



*Helping Older Adults Resolve Legal
& Long-Term Care Problems
& Fight Medicare Fraud*

Medicaid for Nursing Facility Residents

1. Who Is Eligible?

You must be an Ohio resident and either a US citizen, or a non-citizen with an immigration status allowing for Medicaid eligibility (e.g. a non-citizen lawfully residing in the U.S. as of August 22, 1996). In addition, you must be blind, disabled, 65 or older, and in need of nursing facility services. The financial requirements for eligibility include a gross monthly income at or below \$2,901 (2025) and countable resources (assets) not to exceed \$2,000. You, or your authorized representative, may apply for Medicaid at the County Department of Job & Family Services in the county that is your principal place of residence. Medicaid eligibility can go back three months from the application date. [\[1\]](#)

2. What If My Gross Monthly Income Is Over \$2,901?

You can still qualify for Medicaid by transferring some of your monthly income into a QIT (Qualified Income Trust) so that your remaining income is below \$2,901. Call Pro Seniors Legal Helpline for more information on QITs. [\[2\]](#)

3. What Are Countable Income And Resources?

Countable income is your gross monthly income minus [\[3\]](#)

(a) \$20 (if your income is unearned); and

(b) Supplemental Security Income (SSI) and other needs-based income.

Countable resources are cash, checking and savings accounts, CDs, stocks, bonds, cars if not otherwise exempt and real property not otherwise exempt, certain property transferred or put into a trust; and any other property which you could sell to pay for your care and which, in general, is legally available for your use. [\[4\]](#)

4. What Resources Are Excluded?

Resources not counted in reaching the \$2,000 limit include:

- (a) your home as long as you intend to return to it, your spouse or dependent relative continues to live there, or its sale would cause a co-owner of the property undue hardship due to loss of housing;
- (b) one automobile, regardless of value, if it is used for transportation for you or a member of your household;
- (c) the cash value of life insurance policies for you if the total face value of all policies is \$1,500 or less, but if the face value of all policies exceeds \$1,500, then the total cash value is counted;
- (d) an irrevocable pre-need burial contract for you and your spouse and burial plots for you and your immediate family members;
- (e) certain trusts;
- (f) household goods and personal effects;
- (g) any resource which is not legally available to you or that you cannot liquidate due to your disability. [\[5\]](#)

5. Is The Community Spouse's Income Used To Pay For The Applicant Spouse's Care?

No. The community spouse's income is not used to pay for the Medicaid eligible spouse's nursing facility care. [\[6\]](#)

6. Can The Community Spouse Keep Any Of The Institutionalized Spouse's Income To Meet Monthly Expenses?

Yes, if the community spouse's income and expenses meet certain criteria. Once the institutionalized spouse becomes eligible, the community spouse may receive a Monthly Income Allowance (MIA). The MIA is calculated by first adding the Minimum Monthly Maintenance Need Allowance (MMMNA), \$2,550 (7/1/24), to the excess shelter allowance (ESA). The ESA is the amount the community spouse's shelter costs, such as mortgage/rent, home insurance and property taxes, exceed \$766.50 (7/1/24).

The community spouse's gross monthly income is then subtracted from that total. The remainder is the amount the community spouse may keep from the institutionalized spouse's monthly income, i.e., the MIA. Exceptional circumstances, if proven at a

hearing, will allow the community spouse to keep more money, up to a federal maximum of \$3,948 (2025) per month, unless a court orders a higher amount. [\[7\]](#)

7. Will The Institutionalized Spouse Pay Any Income To The Nursing Facility Each Month?

Probably. This depends partly on whether the community spouse will receive a MIA as described above. To determine the institutionalized spouse's patient liability, begin with the individual's gross monthly income. Next, subtract a Personal Needs Allowance of \$50. Then subtract the MIA for the community spouse.

