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**BASIC ELIGIBILITY FOR MEDICAID HOME CARE IN NEW YORK STATE**  
**-- For People Age 65+ or <65 who have Medicare --**

Since Medicare does not cover most long-term home care, many people age 65+ or who are under 65 and have **Medicare** because of disability also need to apply for **Medicaid** to obtain home care. To receive Medicaid, their income and financial resources must be below strict limits.

In addition to long-term care, Medicaid can help pay Medicare's high out-of-pocket costs for deductibles and coinsurance and can help subsidize the cost of prescription drugs. Medicaid also covers some of the gaps in Medicare such as dental care, vision, hearing aids, non-emergency medical transportation.

**WARNING: This Fact Sheet Only Explains Eligibility for Age 65+ or Younger if on Medicare:**

This fact sheet describes the rules of financial eligibility for one category of people seeking Medicaid – those who are Disabled with Medicare, Aged 65 or older, or Blind (category known as “DAB” or “NON-MAGI”).

A different category of people have expanded eligibility rules for Medicaid under the Affordable Care Act. These are children and adults under 65, including those with disabilities who do not have Medicare. They have higher income limits than people age 65+ and have no limit on assets for Medicaid. This category is sometimes called “MAGI.” They apply for Medicaid on the New York State of Health Marketplace. Those different eligibility rules not covered by this Fact Sheet -- See <https://nystateofhealth.ny.gov/> for information.

EXCEPTION: A small group of people age 65+ or < 65 and who have Medicare may be eligible for Medicaid under the more liberal “MAGI” rules of the Affordable Care Act. They are those who live with and care for a child, grandchild or other relative under 18 or under 19 and in school. They should contact a Navigator for assistance. [www.communityhealthadvocates.org](http://www.communityhealthadvocates.org) or <https://info.nystateofhealth.ny.gov/IPANavigatorSiteLocations>.

I. **Financial eligibility is based on INCOME and RESOURCES**

A. **RESOURCES** (including bank accounts, CDs, stock, etc.)

If you are age 65+, blind, or disabled, you are allowed to have these cash resources:

SAVINGS & CHECKING (includes CDs, stocks, other liquid savings)	Living Alone	Married Couple
2017 (same since 2015)	\$14,850	\$21,750

NOTE: Medicaid does not count your new income received this month to determine whether your assets are below the limits in the table above. For example, at the end of April, Sidney’s combined bank accounts had a balance of \$14,000. His May Social Security check is \$1000, and when direct deposited, his bank account balance is \$15,000. He is still eligible for Medicaid as long as he spends down his account so that the closing balance at the end of May is \$14,850 or less.

BURIAL FUND \$1500 -- applicant and spouse may each have one burial fund (includes the cash value of any life insurance policies). This must be a separate account from your other savings. Open the account with a \$1500 deposit. You can let the interest accrue and it will not count towards your income limit. If you have life insurance with a “cash surrender value,” the cash value counts toward the \$1500 burial fund limit, or it can count toward your resource limit.

PRE-PAID NON-REFUNDABLE FUNERAL AGREEMENT – purchase this in any reasonable amount from a funeral home to cover costs of funeral, burial space, casket, etc. (This is allowed in addition to the \$1500 burial fund). However, any money left over will go to Medicaid. Any dollar amount designated for a “non-burial space-related item” (such as flowers, religious services, transportation) will reduce the separate \$1500 burial fund. See more information at <http://wnylc.com/health/entry/36/>.

HOUSE or co-op - if you are seeking home care services the equity in a house or co-op or condo must be under \$840,000. However, if you have a spouse or minor or disabled child living in that home, there is no limit on the equity value of the home you live in. If the equity is above the limit, and no spouse, minor or disabled child lives with you, you can reduce the equity by taking out a mortgage or reverse mortgage. If you own a home, you should consult an elder law attorney to take steps to protect the home, since Medicaid may place a lien on the home if you later enter a nursing home (if no spouse, minor or disabled child lives there). Also, if the home is part of your Estate when you die, Medicaid may make a claim against your Estate, with certain exceptions.

WARNING - Transfer Penalty: Transfers of the home can disqualify you or your spouse from receiving nursing home care for up to five years after the transfer, and can trigger high income taxes on appreciation of the home. An experienced elder law attorney is needed to sort through these issues.

