DARS

VIRGINIA DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

DIVISION FOR THE AGING

James A. Rothrock, Commissioner

VDA WEEKLY E-MAILING

July 14, 2015

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Here is a link to news & information from the Administration for Community Living (ACL):
http://www.acl.gov/NewsRoom/NewsInfo/Index.aspx

NASUAD Weekly Update

Here is a link to the weekly update from NASUAD:
http://www.nasuad.org/newsroom/friday-update

Note: The web links in this document may change over time. DARS-VDA does not attempt to refresh the links once the week has passed. However, this document is maintained on the web for a period of time as a reference. Some links may require registration.

ACL UPDATES
Administration for Community Living

July 10, 2015

Health Affairs Blog: "How Community-Based Organizations Can Support Value-Driven Health Care

Anad Parekh, Deputy Assistant Secretary for Health at HHS, and Robert Schreiber, MD, of the Hebrew SeniorLife Medical Group, have published an article in the *Health Affairs* Blog that explains how vital it is to connect patients with community-based organizations, such as Area Agencies on Aging. The article includes real-world examples as well as data that support the effectiveness of this approach:

"As our health care system transforms more quickly than ever from paying for volume to paying for value, providers have strong incentives to ensure that their patients' care plans are reinforced and supported outside the clinical setting in people's homes and communities.

"This is particularly important for older adults with multiple chronic conditions, who comprise 66 percent of Medicare fee-for-service beneficiaries and account for 93 percent of total Medicare expenditures. In addition, it is well known that individuals with both chronic conditions and functional limitations requiring long-term services and supports are at highest risk for poor outcomes and high health care expenditures.

"For these individuals to achieve better health, providers must be able to connect their patients to social supports and human services ...

Read more...

National Association of Area Agencies on Aging Awards July 2015

Tim Catherman, Director Aging Operations

Annually the National Association of Area Agencies on Aging Awards recognizes agencies on aging across the country for innovative programs and achievement awards. This year three Virginia AAAs are being recognized. For the category of Innovation, BayAging for the Eastern Virginia Care Transitions Partnership (EVCTP) and SeniorConnections for Honoring Choices ® Virginia. For the Achievement Award, Arlington Agency on Aging Info Exchange Session is recognized.

N4A Innovation Award: Bay Aging for Eastern Virginia Care Transitions Partnership (EVCTP)

Executive Director: Kathy Vesley-Massey

The Eastern Virginia Care Transitions Partnership consists of 5 AAAs, 5 health systems, 11 hospitals and other providers. Using the Coleman evidence-based Care Transitions Intervention© it has reduced unnecessary Medicare 30-day readmissions in target group chronic illnesses from 23.4% to 7.9%., saving healthcare costs and improving patient health outcomes. A CMS "top performer," EVCTP was recognized in Philadelphia in July with an n4a Innovation Award for its pre- and post-acute care interventions and integration of supports for social determinants of health.

The AAA Care Transitions Intervention (CTI) team consists of Bay Aging, Lead Community Based Organization (CBO), Peninsula Agency on Aging, Eastern Shore AAA, Rappahannock AAA, and Senior Services of Southeastern Virginia.

N4A Innovation Award: Senior Connections: Faith to Fate

Executive Director: Thelma Bland-Watson

Faith to Fate is a partnership with African American Churches in the Richmond area to assist congregations with advance planning in accord with the principles of Honoring Choices ® Virginia. The participating Churches are taking the lead in educating, counseling and encouraging members of their congregations to use their legal rights to document their advance planning decisions in wills, powers of attorney and health care directives.

N4A Achievement Award: Arlington Agency on Aging Info Exchange Session

Executive Director: Maimoona Bah-Duckenfield

The Aging Information Exchange Session is a quarterly resource and information roundtable exchange between Arlington County's AAA, key county staff, representatives from Long-Term Care (LTC) communities, and commissioners from the Commission on LTC Residences. The exchange provides a unique opportunity for service providers from LTC to directly network with one another and local county and community programs in an effort to expand knowledge of available aging resources and enhance ability to provide exceptional care to older adults within the community.

Roadwise RX for Safety

Kathy Miller, Director of Programs, Division for the Aging

Two-thirds of senior drivers age 65 and older take five or more daily medications that can affect their ability to drive safely. Prescription and over-the-counter medications come with warnings about possible side effects, such as drowsiness or risks related to driving, yet many people ignore them, because they've never had a problem. In addition, side effects for an individual drug can change when combined with other medications, especially new prescriptions.

Medications known to impact driving include:

Tranquilizers
Narcotic pain pills
Sleep medicines
Some antidepressants
Cough medicines
Antihistamines
Decongestants

Developed by the AAA Foundation for Traffic Safety, Roadwise Rx is a free online tool designed to allow individuals to record their prescription and over-the-counter medications in one central location, and to receive personalized feedback about how drug side effects and interactions between medications may impact their ability to drive safely.

Launch Roadwise Rx: http://www.roadwiserx.com/

When Does Medicaid Pay for Long-Term Care?

Kathy Miller, on behalf of Jay Speer and Kathy Pryor, VA Poverty Law Center

WHEN DOES MEDICAID PAY FOR LONG-TERM CARE?

