

## Resources and Qualifying for Medicaid

### RESOURCES

A resource or asset is defined as anything of value that has been carried over from the previous month. To qualify for Medicaid an individual's countable resources (assets) must be less than \$2,000. Resources for a couple applying for Medicaid in 2009 must be less than \$111,560 (\$109,560 for the community spouse and \$2,000 for the applicant). Resources fall into two categories: **exempt and non-exempt**.

**EXEMPT RESOURCES** - The value of exempt resources is **not counted** in determining Medicaid eligibility. Exempt resources include:

#### Home

A home in Colorado, regardless of value, in which the applicant, the spouse, or a dependent child resides, or the home to which the applicant intends to return, is exempt when applying for Medicaid if it is not in a trust. Any contiguous property to the home is also exempt. The intent to return home is a subjective, not an objective intent. The county department may require an "Intent to Return Home" statement to be signed, acknowledging this intent. In the case of a single individual the state can recover Medicaid costs by placing a lien (or several liens) on the home while the individual is alive, or attaching the probate estate when the individual dies. See Estate Recovery.

On February 8, 2006 the Deficit Reduction Act of 2005 was signed into Federal law. This new law limits eligibility for Medicaid long-term care services for individuals with homes having **equity** values of more than \$500,000. This limitation does not apply if the individual's spouse, dependent child under age of 21, or blind or disabled child resides in the home. This rule is effective in Colorado as of February 9, 2006.

The home is exempt at the time of application **only** if the following conditions are met:

- The individual is institutionalized or living at home and applying for Home and Community Based Services (HCBS).
- The home is now or was the Medicaid applicant's principal place of residence.
- The Medicaid applicant actually lived in the home prior to being institutionalized.
- The applicant intends to return home, regardless of actual ability to return home. This must be documented in writing.
- A spouse or dependent relative of the applicant continues to live in the home with an equity value of less than \$500,000..

#### Owning a home while in a nursing home (or Assisted Living)

Even though the home is exempt when applying for Medicaid, continued ownership of a home can be a problem for a **single** individual once in a nursing home on Medicaid. Once on Medicaid (or in a "Medicaid Pending" situation), all of the individual's income is required to be paid to the nursing home as the patient payment. None of the income can be used to pay mortgage payments, condo fees, taxes, insurance, utilities, etc. These expenses will have to be paid out of resources or by family members. See Qualifications for Married Individuals.

If the house is rented to meet these expenses, the net rental payment is considered unearned income to the Medicaid recipient, and is added to the income required to be paid to the nursing home as patient payment. Rental income is countable to the extent it exceeds allowable home expenses. Allowable home expenses are maintenance, taxes, management fees, interest on the mortgage, and utilities. Payment on the principal of a mortgage loan is not considered an allowable expense.

#### ***Medicaid Estate Recovery on the Home***

The exemption for the home is one of the most misunderstood and often confusing eligibility issues when applying for Medicaid. The home is exempt for eligibility purposes, but once an unmarried individual has been approved for Medicaid, the state can place a lien on the home to recover Medicaid costs. The state may also file a claim in the probate estate of a deceased Medicaid recipient to recover costs. This is discussed further in the Section on Estate Recovery.

- **Automobile** One automobile is exempt, regardless of value, if it is used to obtain medical treatment, is equipped for a handicapped person, or is used to get to employment. If the automobile does not meet one of these criteria, an automobile with a value up to \$4,500 is exempt. If the vehicle is worth more than \$4,500, the difference is counted toward the \$2,000 resource limit or the Community Spouse Resource Allowance, if there is a spouse. This is discussed in Qualifications for Married Individuals.
- **As of June 1, 2006 household goods and personal effects no longer must have a total equity value of \$2,000 or less to be considered an exempt resource.** Household goods are exempt if they are items of personal property found in or around the home that are used regularly or if they are needed for maintenance, use, and occupancy of the home. Examples of household goods include: furniture, electronic equipment, carpets, cooking and eating utensils, and dishes. Personal effects are exempt if they are items ordinarily worn or carried by the individual, if they are items of cultural or religious significance to the individual, or if they are items required because of an individual's impairment. Examples of personal effects include personal jewelry, personal care items, prosthetic devices, and educational or recreational items.
- **Wedding and engagement rings.**
- **Medical equipment.** Includes wheel chairs and any adaptive medical equipment
- **Life insurance policy or policies with a combined face value (death benefit) of \$1,500 or less.** If the total face value amount of one or several policies is less than \$1,500, the total cash value amount is not counted toward the \$2,000 allowed resource allowance.
- **Term life insurance** These have no cash value and are totally exempt.
- **Irrevocable burial insurance policy of any value.** A revocable policy with a value less than \$1,500 is also exempt, including plots and markers.

