COST: Significant cost-sharing	Covers all medically necessary care, including LTC, dental, eyeglasses, hearing aids, transportation COST: minimal copays

You can have both Medicare AND Medicaid; if so, you're a "dual eligible."

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Why does a Medicare beneficiary need Medicaid? For Long Term Care

	Medicare	Medicaid
Home care	• covers only a "visiting nurse" • home health aide care < 20 hours/week "part-time/intermittent" (not 24/7) • requires a skilled need/therapy – though much home care is UNskilled • must be homebound	• covers up to 24/7 long term as long as the care is medically necessary • covers personal care services, Consumer-Directed Personal Assistance (CDPAP), private-duty nursing and hospice
Rehab/ nursing home stay	covers up to 100 days of a rehab/nursing home stay, with strict conditions In Original Medicare: Days 1 - 20 – FREE Days 21-100 - $194.50 per day copay	covers long-term nursing home COST: Must contribute most income
Assisted Living	not covered	can pay for some Assisted Living Programs ("ALP"s)

Medicaid Also Covers . . .

Dental

Audiology (hearing)

Vision

Medical Transportation

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Filling the Financial Gaps in Medicare Coverage

(1) **Medicaid can "wrap around" Medicare as secondary insurance – paying some Medicare out-of-pocket costs, but only to providers who accept Medicaid:**

- Pays for Part A inpatient hospital deductible ($1,556) & skilled nursing facility coinsurance and Part B deductible ($233)
- *May* pay for 20% coinsurance for Part B (doctors, ambulance, psychologist, hospital outpatient clinics, chemical dependence, psychiatric, medical supplies)
- Automatically gets Extra Help for Part D prescriptions (next slide)

(2) **Medicare Savings Program (MSP)** (income limits apply - NO resource limit)

- Will pay the Part B premium ($170.10/mo.)
- May pay for Part A/B deductible and coinsurance – for lowest income people
- Automatically gets Extra Help for Part D prescriptions (next slide)

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Filling the Financial Gaps in Medicare Coverage

(3) **Extra Help with Part D Prescription Drug benefit** (Low-Income Subsidy or "LIS"; Full or Partial)

- Pays Part D premium up to $42.43/month and
- Reduces copayments to $3.95 generic / $9.85 brand name or less
- Eliminates annual Part D deductible, if any
- Automatically receive this for entire year if have Medicaid or MSP even for 1 month

(4) **Elderly Pharmaceutical Insurance Program** (EPIC) (Sliding scale Income limit)(Age 65+ only)

- May pay the Part D premium up to $42.43/month
- May reduce your medication copayments to $20 or less

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WHO IS ELIGIBLE FOR MEDICAID?

Different “Categories” – based on Age/Disability

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MAGI Medicaid:

MEDICAID FOR THOSE UNDER 65 & NO MEDICARE

- Monthly income limits:

  Household of 1: $1,563

  Household of 2: $2,106

- Income uses Federal income tax rules for *Adjusted Gross Income* with some *modifications*
- Household size is determined by the tax filing household! Cannot use "spousal refusal"
- **NO ASSET LIMITS!**
- Contact Community Health Advocates for assistance in applications:

  communityhealthadvocates.org

  Call: (888) 614-5400

  Or email: cha@cssny.org

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Non-MAGI Medicaid/DAB:

Age 65+ and Disabled < 65

- "DAB" (Disabled/Aged/Blind)
- Monthly income limits (2022 – this is after $20/mo. deducted..see more below)

  Single $ 934

  Couple $1,367

  If over income limits, may still qualify thru SPEND-DOWN or a POOLED TRUST.
- Asset limits: (2022)

  Single $16,800

  Couple $24,600
- Contact Public Health Solutions for assistance in applications:

  https://www.healthsolutions.org/

  1-800-544 8269

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What is Income?

Income is any payment received by the Applicant or Recipient ("A/R") or their spouse from any source. Income may be:

- earned (wages, self-employed)
- unearned (Social Security, pension, VA)
- a one time payment (inheritance, lawsuit settlement)
- recurring (IRA distribution – pro-rated as monthly income even if taken 1x/year)

Medicaid counts GROSS monthly income, and subtracts certain deductions.

Common Income Deductions for DAB

Deduct from GROSS monthly income:

- More than half of ***earned income*** of applicant or spouse is disregarded along with the first $65/mo.
- **Health insurance premiums** – Medicare Part B and Medigap, dental/vision insurance
- **$20/mo**. unearned or earned income disregard for single or couple
- Pandemic one-time **Stimulus payments** and $600 weekly Pandemic Unemployment compensation http://www.wnylc.com/health/news/87/
- **Interest and dividends, Holocaust** reparations disregarded (see other disregards at http://www.wnylc.com/health/entry/113/)

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MEDICAID INCOME & ASSET LIMITS WILL INCREASE JAN. 2023

For Age 65+/ Disabled/Blind

Also Medicare Savings Program

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Backgrounder: Non-MAGI and MAGI

1. Since 2014 - the Affordable Care Act (ACA) increased income limits for people under age 65 who do not have Medicare to **138% Federal Poverty Line (FPL)**.
    1. Called “MAGI” Medicaid – “Modified Adjusted Gross Income” because uses tax rules for income.
    2. Has NO ASSET limit.
2. But age 65+, younger disabled still have old rules. When they get Medicare at 65 or after 2 years on SSD they “fall off the cliff.” Suddenly, Medicaid has a lower income limit (**85% FPL**). Called “non-MAGI Medicaid. Now they have a big spenddown, or lose Medicaid for excess resources.

