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FLORIDA MEDICAID RULES FOR 2024

There are several required elements that need to be satisfied in order for the applicant to be eligible for Medicaid in Florida.

TYPICAL REQUIREMENTS BEFORE APPLICATION FOR MEDICAID IN GENERAL:

1. U.S. Citizen (or Legal Permanent Resident, 5 years or more);
2. Florida Resident;
3. Aged (over 65), Blind, or Disabled;
4. Must be in an appropriate placement
5. Must have applied for all benefits available (VA benefits, etc...)
6. **Countable Gross Monthly Income:**
   a. **$2,829.00/month for the applicant;**
   b. **Unlimited for community spouse;**
   c. **Spousal Income Diversion: Up to $740.00/month for the Community Spouse (shared income) (AKA Monthly Minimum Maintenance Income Allowance (MMMIA)).**
7. **Countable Assets:**
   a. **For an individual: $2,000 for a single applicant;**
   b. **Spousal asset maximum: $154,140.00;**

INSTITUTIONAL CARE PROGRAM (ICP)

- Placed in a Medicaid Approved Skilled Nursing Facility
- Receiving 24 hours a day/7 days a week Skilled Care (Intermediate I or II Skilled Care)

What You Need To Know About The…

INCOME RULES:

1. If an applicant's income is over **$2,829.00**/mo, then the applicant must create a Qualified Income Trust to reduce the applicant's indicated income. Medicaid will set a patient responsibility amount that is usually equal to the applicant's total gross income minus the **$160.00** personal needs allowance.
2. In certain cases, the applicant's income may be diverted to the community spouse for excess shelter costs (mortgage, utilities, HOA dues, etc...), which in **2024** allows for **$740.00**/mo.
3. Income test only applies to the Applicant. The community spouse may have unlimited income.

ASSET RULES:

1. Applicant may never have in excess of **$2,000.00**. The community spouse may have up to **$154,140.00** in assets. In rare instances these figures may change based on income.

2. Exempt assets, which do not count towards the asset limits, include:
   a. The Homestead Residence ONLY IF:
      i. The spouse, or a child who is under 21 or disabled, lives in the home; otherwise the exempt equity amount is $500,000.00.
      ii. Note however, that a non-homestead fixed mobile home is deemed to be real property according to DCF, and a Fair Market Value assessment will need to be made.
   b. One car (Two, if the second car is over seven years old, but less than 25 years old and not a luxury car)

c. Income producing property
d. Life Estates
e. Burial Plots
f. $2,500 Burial Account
g. Irrevocable Burial Contracts
h. Personal property
i. Life insurance cash value if the face value is less than $2,500
j. Medicaid qualified IRAs and 401(k)'s

3. **PENALTY.** Transfer of Assets during 60 months prior to application can create a disqualification period. The disqualification period is calculated by dividing the amount of the transfer by $10,809.00. This will yield the number of months that an applicant is disqualified from applying for Medicaid. If two disqualification periods overlap, the amount of the transfers is added together and then divided by $10,809.00. The disqualification period runs from the **date of the application for Medicaid benefits**.

4. Common techniques for legally sheltering assets involve making the assets exempt, irrevocably turning the assets into an income stream or by structured gifting. These techniques include the following:
    a. Transfer of assets (including joint accounts) to the Community Spouse.
    b. Loans: Loans can be structured to avoid incurring a look back penalty. Certain strict rules must be followed. The loans can even be self-canceling upon the death of the Payee.
    c. Life Time Care Contracts: Contracts for the life time care of the applicant can be structured to avoid the look back period penalty. Whoever provides the care may incur an income tax problem.
    d. Excess Assets: In rare instances the community spouse may be able to hold on to excess assets if their income is minimal.
    e. Spousal Refusal: This is a strategy for separated spouses. Sometimes a spouse may refuse to support the institutionalized spouse. The community spouse's assets would be protected but they usually cannot get the institutionalized spouse's income.

<u>The Home and Community Based Care Waiver Program</u> may also be an option, but while this follows the typical Medicaid income and asset tests, other factors require additional discussion with an elder law attorney.