

# MEDICAID DESK REFERENCE

(FLORIDA LONG-TERM CARE PROGRAMS – Figures Current as of 2/1/2019)

**DAVID H. JACOBY, ESQUIRE**

**David H. Jacoby Elder Law Advocate, P.A.**

2111 Dairy Road  
Melbourne, FL 32904

**(321)-723-8388**

## **ASSET TEST:**

**INDIVIDUAL MEDICAID RECIPIENT:** An individual Medicaid recipient may have the following exempt assets: a home with an equity value not to exceed \$585,000; a vehicle of any value regardless of use; all automobiles seven years or older that are not luxury or collector's items, pre-paid burial, provided it is irrevocable; a separate burial bank account in addition to pre-paid burial with a balance up to \$2,500; life insurance with a face value of up to \$2,500; and \$2,000 of other liquid assets.

**INDIVIDUAL WITH COMMUNITY SPOUSE:** In addition to the asset listed above, if there is a Community Spouse, then the following assets are considered exempt: a home of any value (no \$585,000 equity limit); the Community Spouse may have their own prepaid burial, burial fund, and life insurance; the Community Spouse may have an additional **\$126,420** of assets.

## **INCOME TEST:**

**INDIVIDUAL INCOME CAP:** An individual Medicaid applicant can have **gross** monthly income not to exceed **\$2,313**. If the applicant's income exceeds this amount, a **Qualified Income Only Trust** must be created and a separate bank account must be opened. **Each month** any income above the cap must be deposited into the Income Only Trust bank account to remain eligible for Medicaid. (Note: to avoid the risk of future ineligibility caused by increased income, it is recommended that all of the applicant's income be transferred into the Income Only Trust except the Personal Needs Allowance of \$130 and enough to pay the secondary health insurance premium each month).

**WHO MAY CREATE INCOME ONLY TRUST:** The Applicant, the Applicant's spouse, or an Agent pursuant to a Durable Power of Attorney or a Court Appointed Guardian. Note: a Power of Attorney must specifically state the right to **create and fund a trust** in order to be utilized. A general right to do everything in a Power of Attorney or for the Agent to *fund an existing* Trust is not sufficient.

**DIVERSIONS OF INCOME TO COMMUNITY SPOUSE:** A Community Spouse is permitted to have unlimited income and still have the Applicant spouse qualify for Medicaid benefits. If the Community spouse's income is low enough, they may be entitled to a diversion from the Applicant spouse's income. There are two diversions possible: Minimum Monthly Maintenance Income Allotment (MMMIA) and Excess Shelter Cost. **Minimum Monthly Maintenance Income Allotment** is a diversion from the Applicant spouse's income to the community spouse necessary to make the Community spouse's gross monthly income \$2,058 per month. **Excess Shelter Cost** is a diversion from the Applicant spouse's income to the community spouse for shelter costs that **exceed \$617** per month. Shelter costs include mortgages, taxes, insurance, homeowner's dues and a fixed amount of \$359 a month for utilities.

**OVER** 

The foregoing "Desk Reference" is meant to provide a general synopsis of Medicaid long-term care eligibility requirements, and is not intended to be a replacement for professional legal consultation or to provide specific legal advice for any individual case. The figures contained herein are subject to change.



## THE ADVICE OF AN ELDER LAW ATTORNEY SHOULD BE IMMEDIATELY SOUGHT IF:

- a. There has been any gifting during the look-back period.
- b. The assets exceed Medicaid's asset cap.
- c. There is an estranged spouse.
- d. There are multiple parcels of land involved.
- e. There are joint owners of accounts.
- f. There is difficulty in obtaining asset or income information from a third party.
- g. A Qualified Income Only Trust is required.
- h. There are competency issues.
- i. There is any question regarding existing legal documents.
- j. Power of Attorney, Health Care Surrogate or Living Will have not been previously executed by the prospective resident.
- k. The countability of an item is unknown or whether an item will be treated as an income or an asset.
- l. There has been a denial of a Medicaid application.



**d.jacoby@davidhjacobylapa.com**