## NON-EXEMPT RESOURCES

Non-exempt resources are resources that are counted when applying for Medicaid. These resources are considered as available resources to the applicant regardless of the original source.. Non-exempt resources include:

- **Any cash or assets** over \$2,000. This includes savings and checking accounts, stocks, bonds, CDs, etc.
- **A second home** in Colorado or any real property (including a residence) owned outside the state of Colorado

If the applicant owns more than one home in Colorado or real estate property in another state the property must be sold. The individual is allowed to make a Medicaid application, as long as the property is up for sale with a Realtor, documented by a real estate contract. The asking price has to be for a fair market value.

If property is co-owned with one or more persons, certain requirements must be met in order for it to be an exempt resource for the Medicaid applicant. This includes property held in joint tenancy or tenants-in-common. If the property is a home, the co-owner must be living in the home. If selling this property would cause the co-owner undue hardship, this fact must be

documented by a signed statement from the applicant. Verification of joint ownership must also be documented with the application.

A signed statement from the co-owner(s) must be included with the application verifying the following:

- The property is used as the co-owners principal place of residence.
- The co-owner would have to move if the property were sold.
- The co-owner is unable to buy the Medicaid applicant's interest in the property
- There is no other readily available residence because there is no other affordable housing available.

This rule may change in the near future in Colorado. The state may require the individual on Medicaid who has property in joint tenancy to sell his/her share of ownership in order to qualify for or remain on Medicaid.

Even though joint tenancy property is not subject to estate recovery in Colorado at this time, a lien may be put on the home in case the joint owner(s) predecease the individual on Medicaid. See Estate Recovery

● **A second automobile** or any other motor vehicle. This includes a motor home.

● **Life insurance policy** or policies with a combined face value over \$1,500. If the combined face value amount of all life insurance policies totals more than \$1,500, all the cash value of the policy(ies) is counted toward the resource allowance.

If the cash value amount is over \$2,000, exceeding the allowed resource amount, the policy(ies) will most likely have to be cashed in. This amount will have to be spent down to meet the resource eligibility amount. If there are several policies, not all of them may need to be cashed in. If there is a policy (or several policies) with a face value of \$1,500 or less, it will be allowed as an exempt asset.

Many people have a life insurance policy to pay funeral costs. If the face value of the policy is over \$1,500, the policy may be cashed in to purchase an irrevocable funeral/burial, or cremation policy.

Term insurance has no cash value; benefits are only payable on death. Even so, if an applicant has term insurance there has to be written documentation that it is term insurance with no cash value

● **A revocable burial policy** worth more than \$1,500. If the burial policy is more than this amount, it can be made irrevocable by contacting the mortuary or cemetery and having a rider added to the policy stating it is irrevocable. Plots and markers can be included.

● **IRA, 401K, or Keogh account** of the applicant and spouse. Effective 9/2001 an IRA, Keogh, 401K, or any such retirement funds owned by the community spouse or non-recipient spouse is **NOT** an exempt resource for that spouse. These funds are considered a resource and will be counted toward the CSRA amount. If the applicant has such funds, he/she may be required to cash them in, again with this amount counted toward the \$2,000 cap or the CSRA cap if married. See section on Qualifications for Married Individuals for information on the CSRA determination.

● **Promissory notes.** The fair market value of promissory notes, mortgage, installment contracts or similar instruments are considered available countable resources. It is not advisable for individuals who may have to apply for Medicaid to carry the loan for purchase of their home.

The new federal law (Deficit Reduction Act of 2005) made some changes as to how promissory notes will be treated for Medicaid eligibility. The value of a promissory note, loan, or mortgage established on or after April 1, 2006 is a countable resource unless the note, loan, or mortgage meets the following criteria:

- It has a repayment term that is based on the individual's life expectancy (as determined by Colorado life expectancy tables).
- It provides for payments to be made in equal amounts during the term of the loan. There can be no deferred or postponed payments or balloon payments.
- It prohibits the cancellation of the balance due upon the death of the lender.

If a promissory note established on or after April 1, 2009 does not meet the above criteria, the value of the outstanding balance due when the individual applies for HCBS or nursing home Medicaid will be counted as a resource.

**Property in a trust.** Typically Medicaid does not recognize most trusts, whether they be revocable trusts, living trusts, "loving trusts," or irrevocable trusts. Trust property is considered a countable resource, available to the individual. These trusts will have to be undone in order for the individual to qualify for Medicaid. All trusts are reviewed by the State Medicaid officials to determine eligibility for Medicaid. An elder law attorney, knowledgeable about Medicaid, should review any trusts prior to application to determine impact on eligibility.