

BASIC ELIGIBILITY FOR MEDICAID HOME CARE IN NEW YORK STATE - 2025

-- For People Age 65+ or < 65 who have Medicare -- updated March 5, 2025

Many people who have **Medicare** also need **Medicaid**. They receive Medicare because they are age 65+ or are younger and receive Social Security Disability. They need Medicaid to obtain home care or other services not covered by Medicare, like dental care, vision, hearing aids, nursing home care, and non-emergency medical transportation. Also, Medicaid helps pay high out-of-pocket costs for Medicare deductibles and coinsurance and gives the “Extra Help” subsidy for prescription drugs covered by Medicare Part D.

To receive Medicaid, income and financial resources must be below strict limits. **Starting in 2023, the income and asset limits for those Age 65+ or Disabled increased significantly – from about 85% to 138% of the Federal Poverty Level!** This was a change in state law won by a large coalition, including NYLAG. Now the annual increases are less dramatic, as the Federal Poverty Limit increased only slightly.

WARNING: This Fact Sheet Only Explains Eligibility for Those Age 65+ or < 65 and Disabled with Medicare:

This fact sheet describes the rules of financial eligibility for people who are Disabled, Aged 65+ or Blind (“DAB” or “NON-MAGI”). In contrast, children and adults under 65 who do not have Medicare have expanded eligibility for Medicaid under the Affordable Care Act, sometimes called “MAGI” Medicaid. They have no limit on assets for and apply for Medicaid on the New York State of Health Marketplace (NYSOH).

In 2023, for the first time, the income limits are the same for both groups – DAB and MAGI. For MAGI eligibility rules contact www.communityhealthadvocates.org.

CAREGIVER EXCEPTION: Some people age 65+ or < 65 who have Medicare may be eligible for MAGI Medicaid if they live with and care for a child, grandchild, or other relative under 18 or under 19 and in school. Contact a Navigator for assistance -- www.communityhealthadvocates.org or <https://info.nystateofhealth.ny.gov/IPANavigatorSiteLocations>.

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I. Financial eligibility is based on INCOME and RESOURCES

A. RESOURCES (bank accounts, CDs, stock, investments, etc.)

If you are age 65+, blind, or disabled, you are allowed to have these cash resources – limits significantly increased in 2024:

| 2025 | Living Alone | Married Couple |
|------|--------------|--|
| | \$32,396 | \$43,781 (Spousal Impoverishment rules may allow more savings for married applicants. See below) |

Is It Income or a Resource? Income is counted in the month it is received. If it is saved into the next month, it then counts as a resource. **EXAMPLE:** At the end of April, Sidney’s bank account balance was \$31,000. It is his only resource. When his May Social Security check of \$2000 is direct deposited, his bank account balance on May 1st is \$33,000. His Social Security is INCOME in the month received (May) and only becomes a RESOURCE if saved into the next month- June. He is eligible for Medicaid in May, and will still be in June as long as he spends down so the closing balance at the end of May is \$32,396 or less.

BURIAL FUND \$1500 -- The 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. Excess cash value counts toward your resource limit. You may NOT withdraw from a burial fund! If you do, it will count.

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. If the value of “non-burial space-related items” (such as flowers, religious services, transportation) is \$1500 or less, you may also have a separate \$1500 burial fund, described above. You may, in some cases, pre-pay for burial for a spouse and certain other family members too. See more information at <http://wnylc.com/health/entry/36/>.

HOUSE or Co-op – Your home is an exempt resource for Medicaid, but if you are seeking home care services the equity in a house, co-op, or condo must be under \$1,097,000 (2025). However, if you are living in the home with a spouse or minor or disabled child, there is no limit on the equity value of the home. 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.

TIP: 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). See www.naela.org. Also, Medicaid may make a claim against the home if it is part of your Estate when you die, with certain exceptions.

WARNING – Lookback and Transfer Penalty: Transfers of the home and other assets, discussed below, can disqualify you or your spouse from receiving nursing home care for up to **five years** after the transfer. If a new "lookback" takes effect, a transfer of the home or other assets can also disqualify you or your spouse from receiving home care, MLTC, or the Medicaid Assisted Living Program for up to **2.5 years** (30 months) after the transfer. The New York State Department of Health has informally stated that this new 30-month lookback will not begin until sometime in 2025, but as of Feb. 21, 2025 no date has been set. As a practical matter NYLAG believes it could not begin before late 2025. See more on page 4 below about this change.