Next, deduct past medical expenses, monthly ongoing medical expenses not covered by Medicaid and health insurance premiums. The remainder is the patient liability paid to the nursing facility every month. Patient liability is prorated for the month of admission and the month of discharge. [\[8\]](#)

8. May The Community Spouse Keep Any Of The Resources?

Yes. The amount the community spouse may keep depends on the total value of all available resources owned by both spouses as of the date of the Medicaid resource assessment. The Medicaid resource assessment is completed based upon the resources owned at the beginning of the first continuous period of institutionalization, which is defined as an admission to a medical institution for a period of at least thirty days or the date of application for home and community based services such as PASSPORT or PACE. [\[9\]](#)

Generally, the community spouse may keep 50% of the total countable resources. However, that 50% cannot be less than a minimum of \$31,584, (2025) nor can it exceed a maximum of \$157,920 (2025). The institutionalized spouse's half of the resources may be spent for the benefit of the institutionalized spouse, for the legal and/or financial obligations of either spouse, or for the purchase and maintenance of excluded resources, but no amount can be given away for less than fair market value. If 50% of the combined resources is more than the maximum of \$157,920, the community spouse keeps the maximum of \$157,920. If 50% of the combined resources is less than the minimum of \$31,584, the community spouse keeps the minimum of \$31,584.

9. What Happens If I Give My Property Away?

Consult an attorney experienced in Medicaid planning before transferring assets for less than fair market value.

Medicaid looks back 60 months from the time you enter a nursing facility, apply and are otherwise eligible for Medicaid, to determine if you or your spouse gave away, disposed of or otherwise transferred resources without receiving fair market value in return, with the intent to give away resources in order to qualify for Medicaid. Certain transfers are

permissible. In general, you may transfer any property to your spouse or to your child who is blind or disabled.

There are also special rules for transferring your home. You may transfer your home to your spouse or to your child who is who is blind, disabled or under age 21.

You may also transfer the home to a sibling who has an equity interest in your home and lived in your home for at least one year immediately before you entered the nursing facility. Finally, you may be able to transfer your home to your adult non-disabled child if they lived in your home with you, took care of you for two years immediately before you entered a nursing facility and you have adequate proof that you required nursing facility level of care for those two years.

If either spouse improperly transfers or gives away property that does not fit an exception, Medicaid will presume that the transfer/gift was made to qualify for Medicaid and will not pay for your nursing facility care, care provided through an HCBS waiver program (e.g. Passport) or PACE program, for a certain period of time, or “penalty period”. To avoid the penalty, you must prove by clear and convincing evidence that you made the transfer/gift at fair market value; or did not intend the gift to affect Medicaid. The penalty period is determined by dividing the value of the improperly transferred asset or gift by the average monthly private pay rate for a nursing home, (currently \$7,787), and begins when you are otherwise eligible for Medicaid. For example, a gift of \$77,870 results a penalty period of 10 months. You can also avoid the penalty if all of the assets improperly transferred are returned to you.

If a penalty period is imposed that would result in undue hardship to you, you can request an undue hardship exemption, but this can be very difficult to obtain. [\[10\]](#)

10. What Happens If My Money Is In A Trust?

Assets and income in most trusts will still be counted. However, there are some exceptions to this general rule, depending on when, why and by whom the trust is created. Some trusts that are allowed include:

- (a) special needs trusts;
- (b) pooled trusts;
- (c) qualifying income trusts (QITs); and
- (d) supplemental services trusts.

Trust rules are complicated and can have serious Medicaid consequences. You should consult an attorney experienced in Medicaid before setting up a trust. [\[11\]](#)

11. How Do I Apply For Medicaid Or Appeal A Medicaid Decision?

You or your authorized representative may apply in the county where you reside. Financial eligibility should be decided within 45 days, and a notice of approval or denial (Notice of Action) must be mailed to you. Medicaid eligibility may go back three months

from the month the application is filed. You may appeal any Medicaid decision that affects the amount, length or scope of coverage.

Appeals may be requested orally, in writing, or electronically to the Bureau of State Hearings within 90 days after the Notice of Action mailing date. If benefits are being terminated, a hearing must be requested within 15 days to continue benefits during the hearing process. Administrative appeal and court review are also available. [\[12\]](#)

© Copyright 2025

Pro Seniors' Legal Helpline for Older Ohioans provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If you have a concern that cannot be resolved over the phone, then the Helpline will try to match you with an attorney who will handle your problem at a fee you can afford.