HOLOCAUST Reparations, including the Ghetto Pension or other payments made based on your status as a Nazi victim are exempt. While it is best to separate the reparations from other funds going forward, one should still be eligible if, in the past, the reparations were combined with other funds, as long as the amount received can be documented. Interest on reparations is exempt as “income” after 7/1/04, but counts toward the resource limit if it is saved beyond the month received. More info at [“Holocaust or Nazi Victim Reparations -- Effect on Medicaid, SSI and other Federally Funded and New York State Benefits”](#) posted at <http://wnylc.com/health/entry/65/> .

IRA, KEOGH or retirement funds of you or your spouse are exempt as a resource only if you or your spouse are withdrawing periodic payments, even if you are younger than age 70.5, or even under age 59.5. Medicaid rules are not the same as IRS tax rules concerning IRA’s – which do not require withdrawals until age 70.5. The minimum amount of the periodic distribution varies depending on the amount of money in your IRA, your age, and marital status. Although taking out these distributions exempts your IRA as a resource, the withdrawals themselves are counted as “income.”

For information on exempt resources go to <http://www.wnyc.com/health/entry/113/>

**IF YOU HAVE EXCESS RESOURCES**, over the limits above as of the first day of the month in which you are applying for Medicaid, you can become eligible for Medicaid in three ways:

1. One way is to *spend* the excess down on:
  - (a) Medical care or private home care, or
  - (b) Household items or expenses, or purchase a house, or
  - (c) Burial agreement and/or burial fund – **see exempt resources above**
2. If you have old *unpaid* medical bills, present them with your Medicaid application. These can offset the amount of your excess resources or spend-down. They can be as much as six years old because they are still “viable,” meaning provider could still sue to collect them. See NYS website at [http://nyhealth.gov/health\\_care/medicaid/excess\\_income.htm](http://nyhealth.gov/health_care/medicaid/excess_income.htm)
3. **TRANSFERS OF ASSETS – There is NO TRANSFER PENALTY for COMMUNITY MEDICAID INCLUDING HOME CARE**
  - You may be eligible for community Medicaid including for home care the 1<sup>st</sup> of the month after the month in which assets or transferred or spent down to the Medicaid limits. However, rules are complex. For information on transfers of assets and the transfer penalty, see <http://wnylc.com/health/entry/38/> and consult an elder law professional, which can be found at [www.naela.org](http://www.naela.org).

**B. INCOME** – is the amount you receive each month or less regularly – from Social Security, pensions, interest on savings, gifts, and distributions from IRAs or annuities.

**INCOME LIMITS – (2017)**(did not increase since 2016)

**\$825/month -- Living alone    \$1,209/month -- Couple**

Medicaid generally counts GROSS income, but there are some deductions and exemptions described below. Again, these rules for Disabled-Aged-Blind (DAB) are different than those used for younger people. - For more information see <http://www.wnylc.com/health/entry/195/>

**1. Basic Budgeting Rules for Income:**

1. **“In-kind” income** -- Direct payments to the landlord, utility company, or other vendor for rent, phone bills, or other expenses are NOT counted as income, if made by persons who are not “legally responsible” for the client. (An adult daughter’s payment to the landlord of her mother’s rent is NOT income because she is not legally responsible for her mother. Only a spouse is legally responsible for a spouse, or a parent for a child under age 21).
2. **EXEMPTIONS** -- Some income is not counted, such as German or Austrian War Reparations, reverse mortgage payments, and bona fide loans.
3. **DEDUCTIONS from income** -- For people aged 65+, blind, or disabled, subtract from GROSS income:
  - \$20 off the top
  - Medicare Part B, Medicare Supplemental insurance, and other health insurance premiums.
  - EARNED INCOME – if you or your spouse is working, special deductions apply – From monthly gross income, deduct the first \$65 then one-half of the remainder.

If the amount left after these deductions is under the above limits, you are eligible for FULL Medicaid, with no "spend-down".

**EXAMPLE:** Anne lives alone with gross \$1113 Social Security/ month, before her Part B is deducted. Her "surplus" or spend-down is \$163.60 (2017).