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NYS Budget: Passed Landmark Medicaid Increases

- The NYS Budget enacted historic increases in the Medicaid income limit and asset limit.
- The income limit for Age 65+, Blind & Disabled (non-MAGI) will now be the same used for younger people under the Affordable Care Act (MAGI) at 138% Federal Poverty Line (FPL).
- Medicare Savings Program limits also increased.
  - **QMB** will be the same as Medicaid – 138% FPL (pays for Part B premium AND Medicare cost-sharing)
  - **QI-1** will be 186% FPL (pays for Part B premium only)
  - No more SLIMB program.
- Increases start Jan. 1, 2023 – see next slide

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Benefit	% FPL		SINGLES		COUPLES	
	2022	2023	2022	2023	2022	2023
Income limit per month						
Medicaid	82%	138%	$934	$1563	$1,367	$2,106
QMB	100%	138%	$1,133	$1563	$1,526	$2,106
QI-1	135%	186%	$1,529	$2107	$2,060	$2,838
Medicaid Asset Limit			$16,800	$28,134	$24,600	$37,908

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More about the INCOME LIMIT Increases

a. Age 65+, Blind and Disabled group will still use the same budgeting rules as before – still are non-MAGI (like spend-down and spousal refusal).
   a. Just the **income limit** is being increased to the MAGI limit.
   b. If income is above new limits – **can still use Pooled Trust** or "spend down" on medical expenses.
b. Before, many people with MAGI Medicaid on NY State of Health Exchange would lose Medicaid when they got Medicare (whether at 65 or based on disability) because of lower income limits. Now many will no longer *fall off the cliff*.
c. Nursing home budgeting won't change – same calculation of NAMI as before.

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Increase in Asset Limit

- NYLAG and other advocates asked NY to REPEAL the ASSET TEST for non-MAGI Medicaid – to be the same as for MAGI Medicaid.
- Why? The asset rules are biased against people of color who statistically are more likely to have savings in bank accounts, not:
  - **Homes** - which are exempt if equity under $955,000
  - **IRAs** and other retirement funds – which are exempt as long as taking distributions.
  - See coalition letters at http://www.wnylc.com/health/news/90/
- Unfair that a tenant can't save $50,000 in the bank but a homeowner can have equity of $955,000, or own a $1 million dollar IRA.
- But – the asset test was not repealed. However, it was slightly increased. See earlier slide.

*CMS State Medicaid Director Letter #14-001, *Application of Liens, Adjustments and Recoveries, Transfer-of-Asset Rules and Post-Eligibility Income Rules to MAGI Individuals,* https://www.medicaid.gov/federal-policy-guidance/downloads/smd-14-001.pdf

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Medicaid increases – When? And tips!

- CMS approval is required to take effect - which is likely.
- **If approved - Effective date will be Jan. 1, 2023.**
- **New applicants -** Through 2022 must use existing asset and income limits, but if you apply in 2023, new limits will apply.
- **TIMING – For current recipients, when will their spend-down be rebudgeted under the new income limits?**
  - **Hopefully – DOH will do a mass rebudget in January, but this may not be feasible.**
  - **If not, current recipients will be rebudgeted when they go through renewals in 2023,** when **Public Health Emergency (PHE) is expected to end**. This will be first renewals actually processed since March 2020 because of federal "Maintenance of Effort" COVID protections – States get extra Medicaid $ and in return cannot cut Medicaid or MSP, or increase the spenddown. GIS 20 MA/04 See more here"
- **TIP**: If client moved, make sure HRA/DSS has new address so they'll get renewal. More tips on renewals http://www.wnylc.com/health/entry/227/.

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*http://www.wnylc.com/health/news/86/#2.%20NYS%20Medicaid%20Policies%20-%20MOE.

Stay up to date

- Sign up for NYLAG EFLRP e-lerts with updates here http://eepurl.com/deQxtr - select TOPIC: Elder Law (Medicaid, long-term care)
- NYS **DOH MLTC Complaint Line:**

  1-866-712-7197 or mltctac@health.ny.gov
- For Help – Call ICAN 1-844-614-8800
- News on the Medicaid increases http://www.wnylc.com/health/news/90/

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MYTH: MY INCOME IS $1,700/MONTH - OVER THE INCOME LIMIT FOR A SINGLE ($934) SO I'M NOT ELIGIBLE.

FACT: Medicaid has a "Spend-down" program. The spend-down is the amount your income exceeds the Medicaid limit. Once you incur bills equal to the spend-down, Medicaid pays the rest.