Revised July 2015

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NOTE: Most of the dollar figures used in this outline are adjusted annually, at different times of the year, according to poverty guideline adjustments or cost of living increases. The figures used are current as of the date of the revised outline.

NOTE: The income and resource eligibility rules are different for an individual (without a spouse) versus a married couple when one spouse needs long-term care, so those sections of the outline are divided to describe the different rules.

DEFINITIONS

Non long-term care. Coverage of health care costs of a person who is not receiving long-term care, such as hospital, doctor and prescription bills.

Qualified Medicare Beneficiary (QMB). This is limited Medicaid coverage for a Medicare recipient whose income does not exceed 100% of the federal poverty limit. Medicaid will pay the Medicare Part B premium, deductibles and co-payments only. M0320.601.[1]

Special Low-income Medicare Beneficiary (SLMB). This is limited Medicaid coverage for a Medicare recipient whose income is slightly above the QMB limit, but less than 120% of the federal poverty limit. Medicaid will pay the Medicare Part B premium only. M0320.602.

Qualified Individuals (QI). This is limited Medicaid coverage for a Medicare recipient whose income is between 120% and 135% of the federal poverty limit. Unlike SLMB recipients, persons eligible for QI will have to apply every year and only those who apply before the money allotted by DMAS for this coverage runs out will be covered. M0320.603.

Long-term care. Medical care received in a nursing facility or in a community setting that is expected to last at least 30 days. Medicaid will not pay for this type of care unless it is determined, after a pre-admission screening, that the patient needs nursing facility care or community-based care. M1410.010.

Manual. The Virginia Department of Social Services Medicaid Eligibility Manual. Local social services eligibility workers use this manual. It is online at http://www.dss.virginia.gov/benefit/medical_assistance/manual.cgi .

Community-based care (CBC). Medicaid covers long-term care in a community based setting (not an institution) for individuals whose mental or physical condition requires nursing supervision and assistance with activities of daily living. M1410.040. The individual may be eligible for one of

[1] All citations are to the Virginia Medicaid Claims Manual which is available on-line at http://www.dss.virginia.gov/benefit/medical_assistance/manual.cgi.

several community-based care waivers, such as the Elderly or Disabled with Consumer Direction ("EDCD") waiver for aged or disabled individuals who would otherwise require care in a nursing home.

Community Spouse. The spouse of a person receiving long-term care. Remember that the institutionalized spouse can be receiving long-term care at home through a waiver as well as in a nursing home.

Resources. Another name for assets owned by the person applying for Medicaid and his or her spouse.

Exempt resources. Not all resources a person owns are counted in determining eligibility for resources. Those resources that are not counted are exempt.

MEDICAID COVERED GROUPS

There are many Medicaid covered groups. Most older Medicaid applicants must fit within one of the groups below to be eligible. However, this is ***not*** an exclusive list.

SSI. Most persons who are eligible for Supplemental Security Income (SSI) are also eligible for Medicaid. A person must be aged (65+), blind, or disabled, have limited income, and have countable resources below the SSI limit ($2000 for an individual; $3000 for a couple) to qualify for SSI. Virginia Medicaid has more restrictive eligibility rules than SSI regarding whether certain assets are exempt; therefore, some persons who are eligible for SSI are not eligible for Medicaid under this category but almost all will be eligible under the next category. (There may be some couples receiving SSI whose income exceeds 80% of the federal poverty line even after disregarding the SSI income).

Optional Categorically Needy

- Aged and disabled Virginians with income at or below 80% of the federal poverty line.

- Individuals receiving long-term care whose incomes are less than 300% of the SSI level.

Auxiliary Grant recipients. Aged, blind, or disabled individuals residing in Assisted Living Facilities or Adult Care Residences and receiving an auxiliary grant to help pay for their care.

QMB. Limited Medicaid coverage is available to a Medicare recipient with income less than or equal to 100% of federal poverty income limits and assets within the limits for Medicare Savings Program (MSP), which in 2015 is $7,280 for an individual and $10,930 for a couple. M1110.003. Medicaid will pay the Medicare premiums, deductibles, and co-payments but not long-term care, prescriptions, etc.

SLMB. Medicare recipients with income over 100% but less than or equal to 120% of federal poverty income limits, and assets within the limits for MSP (see QMB above) are eligible for SLMB. Medicaid will pay only the Medicare premium, but not the co-payments or deductibles.

QI. Medicare recipients with income over 120% but less than or equal to 135% of federal poverty income limits, and assets within MSP limits (see QMB above) are eligible. Same coverage as SLMB except you must apply every year and it will be first-come, first-served, until the money runs out.

Medically Needy (M0310.120)

- The applicant is aged, blind or disabled; and
- His resources are below the SSI limit, but his income is more than 80% of the federal poverty line; and
- After deducting medical expenses incurred (but not necessarily paid), his income is below the medically needy income limit (MNIL). This is called an income spend-down.
- Usually, individuals will not qualify under this category unless they are receiving long-term care or have large unpaid medical bills.

Income Limits and Countable Assets for the different types of coverage can be found in the table on the next page. Figures come from Medicaid Manual M0810.002, M1110.003, and M1480.430. The rest of the outline will focus on the financial criteria for Medicaid coverage of long-term care (both nursing home and community-based care), although some of the rules are also applicable to non long-term care eligibility.