Social Security (gross)	\$ 1113
– Medicare Part B premium (2017)	134
– \$20 income deduction (for aged, blind, disabled)	20
<hr/>	
MEDICAID INCOME	979
Medicaid standard for one	– \$825
<hr/>	
Medicaid SURPLUS or SPEND-DOWN	\$154

**2. Strategies to Eliminate or Reduce the “Spend-Down” or Excess Income**

**1. Deposit Income into a Supplemental Needs Trust or Pooled Trust.**

You may enroll in a *Supplemental Needs Trust* to deposit your “excess” income monthly. An overview of pooled trusts can be found here <http://www.wnylc.com/health/entry/2/> and a step by step guide to enrolling in one can be found here <http://www.wnylc.com/health/entry/44/>. Pooled trusts are listed here and have different fees. <http://www.wnylc.com/health/entry/4/>

**2. Special Housing Allowance if You Were in a Nursing Home or Adult Home AND are moving to the community with Managed Long Term Care (MLTC).**

The Nursing home transition shelter allowance allows you to keep extra income where: (1) The individual has been in nursing home or an adult home for at least 30 days (not counting the day of discharge); (2) Medicaid must have made payment for the nursing home or adult home stay; (3) Not receiving spousal impoverishment budgeting (see below); and (4) Individual is eligible for and enrolled in an MLTC plan upon discharge. This amount is deducted from the GROSS income in a Medicaid budget. For a chart by county, see [http://www.health.ny.gov/health\\_care/medicaid/publications/gis/14ma017.htm](http://www.health.ny.gov/health_care/medicaid/publications/gis/14ma017.htm)

Region (2017)	Allowance
Central	\$412
Long Island	\$1,285
NYC	\$1,171
Northeastern	\$471
North Metropolitan	\$892
Rochester	\$419
Western	\$367

[https://www.health.ny.gov/health\\_care/medicaid/publications/docs/gis/16ma018attach1.pdf](https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/16ma018attach1.pdf)

**3. Eliminating the Spend-down for Married Individuals – Spousal Impoverishment Protections if one Spouse needs MLTC**

Since 2014, where just one spouse needs Medicaid Managed Long Term Care, the married couple may keep significantly more income and assets without having to use a pooled trust or spend-down. Under the spousal impoverishment rules, the spouse receiving MLTC services may keep \$384/month (2015-17), after deducting the cost of any Medicare and Medigap premiums, and allocate enough of the remainder of his/her income to the “community spouse” to bring the community spouse’s income up to \$3,022.50/mo (2017). By using this budgeting method, the applicant may not be subject to a spend-down if the combined income is less than \$3,406/mo plus any Medicare and Medigap premiums.

***When can married individual request Spousal Impoverishment protections?***

- a. If applying for Medicaid in order to receive Medicaid personal care or consumer-directed personal assistance based on an “**Immediate Need,**” you may request spousal impoverishment. See “Immediate Need” rules, forms, and procedures here [https://www.health.ny.gov/health\\_care/medicaid/#need](https://www.health.ny.gov/health_care/medicaid/#need) and here <http://www.wnylc.com/health/entry/203/>
- b. If applying for Medicaid without requesting personal care for “Immediate Need,” then you may NOT request this special budgeting with the application. In that event, this option is only available AFTER you are enrolled in MLTC. This means that the initial budget will result in a “spend-down,” but this can be reduced immediately after MLTC enrollment. Alternately, the initial application can use Spousal Refusal, explained below, and then convert the budget to use spousal impoverishment budgeting once the spouse needing home care is enrolled in an MLTC plan.
- c. If you are already receiving Medicaid and are enrolled in a Managed Long Term Care plan, you may request this budgeting from HRA/ DSS – as long as your spouse is not on Medicaid.

*SPOUSAL REFUSAL* - If the combined income exceeds the spousal impoverishment allowance and personal needs allowance (\$3406/mo 2017 and it is the “well” spouse (“community spouse”) with the excess income, then he/she can do a “spousal refusal.” With spousal refusal, Medicaid will count only the income and resources of the spouse applying for Medicaid, as though he or she is single. But Medicaid then has the right to sue the “well spouse” for failing to contribute. In New York City, HRA sends collection letters to refusing spouses, but if your combined income is under \$3,406/month and combined resources are under \$119,220, HRA will generally confirm that it will not pursue a lawsuit. Above those thresholds, they will review individual circumstances. The NYC Spousal Refusal Form can be downloaded here <http://www.wnylc.com/health/download/66/>. Couples with significant assets or income should consult an experienced elder law attorney before using Spousal Refusal.