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," 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](http://www.wnylc.com/health/entry/65/)" posted at <http://wnylc.com/health/entry/65/>.

IRA, KEOGH or Retirement funds owned by you or your spouse are exempt as a resource, but only if you or your spouse are withdrawing periodic payments. Medicaid requires you to take these distributions even before the IRS requires taking Required Minimum Distributions at age 72 or at age 73 if you turn 72 after December 31, 2022. Also, the IRS allows you to take withdrawals without a tax penalty after age 59.5, or earlier if you have a disability. However, Medicaid requires you to take IRA distributions at any age, unless you are enrolled in the Medicaid Buy-in for Working People with Disabilities (MBI-WPD)(or those under 65, working, and disabled – the age cap of 65 may be lifted if CMS approves it – stay tune) or if you would incur a penalty for taking such distributions. See more about MBI-WPD at <http://www.wnylc.com/health/entry/59/>.

The minimum amount of the periodic IRA distribution varies depending on the amount of money in your IRA, your age, and marital status – and even depending on where you live in NYS. Although taking these distributions exempts your IRA as a resource, the withdrawals themselves are counted as "income" so would increase your "spend-down" (more on that below).

For more info on exempt resources see <http://www.wnylc.com/health/entry/113/>

EXCESS RESOURCES are countable resources that are over the resource limits above, as of the first day of the month in which you are applying for Medicaid (but not counting income you receive in that month). If you have excess resources, you can become eligible for Medicaid in three ways:

1. Spend the excess down before you apply for Medicaid on:
 - (a) Medical care or private home care, or
 - (b) Household items or expenses, or paying down a mortgage or buying a house, or pre-paying one's own rent or utilities
 - (c) Pre-paid funeral 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 your excess resources or spend-down. They can be as much as six years old because they are still “viable,” meaning a provider could still sue to collect them. See NYS website at https://www.health.ny.gov/health_care/medicaid/excess_income.htm
3. **TRANSFERS OF ASSETS – Currently there is no transfer penalty if you transfer assets before applying for Community Medicaid for home care.** If you transfer excess assets today, and apply for Community Medicaid on the 1st of the next month, you can be eligible. **However –**

Starting later in 2025 or 2026, unless repealed, a penalty period for Community-Based LONG-TERM CARE SERVICES will be subject to a LOOK BACK PERIOD, requiring the applicant and spouse to submit all financial statements going back 30 months. If a transfer is found during the lookback period, by the applicant or spouse, then a “transfer penalty” will be imposed, meaning Medicaid will not pay for community-based long-term care services such as Medicaid home care or Assisted Living Program for a period of time that depends on the amount transferred. The New York State Department of Health has informally stated that these new rules will not be implemented until sometime in 2025. Now that 2025 has begun, it is unlikely that it could be implemented before late 2025. For more information, see: <http://www.wnylc.com/health/news/85/#lookback>

Applicants applying for **Nursing Home Medicaid** are subject to a **LOOK BACK PERIOD OF 5 YEARS** (60 months). If a non-exempt transfer was made, Medicaid will not pay for nursing home care for the penalty period.

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. For news about how NYS is implementing

the new lookback for Community-Based Long-Term Care, check <http://www.wnylc.com/health/news/85/#lookback>.

B. INCOME – the amount you receive each month or less regularly – from Social Security, pensions, work, gifts, and distributions from IRAs or annuities.

INCOME LIMITS – (2025)

\$1800/month – Living alone

\$2,433/month – Couple

These limits increased by 50-60% effective Jan. 1, 2023 and more modestly since then. The 2023 increase was the result of a change in the law that makes the income limits the same as for those under 65 under MAGI Medicaid. However, some income that is exempt for MAGI Medicaid is counted for Disabled-Aged-Blind (DAB) or non-MAGI Medicaid, such as Veterans' benefits, Workers Compensation, gifts and inheritances.