Exempt Income. The following income does not count toward the income limit.

- $20 per month of unearned income; and

- The first $65 of earned income, plus half of the remaining earned income.

Income or Resource? A lump sum of money is considered income for the month in which it is received. If the person still has the money in the next month, it is considered a resource. (Manual, S0810.010).

Type of Coverage	Monthly Income Limits (2015)	Countable Assets Limits (2015)
Non Long-Term Care	\$784.66/mo. for an individual (80% of 2015 federal poverty level) \$1062/mo. for a couple Income Spend-downs available for higher incomes, but must spend-down to medically needy income level (MNIL)	\$2,000 for an individual \$3,000 for a couple More restrictive rules concerning what type of property is exempt will apply if income is above 80% of poverty level after disregarding SSI income
QMB	\$980.83/mo. for an individual \$1,327.50/mo. for a couple	\$7,280 for an indiv.; \$10,930 for a couple
SLMB	\$1,177/mo. for an individual \$1,593/mo. for a couple	Same as QMB
QI	\$1,324.16/mo. for an individual \$1,792.16/mo. for a couple	Same as QMB
Long-Term Care Individual	\$2,199/mo. Spend-down available Personal needs allowance Community care: \$1209 ('15). (M1470.410) Nursing facility: \$40 eff. 7/07	Same as non long-term care
Long-Term Care Couple	Community spouse (CS) is not required to contribute income--and CS's income is not deemed-- to institutionalized spouse. Only count any <u>actual</u> contribution by the CS to the institutionalized spouse. (M1480.300.B.3).	Divide Assets and community spouse keeps one-half, subject to a minimum of \$23,844 (1/15) and maximum of \$119,200 (1/15)

	The CS may be entitled to a portion of institutionalized spouse's income if her income is below the minimum spousal allowance of $1991.25/month. CS may be able to keep more than the minimum if she has high housing expenses (M1480.410).	(M1480.231)

MEDICAID COVERAGE OF LONG-TERM CARE

PRE-ADMISSION SCREENING

Unless a nursing home stay is expected to last less than 30 days, applicants seeking Medicaid coverage of either community based care or nursing home care generally must be screened by a team to make sure they qualify functionally and medically for long-term care in addition to meeting the income and resource eligibility criteria described below. A person seeking a community based care waiver must meet the same criteria as a person seeking coverage of nursing home care. M1410.200; M1420.400.

To qualify, the person must be dependent in a number of activities of daily living (which include bathing, dressing, eating, toileting, transferring, bowel and bladder function). The team will also assess the individual's mental orientation and behavior (e.g., whether the person wanders or is disoriented), mobility, joint motion, and ability to self-administer medications. The person's medical and nursing needs, including the need for medical or nursing services, observation or monitoring, potential for medical instability, etc. will also be evaluated.

When an individual is going through the pre-admission screening, it is very important to mention all ways he or she needs help. This is not the time to emphasize what the person can do for herself, but to recognize all the ways the person needs help. For example, if a person is asked whether she can feed herself, it is important to mention that she needs help cutting up meat, opening a milk carton, or pouring milk, etc. If the person has bladder or bowel accidents and is sometimes incontinent, this needs to be mentioned even though it may be embarrassing. If the person can essentially dress herself, but can't manipulate buttons or zippers or needs help tying her shoes, these limitations should be pointed out to the screening team. If the screeners are not told about ways the person needs help, they may decide the person does not need long-term care services and may not approve the person for coverage. Don't exaggerate the individual's limitations, but don't hide them.

A determination by the pre-admission screening team that the person is not functionally or medically in need of long-term care services can be appealed to the Department of Medical Assistance Services (DMAS or Medicaid).

INCOME ELIGIBILITY FOR MEDICAID COVERAGE OF

LONG-TERM CARE

- **Individual applicant for long-term care**:

  - An applicant for long-term care is eligible if her income is less than 300% of the SSI limit ($2,199 per month in 2015). If her income exceeds that amount, she must qualify on an income spend-down.

  - A nursing home resident generally must pay all of her income toward the nursing home bill except $40 per month (the personal needs allowance which increased from $30 to $40 in July 2007 and is not adjusted annually). If the person is expected to return to her home in the community within six months and is responsible for shelter costs, she is entitled to a home maintenance deduction equal to the monthly medically needy income limit (between $310.27 and $465.40/month depending on the jurisdiction), to pay the mortgage or rent. M1470.240 and M0810.002A.4.

  - A community-based care recipient on the Elderly and Disabled waiver may keep $1209 per month in 2015 for his personal needs. M1480.430. The personal needs allowance changes annually and is calculated at 165% of the SSI level, which is $733 in 2015 (and was $721/month in 2014).

  - Both nursing home residents and CBC recipients may also pay some medical insurance premiums and other medical expenses before contributing the rest of their income for the cost of the long-term care.

- **When one spouse is receiving long-term care:**

  - **Does the community spouse have an obligation to support the spouse that is receiving long-term care?**

- The community spouse's income is not deemed to be available to the institutionalized spouse in determining the institutionalized spouse's eligibility for Medicaid. Only the institutionalized individual's income is counted for eligibility and patient pay calculation purposes. M1480.300.B.3.