In southwest Ohio, Pro Seniors' staff attorneys and long-term care ombudsmen handle matters that private attorneys do not, such as nursing facility, adult care facility, home care, Medicare, Medicaid, Social Security, protective services, insurance and landlord/tenant problems.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Helpline or consult an attorney in elder law.

Copyright © 2025 by:

Pro Seniors, Inc.
7162 Reading Rd.
Suite 1150
Cincinnati, Ohio 45237

Switchboard: 513.345.4160
Clients Toll-free: 800.488.6070
Fax: 513.621.5613
TDD: 513.345.4160

E-mail: proseniors@proseniors.org
Web Site: www.proseniors.org

Endnotes: *[Click the endnote number "[1]" to return to the text]*

[\[1\] Ohio Administrative Code §5160:1-2-13](#) Presumptive Eligibility;

- [O.A.C. §5160:1-3-02\(A\)](#) Medicaid: criteria for age, blindness, or disability;
[O.A.C. § 5160:1-3-05.13\(B\)\(2\)](#) Medicaid: treatment of home;
[O.A.C. § 5160:1-2-01\(L\)\(1\)\(b\)](#) Medicaid: administrative agency responsibilities
- [2] [O.A.C. §5160:1-6-03.2](#) Medicaid: use of qualified income trusts (QITs)
- [3] [O.A.C. §5160:1-3-03.1](#) Medicaid: income
- [4] [O.A.C. §5160:1-3-05.1](#) Medicaid: resource requirement
- [5] [O.A.C. §5160:1-3-05.14](#) Medicaid: resource exclusion
[O.A.C. §5160:1-2-01](#) Medicaid: administrative agency responsibilities;
O.A.C. §5160:1-2-01(F)(5)(b)(ii): “Determine eligibility in accordance with Chapter 5160:1-2 of the Administrative Code, but without considering eligibility factors for which verification cannot be obtained or means of self-support cannot be accessed because of the individual's physical or mental impairment. Use the most reliable information available without delaying the determination of eligibility.”
- [6] [O.A.C. §5160:1-6-04](#) Medicaid: treatment of income and resources for an institutionalized spouse with a spouse in the community
- [7] [O.A.C. § 5160:1-6-07\(G\)\(4\)](#) Medicaid: post-eligibility treatment of income for individuals in medical institutions
[O.A.C. §5101:1-6-7-02](#) State hearings: standards for revising community spouse income and resource allowances at a state hearing [Exceptional circumstances hearing]
- [8] [O.A.C. §5160:1-6-07\(G\)](#) Medicaid: post-eligibility treatment of income for individuals in medical institutions
- [9] [O.A.C. §5160:1-6-04](#) Medicaid: treatment of income and resources for an institutionalized spouse with a spouse in the community
[O.A.C. §5160:1-6-01.1\(A\)\(4\)](#) Medicaid: definitions relating to eligibility for long-term care services [Continuous period of institutionalization]
[O.A.C. §5160:1-6-01.1\(A\)\(9\)](#) Medicaid: definitions relating to eligibility for long-term care services [First continuous period of institutionalization]
- [10] [O.A.C. §5160:1-6-06](#) Medicaid: transfer of assets;
[O.A.C. § 5160:1-6-.6.5](#) Medicaid: restricted Medicaid coverage period;
- [11] [O.A.C. §5160:1-6-06.2](#) Medicaid: treatment of transfers involving a trust
- [12] [O.A.C. § 5101:6-3-02\(B\)\(1\)](#) State hearing requests;
[O.A.C. § 5101:6-4-01\(A\)](#) State hearings: continuation of benefits when a state Hearing is requested;
[O.A.C. 5101:6-8-01\(A\)](#) State hearings: administrative appeals; and
[O.A.C. §5101:6-9-01\(A\)](#) State hearings: further appeal rights