Medicaid generally counts GROSS income, but there are some deductions and exemptions described below. Again, these rules for DAB or non-MAGI Medicaid are different than those used for younger people in MAGI budgeting. For more information on MAGI see <http://www.wnylc.com/health/entry/195/>

1. Basic Budgeting Rules for Income:

A. DEDUCTIONS from gross income – For people aged 65+, blind, or disabled, subtract from GROSS income:

- \$20 off the top (this effectively increases the limits above by \$20) – but a married couple only gets one \$20 disregard
- **Health insurance premiums** – Medicare Part B,* Medicare Supplemental (Medigap), dental, vision or other insurance premiums. May deduct the Medicare Part D prescription drug premium or a Medicare Advantage premium, but only to the extent it is not subsidized by “Extra Help,” the Part D subsidy given to all Medicaid recipients.

***NOTE:** If you are also approved for a Medicare Savings Program (MSP)(QMB), which has the same income limit as Medicaid, you cannot deduct the Medicare Part B premium because it will be paid by the MSP program.

- **“In-kind” income** – Cash gifts count as income, but in-kind income does not. Family should NEVER give you CASH. Persons who are not “legally responsible” for you can help by paying bills directly. Direct payments to the landlord, utility, or other vendors for rent, phone bills, or other expenses are NOT counted as income. **WARNING:** people on SSI have stricter rules.

EXAMPLE: Maria's daughter Estella pays Maria's rent to the landlord. This is NOT income because Estella 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.

B. EXEMPTIONS -- Some income is not counted, such as Holocaust restitution, reverse mortgage payments, interest and dividends, and bona fide loans. These exemptions are only for the DAB non-MAGI category – Disabled, Aged 65+ and Blind – for people living in the community. MAGI has different exclusions. Individuals on nursing home Medicaid also have different income rules.

EXAMPLE: Anna lives alone with gross \$2,120 Social Security/ month, before her Part B is deducted. Her "surplus" or spend-down is \$115 (2025) after deducting her Part B premium.

| | |
|--|----------|
| Social Security (gross) | \$ 2120 |
| – Medicare Part B premium (2025) | 185 |
| – \$20 income deduction (65+, blind, disabled) | 20 |
| <hr/> | <hr/> |
| MEDICAID INCOME | 1915 |
| Medicaid standard for one | – \$1800 |
| <hr/> | <hr/> |
| Medicaid SURPLUS or SPEND-DOWN | \$ 115 |

2. Strategies to Eliminate or Reduce the “Spend-Down” or “Excess Income” - see more here <http://www.wnyc.com/health/entry/222/>

A. 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.wnyc.com/health/entry/2/> and a step by step guide to enrolling in one can be found here <http://www.wnyc.com/health/entry/44/>. Pooled trusts are listed here. <http://www.wnyc.com/health/entry/4/>.

TIP: Anna in example above should deposit \$115 + \$185 = \$300 into a trust, not just \$115. This way she’ll have no spend-down **and** be eligible for QMB, a Medicare Savings Program that will pay her Part B premium. So she will no longer “deduct” her Part B premium.

B. EARNED INCOME – if you or your spouse is working, more than half of the gross earned income is disregarded. From monthly gross income, deduct the first \$65 then one-half of the remainder. **Example:** Pat age 66 earns \$1000/mo. babysitting. Deduct \$65 = \$935, of which only half is counted - \$468. This gets added to her unearned income.

Medicaid Buy-In for Working People with Disabilities (MBI-WPD)-- Working people with disabilities under age 65 have a higher income limit of 250% FPL. See <http://www.wnyc.com/health/entry/59/> and https://www.health.ny.gov/health_care/medicaid/program/buy_in/index.htm. The age limit of age 65 may be lifted – stay tuned at above links.

C. Special Housing Deduction if You Were in a Nursing Home or Adult Home for 30+ Days AND are move or return to the community with Managed Long-Term Care (MLTC)

You may be eligible for a large income deduction to help you pay rent or other expenses if Medicaid paid for any part of your nursing home or adult home stay. The stay must have been 30 days or more. To qualify, you must enroll in an MLTC plan upon discharge, or stay in one if you were already enrolled before or while admitted to the nursing home or adult home. This allowance may ELIMINATE your spend-down! See this article <http://www.wnylc.com/health/entry/212/> and this fact sheet <http://www.wnylc.com/health/download/711/> for more info.

D. Married Individuals – Spousal Impoverishment Protections if one Spouse needs MLTC or a “Waiver” program

Where just one spouse needs Medicaid Managed Long-Term Care, “Immediate Need” home care (see <http://health.wnylc.com/health/entry/203/>), or a waiver (Nursing Home Transition & Diversion, OPWDD, or Traumatic Brain Injury)(<http://health.wnylc.com/health/entry/129/>), the married couple may keep significantly more income and assets without using a pooled trust.