- The community spouse's income is only used to determine whether he or she is entitled to receive an allowance from the institutionalized spouse's income (see section on community spouse's right to support from income of spouse). M1480.300.B.3.

- Medicaid no longer requires a financial contribution from the community spouse toward the institutionalized spouse's cost of care. Only any amount that is <u>actually</u> contributed by the community spouse is counted as available.

- **What right to support does the community spouse have from the income of the spouse who is receiving long-term care?**

  - The community spouse is entitled to keep a minimum of $1991.25 per month from the couple's income for her living expenses before any of the couple's income must be used for the cost of the long-term care. This is called the monthly maintenance needs standard. M1480.410.

  - The community spouse can keep an additional amount, up to the maximum of $2,980.50 in 2015 ($2,931 in 2014), if the community spouse's "shelter" expenses exceed $597.38. Shelter expenses are rent, mortgage, taxes and insurance, condominium maintenance charges, and the standard utility deduction of $298 (eff. 10/14). M1480.410.

  - ***Example.*** A community spouse receives $900 per month gross income from a pension and her institutionalized spouse has monthly income of $1,200 from Social Security. We will assume that the spouse receiving long-term care will be eligible for Medicaid after meeting a spend-down.

    - The community spouse's shelter expenses are mortgage, taxes, and insurance totalling $437 per month. She is also entitled to the standard utility allowance of $298.

- Her shelter costs are: $437 + 298=$735 per month.

- Excess shelter allowance is $735 – 597.38 = $137.62.

- Therefore, the spousal minimum monthly maintenance needs allowance is $1991.25 + 137.62 = $2,128.87.

- This community spouse may keep $1,228.87 per month of the institutionalized spouse's income in addition to her own income ($2128.87 - $900 = $1,228.87 [This is called the community spouse's monthly income allowance from the institutionalized spouse's income.]

- The spouse receiving long-term care can keep $40 per month for his "**personal needs allowance**" (the personal needs allowance increased from $30 to $40 in July 2007; there is no annual cost of living increase for the personal needs allowance). Generally, after deductions for the community spouse and $40 for his personal needs allowance (and sometimes a deduction for non-covered medical expenses—M1470.230), the remainder of the resident's income will be owed to the nursing home as his monthly **patient pay obligation**. Individuals without a community spouse may, under some circumstances, also be entitled to a home maintenance deduction (M1470.240) or a dependent child allowance (M1470.220) in the calculation of their patient pay obligation.

RESOURCE ELIGIBILITY FOR MEDICAID COVERAGE OF

LONG TERM CARE

Countable Resources**.** The resource limits refer to the value of property owned by a Medicaid applicant or his spouse that is not exempt.

Individual applicant for long-term care:

- An individual may have no more than $2,000 in countable assets.

- An individual's home is exempt while he is living there and his former home may be exempt after he leaves it (see section of this outline on exempt resources).

- **Long Term Care Partnership Policies** (M1460.160): If an applicant has an approved Long Term Care Partnership policy issued after 9/1/07 which helps pay for assisted living or long term care services, Medicaid will disregard assets in the Medicaid eligibility determination equal to the dollar amount of benefits which have been paid by the policy to or on behalf of the individual as of the month of application for Medicaid, even if additional benefits are available under the terms of the policy. In other words, if a Medicaid applicant has an approved Partnership policy which has paid out $100,000 in long term care benefits as of the month the person applies for Medicaid, then $100,000 of the person's assets will be disregarded in determining Medicaid eligibility. For a policy to be considered a Partnership Policy it must have been issued on or after 9/1/2007; contain a disclosure statement that it meets requirements of § 7702B(b) of the Internal Revenue Service Code of 1986; and provide appropriate inflation protection.

When one spouse is receiving long-term care:

- The community spouse may keep all of the exempt resources.

- Nonexempt resources are divided as of the date that one spouse begins receiving long-term care. The community spouse may keep one-half of the couple's countable assets and is entitled to a minimum of $23,844 and a maximum of $119,200 of the nonexempt assets in 2015. M1480.231.

- A "resource assessment" should be requested from Social Services whenever one spouse begins receiving long-term care even if the couple has too many assets to qualify for Medicaid immediately. M1480.200. The resource assessment will determine how much of the nonexempt resources the community spouse will be allowed to keep and still qualify the spouse in the nursing home for Medicaid assistance to cover his nursing home care. An explanation of the resource assessment process follows the section on exempt resources.

EXEMPT RESOURCES

Certain resources are not counted for purposes of Medicaid eligibility. The following is a list of the major exemptions.

One automobile, regardless of value, is exempt (M1130.200.A.3)**.**

The Home. (M1130.100, S1130.100 and M1480.220). The home and land surrounding it are exempt if the Medicaid applicant is residing there. For those with income under 80% federal poverty line (FPL), the home and all land adjoining the home lot are excluded. For those with income over 80% FPL, the home lot is excluded and the adjoining property is exempt to the extent the value of the adjoining property (not counting the home lot) is less than $5000 or is essential to the dwelling. For a married couple when one spouse is in a nursing home, all the property contiguous to the residence is excluded. M1480.210.B.1, M1480.220.B.2.