*OPTION TO USE A POOLED TRUST and IGNORE SPOUSE’S INCOME.* If, despite spousal impoverishment budgeting, the spouse who needs MLTC still has excess income (spend-down), then he/she may want to enroll in a pooled supplemental needs trust (see above for more information). With this option, spousal impoverishment budgeting is not used at all. The applying spouse uses “single” income and resource limits. See NYS DOH GIS 12-MA-13 [https://www.health.ny.gov/health\\_care/medicaid/publications/docs/gis/12\\_ma013.pdf](https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/12_ma013.pdf)

3. **Once the Spend-Down is Minimized– How Spend-Down Works.**

If your net income after deductions is more than the Medicaid level, you must “spend down” the excess income on medical expenses every month to qualify for Medicaid to pay for any other medical expenses each month. If you receive home care, you will be billed for the spend-down every month. An MLTC plan may disenroll you if you do not pay the spend-down. This is why it is important to enroll in a pooled trust or use the other strategies to reduce or eliminate your spend-down described above. See <http://www.wnylc.com/health/entry/46/>

II. **HOW TO APPLY FOR MEDICAID TO OBTAIN MEDICAID HOME CARE**

Most adults who want Medicaid home care who are age 65+ or younger and have Medicare because of disability must first **apply for Medicaid at the local NYC or county Dept. of Social Services (DSS)** in order to obtain home care.

**QUICK SUMMARY OF APPLICATION PROCESS** (more explained below):

Beginning in 2016, there are now TWO TRACKS for applying for home care. In brief the steps with approximate minimum length of time they each take are as follows:

**1. REGULAR TRACK – Seeking Medicaid to Enroll in Managed Long Term Care:**

- a. **Apply** for Medicaid at the County DSS/HRA up to 45 days
- b. Request a “**Conflict Free Eligibility**” in-home evaluation from Maximus (NY Medicaid Choice) **1-855-222-8350** approx. 5-14 days
- c. **Pick a plan** - MLTC, Medicaid Advantage Plus, PACE or FIDA plan (Nassau/NYC only) –
  - i. Schedule an in-home assessment with plan ) up to 30 days
  - ii. Pick a plan and enroll. )
  - iii. Enrollment paperwork must be submitted by 20<sup>th</sup> of month for enrollment to start 1<sup>st</sup> of next month. No mid-month pick-up dates. 10-41 days
- d. After enrollment on 1<sup>st</sup> of month, MLTC Plan conducts assessment and starts services 30 days

**TOTAL TIME TO START SERVICES APPROXIMATELY 3-5 months**

**2. FAST TRACK if have IMMEDIATE NEED for PERSONAL CARE/ CONSUMER-DIRECTED PERSONAL ASSISTANCE (CDPAP) SERVICES**

- a. **Apply for Medicaid AND home care** (submit physician’s order/M11q and “Attestation of Immediate Need” to DSS/ HRA **12 days**

**DSS HAS 12 days to approve Medicaid and home care** (Medicaid within 1<sup>st</sup> 7 days of that period). Has more time if application in complete.

Medicaid office arranges for services to be provided by a contracted home care or Consumer Directed agency “as expeditiously as possible.”

**TOTAL TIME TO START SERVICES APPROXIMATELY 2-3 weeks**

- b. After 120 days of receiving home care services authorized by HRA/DSS, consumer receives letter from New York Medicaid Choice that she must select and enroll in an MLTC plan within 60 days or she will be assigned to one randomly.