Under the “spousal impoverishment” rules, the spouse receiving MLTC, immediate need or waiver services may keep **\$633/month** (2025), after deducting the cost of any Medicare and Medigap premiums. They may allocate enough of the remainder of their income to bring the “community spouse’s” income up to **\$3948/mo.** (2025). With this method, the applicant has no spend-down if the combined income is less than about **\$4,581/mo.** plus enough to pay any Medicare, Medigap or other insurance premiums.

When can married individuals request Spousal Impoverishment protections?

- a. If applying for Medicaid based on an “**Immediate Need**” for personal care or consumer-directed personal assistance, you may request spousal impoverishment budgeting with the application. See fact sheet with forms at <http://www.wnylc.com/health/download/637/> and <http://www.wnylc.com/health/entry/203/>
- b. If you are applying for Medicaid and planning to enroll in an MLTC plan or waiver, then you **may NOT** request spousal impoverishment budgeting with the application. It may be requested from HRA/local Dept. of Social Services only AFTER the applicant is enrolled in MLTC or a waiver. However, the application may use “Spousal Refusal,” explained below, and then request HRA/DSS to convert the budget to

“spousal impoverishment” budgeting once enrolled in an MLTC plan or waiver. Otherwise, the applicant will have a high spend-down initially.

- c. Once you are enrolled in an MLTC plan, you may request this budgeting from HRA/ DSS – as long as your spouse is not on Medicaid. Submit the "[Request for Assessment - Spousal Impoverishment](#)" (DOH-5298 form (1/2023) to the local DSS/HRA.

SPOUSAL REFUSAL – Married individuals applying for Medicaid might be denied Medicaid – or have a very high spend-down – if the assets or income of their spouse is counted. 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 spouse has less than the “spousal impoverishment” allowances (for 2025 income of \$3,948/mo and resources of \$157,920), HRA may confirm that it will not pursue a lawsuit. Above those thresholds, they will review individual circumstances.

Download the NYC Spousal Refusal Form at <http://www.wnyc.com/health/download/66/>. Couples with significant assets or income should consult an elder law attorney.

Spousal Refusal & Spousal Impoverishment EXAMPLE -- Carol, who is married, is applying for Medicaid in order to enroll in an MLTC plan. She may not request “spousal impoverishment” budgeting until she is actually enrolled in an MLTC plan. If her spouse Sam’s income would give Carol a high spend-down, Sam can sign a “spousal refusal” form to submit with Carol’s Medicaid application. After Carol is enrolled in MLTC, she can request spousal impoverishment budgeting, so she may not need spousal refusal going forward. In NYC, use Form MAP-751w – download at <http://health.wnyc.com/health/download/770/>.

OPTION TO USE A POOLED TRUST *and IGNORE SPOUSE’S INCOME*. If spouse Sam’s income is at or above the spousal allowance (\$3948/mo. in 2025) then spousal impoverishment budgeting may not help. Carol could still have excess income (spend-down). She may enroll in a pooled supplemental needs trust instead. Carol uses “single” income and resource limits, depositing her own income in a pooled trust that exceeds the “single” income limit. Sam’s income would not count, and he doesn’t have to use “spousal refusal” or “spousal impoverishment.” See NYS DOH GIS 12-MA-13 https://www.health.ny.gov/health_care/medicaid/publications/docs/gis/12ma013.pdf

3. Once you Minimize the Spend-Down – 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 each month. Submit these medical bills to your local Medicaid agency. In NYC, if not seeking MLTC enrollment, CDPAP or personal care, fax medical bills to Surplus Income Program at 917-639-0645. (Download form at <http://health.wnyc.com/health/download/73/>).

If you receive home care, you will be billed by the MLTC plan or home care agency 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 above to reduce or eliminate your spend-down described above.