A Life Estate in real property generally is exempt, depending on when the life estate was created. If the life estate was created prior to August 28, 2008 or on or after February 24, 2009, the value of the life estate is excluded, whether or not the Medicaid applicant is living on the property. However, a life estate created on or after August 28, 2008 but before February 24, 2009, is a countable resource to the owner unless it is excluded under another real property exclusion. M1110.515.

The former home (M1460.530; S1130.100)

- The applicant's home will continue to remain exempt after he moves away if certain relatives are still living there:
  - His spouse, or
  - His minor dependent child (under age 18 or under age 19 and attending school), or
  - His parent or adult child who is:

- 65 years of age or older, or disabled per Medicaid disability definition, and;

- Is dependent on him for shelter (the person is presumed dependent if his income does not exceed the SSI limit); and

- The parent or adult child has lived in the home for at least one year prior to his moving to a nursing facility.

  - For Medicaid recipients with income less than 80% FPL, the former home may still be excluded if any relative dependent on the shelter lives there, if the resident intends to return home, or if the sale of the home would cause undue hardship, due to loss of housing, to a co-owner. S1130.100, S1130.130, S11 Appendix 2.

- Even if none of the relatives specified in the previous section are living there, a former home is exempt for six months beginning with the month following the month institutionalization begins. M1460.530.

- For nursing facility and Community Based Care patients who meet the requirements for LTC on or after January 1, 2006 and until 1/1/11, if the equity value of the home property exceeded $500,000, the individual is not eligible for Medicaid payment of LTC services unless the home is occupied by a spouse, a dependent child under 21, or a blind or disabled child of any age. As of 1/1/11, the home equity limit increased to $506,000 and became subject to change annually. Effective 1/1/15, the home equity limit is $552,000. The home equity limit applied is the limit on the date of application or request for LTC coverage. An individual with substantial home equity who meets all other Medicaid eligibility criteria may be eligible for Medicaid payment of other covered services, but not for LTC services. M1460.150, M1480.015.

Reasonable effort to sell real estate (M1130.140)***:***

Real property is exempt while the Medicaid applicant/recipient is attempting to sell it **if** the Medicaid rules to establish the initial ***and*** continuing effort to sell are strictly followed.

- **Initial effort to sell** (M1130.140.B.1)

- ❖ Property is listed with a real estate agent at tax-assessed value and the agent verifies that it is unlikely to sell within 90 days due to one of the circumstances listed in the Medicaid Manual; or

- ❖ At least two Realtors refuse to list the property because it cannot be sold at current market value (Medicaid considers the tax-assessed value to be the current market value) and documentation of the property's deficiencies are provided; or

- ❖ Applicant has personally tried to sell the property for 90 days using the methods listed in the Medicaid Manual; or

- ❖ If an individual who is incompetent owns the property and no general power of attorney exists, court action must be initiated for appointment of a guardian to sell the property—an initial effort to sell is established once the date for a hearing on the guardianship is placed on the court docket and continues until the court authorizes sale of the property or 6 months, whichever is less; or

- ❖ For jointly owned property, all other co-owners refuse to purchase the applicant's share and at least one co-owner refuses to sell.

- **Continuing effort to sell.** (M1130.140.B.3) Even if property is exempted because the applicant has made an initial effort to sell, he must make a continuing effort to sell for the property to remain exempt. A continuing effort to sell is made by:

  - ❖ Continually renewing a listing agreement at no more than 100% of the taxed assessed value until the property is sold.

  - ❖ If 2 Realtors have refused to list the property, the Medicaid recipient must personally try to sell the property.

  - ❖ For jointly owned property that the co-owners have refused to sell, a partition suit must be filed within 60 days to have a court order the property sold; the continuing effort to sell will continue until the property is sold or 9 months, whichever is less. Any period in excess of 9 months to sell is not considered to be reasonable and the property loses this exemption.

Household goods and personal effects are exempt. (M1130.430).

- Household goods are items of personal property customarily found in the home, such as appliances, furnishings, etc.

- Personal effects are things that are worn or carried or that have an intimate relation to the individual, such as clothing, jewelry, prosthetic devices, and educational or recreational items such as musical instruments, books, hobby materials, etc.

Life Insurance ***(M1130.300).***

- Term insurance (no cash value) is exempt.

- Policies with cash surrender value are <u>not</u> exempt unless the total face value of all policies with cash surrender value is less than $1,500. However, these policies will reduce the amount that can be set aside as burial funds. If the policies are not exempt, the cash surrender value of the policies will be counted toward the resource limit.

Burial Expenses ***(M1130.400).***

- Cemetery plots are exempt.

- "**Burial space items**" are exempt regardless of value. (M1130.400). The following are burial space items:

  - ❖ Gravesite, crypt, mausoleum, casket, urn, niche, or other "repository of bodily remains";

  - ❖ Necessary and reasonable improvements such as vaults; headstones, markers or plaques; burial containers (e.g., for the casket);

  - ❖ Arrangements for opening and closing of the gravesite; and a contract for care of the gravesite.

- ❖ The applicant does not have to purchase the burial space items and store them at his home. He may sign a contract with a burial provider (e.g., a funeral home) for a burial space to be held for him. The burial space item will be "held for" him when he obtains title to the burial space, or when he signs a contract with a funeral service company for the burial space item. He must pay for the item *in full* for it to be "held for" him and therefore exempt.