**MORE ON MEDICAID APPLICATION PROCESS:**

- A. **WHAT TO SUBMIT - BOTH REGULAR AND FAST TRACK** - Submit Medicaid application (Access NY Health Insurance Application) <https://www.health.ny.gov/forms/doh-4220all.pdf> with:
  1. Access NY Supplement A <https://www.health.ny.gov/forms/doh-4495a.pdf> and
  2. Document resources (include actual bank statements and other documentation of assets showing balance on the 1<sup>st</sup> month of the application).
    - a. If you are seeking retroactive Medicaid to pay or reimburse for the 3 months before you applied, submit bank statements back to four months prior to the application).
  3. HIPAA Release if you have an advocate or family member helping you with the application – NYS [OCA Form 960 - Authorization for Release of Health Information Pursuant to HIPAA](http://www.nycourts.gov/forms/Hipaa_fillable.pdf) at [http://www.nycourts.gov/forms/Hipaa\\_fillable.pdf](http://www.nycourts.gov/forms/Hipaa_fillable.pdf).
  4. Proof of Identity (Passport, Medicare card).
    - Write “Seeking MLTC Services” on top of application. If mailing the application, you should send it certified mail with return receipt. If you are seeking MLTC, you do NOT submit an M11q/physician’s order.. unless seeking Immediate Need.
- B. **WHAT ELSE TO SUBMIT FOR IMMEDIATE NEED APPLICATIONS:** In addition to Medicaid application and all documents in A above, also include:
  1. **Physician's order/ [Form M11q in NYC](#)** - Must be current, seen by and signed by doctor within last 30 days. See tips at [Q-Tips](#) (these are designed for NYC form but can be adapted for any county)(Find the form used in your county).
  2. **Attestation of Immediate Need (OHIP 0103)** - [https://www.health.ny.gov/health\\_care/medicaid/publications/adm/16adm\\_2att.pdf](https://www.health.ny.gov/health_care/medicaid/publications/adm/16adm_2att.pdf) - Consumer must sign this form to attest to immediate need - that:
    - You have no informal caregivers available, able and willing to provide or continue to provide needed assistance;
    - You are not receiving *needed* help from a home care services agency;
    - You have no adaptive or specialized equipment or supplies in use to meet your needs; and
    - You have no third party insurance or Medicare benefits available to pay for needed help.
  3. **Cover letter** that explains the particular nature of the "immediate need" for services,



4. If not including a new Medicaid application, must explain the status of approved or pending Medicaid application (include copies),
5. In NYC, use new [HRA HCSP Transmittal Form HCSP -3052](http://www.wnyc.com/health/download/615/), available at <http://www.wnyc.com/health/download/615/>.

For more on Immediate Need applications – see <http://www.wnyc.com/health/entry/203/>

**C. Where to Apply for Medicaid if seeking home care in New York City –**

1. **BOTH “Regular” track seeking MLTC and “Fast Track Immediate Need Track**  
- File the Medicaid application at:

HRA--HCSP Central Medicaid Unit  
785 Atlantic Avenue, 7th Floor  
Brooklyn, NY 11238 T: 929-221-0849

IF applying for Immediate Need send Attention: Immediate Needs Liaison

**2. People “Excluded” from Managed Long Term Care:**

- **WHERE** CENTRAL INTAKE –  
NYC HRA Home Care Services Program  
109 East 16th Street, 5th Floor,  
New York, NY 10003 TEL 212-824-0706 FAX 212-896-8814
- **WHO** – If seeking solely “housekeeping” services, which are services limited to 8 hours/week just to help with chores such as laundry, shopping, and cleaning, OR you are enrolled in a HOSPICE program or the TBI, OPWDD or Nursing Home Transition & Diversion waiver and are applying for personal care/CDPAP services
- **WHAT** - File the documents listed in Part A above (Medicaid application, Supplement A, proof of resources, HIPPA release) AND an M11q Form signed by physician < 30 days before and based on physical exam < 30 days before) (download at [http://www.nyc.gov/html/hra/downloads/pdf/services/micsa/m\\_11q.pdf](http://www.nyc.gov/html/hra/downloads/pdf/services/micsa/m_11q.pdf))

#### D. To enroll in an Managed Long Term Care Plan

1. Once Medicaid is accepted, contact *New York Medicaid Choice* and request a **Conflict Free Eligibility and Enrollment Assessment. 1-855-222-8350**  
A nurse will visit and assess your need for home care.  
See <https://www.nymedicaidchoice.com/ask/do-i-qualify-managed-long-term-care>. See Fact Sheet and Tips on Conflict Free Assessment at <http://www.wnylc.com/health/download/573/>. Ask a family member or social worker to be present at the assessment to help point out your functional needs, medications, and diagnoses.