Continued Next Page – How Adults Apply for Medicaid

II. HOW ADULTS APPLY FOR MEDICAID For Age 65+/Blind/Disabled

A. File Medicaid Application & Documents with local Dept. of Social Services (DSS) Medicaid agency (HRA in NYC) (regular applications – Not “Immediate Need”)

- NYC: If you are seeking Medicaid but **not** home care or the Assisted Living Program - E-fax documents listed below to 917-639-0732.
- If you are seeking to enroll in MLTC or requesting home care or the Assisted Living Program -- Mail documents listed below to NYC HRA Home Care Services Program 785 Atlantic Ave., 7th Floor Brooklyn, NY 11238 – or leave in drop box at that address. (We recommend certified mail). See bottom of this page for “IMMEDIATE NEED” applications seeking home care.*
 1. Medicaid application (Access NY Health Insurance Application) <https://www.health.ny.gov/forms/doh-4220all.pdf>
 2. **Supplement A** - <https://www.health.ny.gov/forms/doh-5178a.pdf> (form since 1/1/2022 in NYC and statewide, replacing FORM DOH-4495a).
 3. **Document income** – pensions, work, self-employment, retirement distributions, etc. Note that proof of Social Security not required because they obtain it electronically (but still good to submit)
 4. **Document resources** -bank/ investment accounts, proof of cash value of life insurance, etc. showing balance on the 1st day of the month of the application. Include statement showing distributions from any IRA or other retirement accounts. Submit the first statement in current year that usually shows the RMD for the year, and shows the closing balance from prior year, from which the HRA/DSS will calculate the minimum amount of the distribution.
 5. **If you want retroactive Medicaid to pay or reimburse you for medical bills up to 3 months before you applied** -- Submit resource statements back to three months prior to the month of application AND in Section G of Medicaid Application titled Additional Health Questions, answer YES to Question 1 (Do you have past paid or unpaid medical bills in the last 3 months?) and to Question 2 (Do you have older past unpaid medical bills?)
 6. **HIPPA 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.
 7. **Proof of Identity** (Passport, Medicare card).

***Immediate Need Applications** -- FAST TRACK alternative for those who are applying for Medicaid AND home care based on an “**Immediate Need**” for home care, which has additional forms and steps and different fax number to file-- **1-917-639-0665** See article at <http://health.wnyc.com/health/entry/203/>

Get Help with Medicaid and Home Care

Statewide - NYC Facilitated Enroller Age 65+/ Blind/ Disabled - files Medicaid applications
<https://www.cssny.org/programs/entry/fe-abd> - has contacts for every county (Free!)

New York City – non-profits

New York Legal Assistance Group (city-wide) –
• General intake (212) 613-5000
• Evelyn Frank Legal Resources Program (212) 613-7310
The Legal Aid Society (city-wide) (888) 663-6880
Legal Services NYC (citywide) (917) 661-4500
New York City Dept. Aging--Alzheimer's and Caregiver Resource Center 311

Outside NYC/Statewide – non-profits

Empire Justice Center e-mail Health@empirejustice.org (800) 724-0490 x 5822
Center for Elder Law & Justice 10 counties in western NY: Allegany, (716) 853-3087
Cattaraugus, Chautauqua, Erie, Genesee, Livingston, Niagara, Orleans, Steuben, Wyoming

Private Attorneys and Geriatric Care Managers

National Academy of Elder Law Attorneys - online locator <http://www.naela.org>
Aging Life Care Association – geriatric care managers <https://www.aginglifecare.org/>

COMPLAINTS and MORE INFO

Request Independent Assessment (NYIA) 1-855-222-8350
NY States Dept. of Health -- MLTC Complaints mltctac@health.ny.gov 1-866-712-7197
• NY Independent Assessor Complaints Independent.assessor@health.ny.gov

ICAN – Independent Consumer Assistance Network – help with MLTC problems
ican@cssny.org TTY: 711 Website: icannys.org 1-844-614-8800

HRA info -- <https://www1.nyc.gov/site/hra/help/health-assistance.page>

- A. Learn about Managed Long-Term Care – <http://wnylc.com/health/entry/114/>
B. What is MLTC? <https://icannys.org/icanlibrary/what-is-mltc/> and other fact sheets
<http://www.wnylc.com/health/entry/202/>
C. Updates on MLTC – <http://wnylc.com/health/news/41/>
NY Independent Assessor <http://health.wnylc.com/health/entry/253/>
Updates on 30-month Lookback <http://health.wnylc.com/health/news/85/>

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

VISIT OUR WEBSITE at <http://nyhealthaccess.org>
NYLAG Evelyn Frank Legal Resources Program Intake
Mondays 10 AM – 2 PM (212) 613-7310 eflrp@nylag.org