Burial Funds. ***(M1130.410).***

- An individual applicant may set aside up to $3,500 for "burial funds" as exempt.

- If one spouse is receiving long-term care, each spouse may only set aside $1,500 for completion of the resource assessment and calculation of the spousal share. M1480.210.B.1 and M1480.220.B.2. However, after the resource assessment is completed, the institutionalized individual is considered an individual for eligibility and can set aside up to $3,500 for burial. M1480.230.B.1.

- Types of burial funds:

  - ❖ Cash
  - ❖ Financial accounts
  - ❖ Revocable burial contracts
  - ❖ Revocable burial trusts
  - ❖ Other revocable burial arrangements, including the value of installment sales contracts for burial space
  - ❖ Other financial instruments *with a definite cash value*, for example, stocks, bonds, certificates of deposit, life insurance policies, etc.; or
  - ❖ Irrevocable burial trust established on or after August 11, 1993.

- These "burial funds" must be explicitly designated as such, and must not be mixed together with other funds. Any appreciation on burial funds, such as interest on a bank account, is also exempt. M1130.410.C.1.e.

- An applicant may not be able to use the full exemption if he owns other insurance or trusts that are intended to pay for burial expenses. The burial fund exemption is reduced by:

- The face value of any non-term life insurance policies whose cash value is not counted as a resource (total value less than $1,500);

- The value of any burial insurance or burial contract (excluding the value of any burial space items);

- Amounts placed into an irrevocable burial trust for burial expenses that are not for burial space items. (M1130.410.C.1.b).

Long-Term Care Partnership Policies (M1460.160)

- A Long-term Care Partnership Policy is a type of Long Term Care insurance which helps pay for assisted living or long-term care services. If a policy was issued after 9/1/07 and it meets certain IRS and inflation protection provisions, a LTC policy may qualify as a Partnership Policy.
- A person who has a qualifying Partnership Policy is allowed a disregard of assets in the Medicaid eligibility determination which is equal to the dollar amount of benefits paid to or on behalf of the individual as of the month of application, even if additional benefits remain payable under the terms of the policy.

When and How is a Resource Assessment done?

- A resource assessment must be completed when an institutionalized spouse with a community spouse applies for Medicaid coverage of long term care services and may also be requested, without a Medicaid application, to determine the spousal share of the couple's countable resources. It is a compilation of the couple's reported resources which existed at the first moment of the month when the first period of institutionalization began and calculates both the couple's total countable resources at that point and the spousal share of those countable resources. M1480.200.A.

- Total all nonexempt assets owned by the couple at the beginning of the first continuous period of institutionalization (receipt of 30 consecutive days of care in a medical institution or CBC services). See section of this outline on exempt resources.

- Property owned by either spouse is counted, if it is not exempt, even if it is in the name of the community spouse only.

- The community spouse may keep one-half of the nonexempt resources, but not less than $23,844 or more than $119,200 in 2015 ($23,448 and $117,240 in 2014). M1480.231. This is called the resource allowance or the spousal protected resource amount.

- In addition to the resource allowance for the community spouse, the institutionalized spouse may keep $2,000 in nonexempt resources.

- ***Example of a resource assessment***. On the day husband enters a nursing home, he and his wife own the following assets: one car, their home, $23,000 in a bank account in his name only, $9,000 in a bank account in her name only, and a life insurance policy with cash value of $2,000.

    - The resource assessment finds countable assets totaling $34,000 (both bank accounts plus the insurance policy).

    - The car and the home are exempt. All of the rest of the assets are included no matter whether they are in the name of the institutionalized spouse or not.

    - One half of $34,000 is $17,000; however, the community spouse is entitled to keep a minimum of $23,844 for her resource allowance.

    - The value of the rest of the nonexempt resources is $10,156 ($34,000 - $23,844). Because this is more than the $2,000 resource limit for the institutionalized spouse, the husband is not yet eligible for Medicaid, but will be as soon as he reduces his resources to less than $2000.

- All nonexempt resources owned by the spouse receiving long-term care, including jointly-owned property, must be transferred out of his name into the name of the community spouse within 90 days of the initial determination of Medicaid eligibility or the resource will be counted in determining eligibility after the 90-day protected period. (M1480.240).

RESOURCE TRANSFERS (M1450.000)

A Medicaid applicant (***or his spouse***) who transfers ownership of his property within the "look back period" without receiving adequate compensation may be ineligible for Medicaid to pay for long-term care during a penalty period. ***There is no transfer penalty imposed on Medicaid eligibility for care other than long-term care.***

Look-back period (M1450.003.J):

- This is the length of time, prior to the month in which a Medicaid application is made, that uncompensated transfers will be examined to determine whether any penalty periods apply.

- For applications processed on or after July 1, 2006, for transfers made on or after February 8, 2006, there is a 60 month look-back period. For applications processed before July 1, 2006 for transfers made before February 8, 2006, the look-back period was generally 36 months (except that for transfers to or from a trust created after August 10, 1993, the look-back period was 60 months).