2. If approved after this assessment, **choose a Managed Long Term Care plan** and enroll. Contact *New York Medicaid Choice* – <http://www.nymedicaidchoice.com/>  
**1-888-401-6582** - This company, Maximus, is the enrollment broker under contract with the State, which can explain the enrollment process and your options for selecting a managed long term care plan.

<http://www.nymedicaidchoice.com/program-materials>

For Lists of Plans, click on Long Term Care plans in your region) (NYC, Long Island, Westchester, and new counties being added). Also download state brochure.

Please see these online resources to learn about Managed Long Term Care –

- Background article on MLTC <http://wnylc.com/health/entry/114/>
- Update on MLTC – updated monthly <http://wnylc.com/health/news/41/>
- [Tools for Choosing a Medicaid Managed Long Term Care Plan](http://wnylc.com/health/entry/169/) -- <http://wnylc.com/health/entry/169/>

3. **WARNING** – If your Medicaid is approved with a spend-down, at the time of evaluation and enrollment in an MLTC, you Medicaid case may not show up as active in the plan’s computer system. The MLTC may tell you that you are not eligible to enroll. If this happens-

- Tell the plan to ask HRA to activate the case for enrollment by submitting a MAP Medicaid Cover Sheet Form HCSP-3022 (known as a “CONVERSION FORM” – download at <http://www.wnylc.com/health/download/450/>) to the HRA HCSP MLTC Provider Relations Unit, requesting that the code be changed.

TEL: (929) 221-2427

Fax: (718) 636-7848

- If the plan still refuses to schedule an assessment or fax a conversion form, COMPLAIN! Call the MLTC Complaint line 1-866-712-7197; NY Medicaid Choice 1-888-401-6582; HRA 929-221-0849 or EFLRP at 212-613-7310 [eflrp@nylag.org](mailto:eflrp@nylag.org).

**THIS DOCUMENT STATES GENERAL INFORMATION AND IS NOT LEGAL ADVICE.**

**VISIT OUR WEBSITE at <http://nyhealthaccess.org>**

**Medicaid eligibility rules are complex. For more information or help with the Medicaid application or for other questions about long term care, you can contact:**

New York City Department for the Aging--Alzheimer's and Caregiver Resource Center 311

CSS – Community Health Advocates (888) 614-5500

National Academy of Elder Law Attorneys - online locator <http://www.naela.org>

New York Legal Assistance Group (city-wide) –

- General intake (212) 613-5000
- Evelyn Frank Legal Resources Program (212) 613-7310

The Legal Aid Society Health Law Unit (city-wide) (212) 577-3575

ICAN – Independent Consumer Assistance Network - OMBUDSPROGRAM FOR FIDA & MLTC 844-614-8800 [ican@cssny.org](mailto:ican@cssny.org) TTY: 711 Website: [icannys.org](http://icannys.org)

Cardozo Bet Tzedek Legal Services (212) 790-0240

JASA/ Queens Legal Services for the Elderly (Queens only) (718) 286-1500

Bronx Legal Services (Bronx only) 917-661-4500

Manhattan - Lenox Hill Neighborhood House (East side 59<sup>th</sup> – 120<sup>th</sup> St) (212) 744-5022 x1392  
331 E. 70<sup>th</sup> St. NY NY (walk-in Mondays 10 – noon)

Legal Services-NYC Staten Island (718) 233-6480

MEDICARE RIGHTS CENTER 800-333-4114 or (212) 869-3850

**After Medicaid application accepted –**

**To request a Conflict-Free Assessment for MLTC**

New York Medicaid Choice (CFEEC) 1-855-222-8350

Complaints to State Dept. of Health re CFEEC [CF.Evaluation.Center@health.ny.gov](mailto:CF.Evaluation.Center@health.ny.gov)

**To file a Complaint about an MLTC plan with the State Dept. of Health**

NY States Department of Health MLTC Complaint Hotline: 1-866-712-7197  
[mltctac@health.ny.gov](mailto:mltctac@health.ny.gov)

**For advice or representation about enrollment or denial or access to MLTC services:**

ICAN – Independent Consumer Assistance Network - OMBUDSPROGRAM FOR FIDA & MLTC 844-614-8800 [ican@cssny.org](mailto:ican@cssny.org) TTY: 711 Website: [icannys.org](http://icannys.org)