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What is Mary's Spend-Down?

Gross monthly income		$1,700
Health insurance premiums	(Medicare Part B) (Medigap)	- $170.10 - $187.90
Unearned income disregard		- $20
Net countable income		***$1,322***
Income limit for single		- $934
Excess income (Spend-down)		**$388**

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Check for Special Ways to Reduce Spend-down!

- In some situations, there are special deductions that are NOT shown on the budget shown on the previous slide.
- Check with a Medicaid expert to see if you qualify for one – this could REDUCE the spend-down!
- For example, if Mary was married, both her and her spouse's income must be counted. But "spousal refusal" is an option. Discussed later.
- See http://www.wnylc.com/health/entry/222/.

More about Spend-down

Mary has a spend-down of $388/month. Medicaid requires her to use this amount for medical bills. Then Medicaid will pay the rest of her medical bills each month. Mary can either:

1. **Pay-In** Program -- pay the spenddown directly to the Medicaid office, either monthly or 6 months at a time
2. **Submit incurred medical bills** to the Medicaid office that offset the full spenddown
3. If she **enrolls in a Managed Long Term Care plan** or has a home care aide from the Medicaid office/CASA, the MLTC plan or home care agency will send her a bill for $388/month. Because she has incurred this bill, her Medicaid coverage will always be active.

What if Mary needs the $388/month to pay her rent and other bills, and can't spend it all on medical care?

- Join a **Pooled Income Trust** (next slide)

Pooled Income Trust

- A pooled income trust is a special type of Supplemental Needs Trust available to people with disabilities of all ages (including 65+).
- Money deposited into trust is not counted as income. If Mary deposits $388/month in the trust, her Spend-down disappears!
- Trust can pay Mary's **rent** to landlord, pay **Con Ed** for her electric bill, her **credit card** for charges for food, clothing, recurring bills, etc.
  - BUT trust **may not give her cash**.
- Important option for people with income above the Medicaid limits who need Medicaid for home care OR who need the Medicare Savings Program.

MORE IN SESSION 3!

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What will Mary's Spend-Down be in 2023?

Gross monthly income		$1,700
Health insurance premiums	~~(Medicare Part B)~~	~~- $170.10~~
	(Medigap)	- $187.90
Unearned income disregard		- $20
Net countable income		***$1,492.10***
Income limit for single (Medicaid & QMB)		- $1,563
Excess income (Spend-down)		**$0**

If she keeps the Medigap, she will be eligible for QMB so will no longer have to pay her Part B premium. Even without that deduction, she'll get Full Medicaid with no spend-down AND QMB.

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What are Resources?

- **Resources** are cash, assets, or property that can be used to pay for living expenses.
  - 2022 limit -- $16,800 (single) $24,600 (couple)
  - 2023 limit -- $28,134 (single) $37,908 (couple)
  - Bank or other Financial Institution Accounts
  - Life Insurance (cash surrender value)
  - Stocks, bonds, & mutual fund shares etc.
  - One-time lump sum payments not spent in the month received (inheritance, lawsuit settlement)
  - Real property (other than your home – see below)
- Some types of resources are disregarded – you may have:
  - **Your home**, but if you want home care the equity must be under $955,000 unless your spouse, minor or disabled child lives there
  - life insurance (cash value) or separate savings for **burial** up to $1500
  - A pre-paid **funeral agreement** and a burial plot
  - An I**RA** or other retirement funds if you are taking regular distributions

see Resource Disregards Chart - http://www.wnylc.com/health/entry/113/)

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MYTH: IF I AM NOT A U.S. CITIZEN, I CANNOT QUALIFY FOR MEDICAID.

FACT: NYS Medicaid covers people with a variety of immigration statuses—more expansive than federal govt.

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Immigration Status and NYS Medicaid

NYS Medicaid covers:

- All Lawful Permanent Residents (LPR or “green card”)
- Humanitarian immigrants - refugees & asylees
- PRUCOLs= Permanently Residing Under Color of Law Immigrants residing in the U.S. with the knowledge and permission or acquiescence of USCIS (applied to the govt. for adjustment of status or other status)
- Those lawfully present on certain (business, tourist, etc.) visas and can show NYS residency

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Undocumented Immigrants and "Non-immigrants" (temporary visas)

- **Changes Coming in 2023 for People Age 65 and Over**!!! They will be eligible for FULL MEDICAID, and can receive all services including home care and nursing home care from a "mainstream" Medicaid managed care plan.
  - **CAUTION**: Consult an immigration lawyer if need Medicaid for **Nursing Home care**, as this could make them a "public charge." But home care does NOT make them a Public Charge.
- **Until these changes start for 65+, and for those under 65** – they get **Emergency Medicaid** only –
  - for a condition that, after sudden onset, has acute and severe symptoms which, if left untreated, could place the applicant's health in jeopardy
  - Covers COVID-19 lab testing, evaluation, and treatment with no copay
  - No nursing home care or personal care/CDPAP
  - Only limited drugs covered
  - Can apply for a predetermination in case of emergency