- Example. If a Medicaid applicant transferred her home to her daughter in January 2006, she would only need to wait 36 months before she could apply for Medicaid coverage of long term care, without potentially incurring a penalty. However, if an applicant transferred her home in March 2006, she would need to wait at least 60 months from March 2006 to apply for Medicaid coverage of long term care in order to avoid a possible transfer penalty (unless one of the transfer exceptions applies).

Uncompensated value (M1450.610):

- The penalty applies if property is given away or sold for less than its fair market value.

- Fair market value of real estate is the tax-assessed value.

- Uncompensated value is the difference between the fair market value of the property and the compensation received for the transfer after liens or other encumbrances have been satisfied.

- If an individual gives away his home and retains a life estate, the value of the property transferred is determined as follows: The fair market value of the home, less any liens such as a mortgage, less the value of the life estate.

- ***Example.*** Mrs. Smith, who is 60 years of age, transferred her home to her friend in January 2007 as a gift, but she reserved a life estate in the home for herself. The tax-assessed value of the home was $100,000 and $10,000 is owed on the mortgage. The value of the property transferred would be determined as follows: $100,000 -$10,000 (amount owed on the mortgage) - $55,868 (value of the life estate) = $34,132.

Penalty period (M1450.600, M1450.630):

- The length of time an applicant will be ineligible for Medicaid coverage of LTC is based upon the uncompensated value of the transferred property.

- If an applicant is applying for long-term care, the uncompensated value of the transferred property is divided by the average monthly cost of nursing home care (at the time of application for Medicaid) to determine the penalty period. Prior to 1/1/11, the average cost of care was determined to be $6,654 in the northern region of Virginia and $4,954 in the rest of the state. Effective 1/1/2015, the average cost of nursing home care is $8,367 in the northern region of Virginia and $5,933 (no change from 2014) in the rest of the state. M1450.630.D.

  - ***Example.*** Mrs. Jones, who lives in Richmond, gives her daughter $35,000 in March 2006. Assuming she applies before 1/1/11 (when the new rates became applicable) she is ineligible for Medicaid to pay for long-term care for 7.06 months (35,000 divided by 4,954 = 7.06). Under current law, for transfers made after February 8, 2006, the fractional number is rounded down to the day when the penalty period is calculated.

Timing of the penalty (M1450.630):

- For transfers made on or after February 8, 2006, the period of ineligibility begins "when the individual would otherwise be eligible for Medicaid coverage for LTC services if not for the penalty period." M1450.630.A.

- *Example*. Mrs. Jones (see above) would be ineligible for Medicaid to pay for long-term care for 7.06 months after she would otherwise have been eligible for Medicaid coverage of long term care services, but for the transfer penalty period. In other words, the penalty period does not begin to run when the transfer occurs but only when she would be eligible for Medicaid coverage of long term care services except for the transfer penalty. **Remember, if she meets all other Medicaid eligibility requirements, Mrs. Jones would be eligible for Medicaid payment for all other Medicaid covered services (other than LTC) during the penalty period.**

Exceptions to the transfer penalty (M1450.300, M1450.400):

Certain transfers do not trigger the penalty, including:

- A transfer to a spouse or to a blind or disabled child or to a child under the age of 21.

- The transfer of an automobile or household goods (M1450.300).

- The transfer of a home if it is transferred to:

  - ❖ A brother or sister who has an equity interest in the home **and** who was residing in the home for at least one year immediately before the nursing home resident began living in the nursing home (or began receiving community-based care); or

  - ❖ An adult son or daughter who was residing in the home for at least two years immediately before the nursing home resident entered the nursing home **and** who provided care during that two-year period that kept the parent out of a nursing home. See Manual, M1450.400.C.3 for the proof that is needed to meet this exemption.

- Transfers into certain trusts.

- Transfers made with the "intent to receive adequate compensation."

- Transfers for reasons other than to become eligible for Medicaid.

- Purchase of a life estate in another's home on or after 2/8/06 may be considered a penalizing transfer unless the purchaser resides in the home for at least 12 consecutive months (M1450.545).

- Purchase of an annuity on or after February 8, 2006 may be considered an uncompensated transfer unless the state is named as the remainder beneficiary as set out in M1450.520.B and, among other requirements, it is shown to be actuarially sound, is irrevocable and non-assignable, and provides for equal payments with no deferral and no balloon payment. M1450.520.

- Purchase of a promissory note, loan or mortgage on or after 2/8/06 may be considered an uncompensated transfer unless it has a repayment term that is actuarially sound, provides for payments to be made in equal amounts during the term of the loan with no deferral and no balloon payments, and prohibits cancellation of the balance upon the death of the lender. M1450.540.

- Virginia DMAS has determined that transfers with a cumulative value of less than $1000 will not be penalized and transfers with a cumulative value of $1,000 to $4,000 per year may not be penalized if a pattern of giving for at least 3 years prior to applying for Medicaid coverage of LTC can be documented. M1450.400.H.

- The penalty period may be reduced or eliminated by the partial or complete return of the transferred assets or their fair market equivalent. M1450.640.

- **Claim of Undue Hardship** (M1450.700). A penalty may not be imposed if the individual claims and proves "undue hardship"—that the penalty would deprive the individual of medical care such that his health or life would be endangered or that the penalty would deprive the individual of food, clothing, shelter or other necessities of life. The individual must also prove that the transferred resource cannot be recovered and that there would be an immediate adverse impact, such as removal from the institution or being unable to receive life-sustaining medical care, food, clothing, shelter or other necessities of life. M1450.700. An applicant, recipient, authorized representative, or a nursing facility authorized by the resident or his authorized representative, may submit a claim of undue hardship. Certain documentation must be provided when requesting an undue hardship claim. M1450.700.B.1.a. Denial of a claim of undue hardship may be appealed, but policy suggests that only one undue hardship claim for a particular transfer will be considered by DMAS. M1450.700.B.3.

If an undue hardship claim is approved and the amount of the uncompensated transfer is $25,000 or more and was made within 30 months of the individual becoming eligible for or receiving Medicaid LTC, DMAS may seek recovery from the transferee. M145

NASUAD Friday Updates

Cecily Slasor, Administrative Support

FRIDAY UPDATES
NASUAD

July 10, 2015

In This Issue

From NASUAD

The HCBS Conference-ACL and CMS Will be at the Conference, Will You? Register Today!

Join us for the National Home and Community Based Services (HCBS) Conference held in Washington, DC, August 31-September 3.

The conference will begin with an opening plenary presentation by:

- **Kathy Greenlee**, Administrator of the Administration for Community Living, Assistant Secretary for the Administration on Aging
- **Victoria Wachino**, Director of the Center for Medicaid and CHIP Services, Centers for Medicare and Medicaid Services

***ACL: ADA Social Media Toolkit**

***ACL: American Samoa & Guam CIL Competition Grant**

***ACL: Statewide Independent Living Council Training & TAC Grant**

***CMS: Medicare and Medicaid Twitter Campaign**

***Webinar: Best Practice for Community Emergency Response Team Participants**

***IRS: Regulations Published for Implementation of ABLE Act**

***ODEP: Advisory Committee Meeting**

***White House Conference on Aging: Discussion Guide and Ways to Engage**

***ASA Webinar: Aging and Addiction**

***ASA Webinar: Aging and Addiction**

***Mathematica: Disability Research Consortium Annual Meeting**

***NCOA: Free Journal Volume on Evidence Based Programs**

- **Consumer Panel**: Liz Weintraub, Advocacy Specialist, Association of University Centers on Disabilities, John Winske, Executive Director, Disability Policy Consortium

To learn more about the other plenary sessions, view the tentative agenda here.

The National HCBS Conference highlights the work organizations have done to expand and improve services laid out in these programs and to increase the quality of life for older adults and people with disabilities. The Administration for Community Living and Centers for Medicaid and Medicare Services will hold workshops throughout the conference to share the work of both agencies and answer questions.

Click here to learn more about the conference and register!

NASUAD Alumni Group Forming

In response to requests from past members of NASUAD, the board has agreed form a NASUAD alumni group. The group will provide alumni with an opportunity to network and attend educational conferences such as the annual HCBS conference sponsored by NASUAD.

Alumni would attend the conferences at their own expense and there is no cost to join the alumni group. Alumni would not participate in NASUAD membership meetings or deliberations unless invited.

[*Events](#)

[*Job & Internship Postings](#)

[*Friday Updates Archive](#)

NASUAD iQ Online Learning Center

Check out NASUAD iQ!

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Your help is requested. Brian Duke, former Secretary of the Pennsylvania Department of Aging has agreed to serve as the volunteer NASUAD alumni coordinator. If you are aware of contact information for former directors, please forward to Brian or contact him for information which can be forwarded to alumni.

Click here to contact Brian Duke.

Medicare Educational Resources Webinar Recap

The National I&R Support Center hosted a webinar on resources for Medicare this past Wednesday. Presented by Alyssa Malinski Erickson of UnitedHealthcare, the webinar taught viewers about the Medicare Made ClearTM campaign and Medicare educational resources that can assist I&R/A agencies and the consumers they serve.

Click here to view the presentation and access the audio recording.
Click here to join to I&R Center's distribution list.

HCBS Clearinghouse E-Clips

This section of Friday Update highlights reports that have been added to the HCBS Clearinghouse within the past week. Visit www.nasuad.org/hcbs for more information.

2014 Eldercare Locator Data Report

The National Association of Area Agencies on Aging (n4a) released a report on the Eldercare Locator, a national information and referral resource funded by the Administration on Aging that provides assistance to older adults and caregivers. The report draws on data from the locator, breaking the data into different categories. Some of the categories included the demographics of consumers, how consumers heard about the locator, and the information and services that are needed. The trends in this data reflect information gathered from over 270,00 contacts made with the Eldercare Locator.

Click here to access the report and findings.

Long-Term Care Principal & Vision Papers

The Convergence Center for Policy Resolution and the Long- Term Care Financing Collaborative released two reports regarding the affordability and vision for the delivery of long term care in the United States. The papers reflect the idea that the role of families and communities must be recognized when delivering long-term services and supports. Additionally, the collaborative found that giving elders the ability to finance their own care increases independence and autonomy and allows for the support of family members and the community.

Click here to access the reports and findings.

Long Term Care in America: Outlook and

Planning for Future Care

The Associated Press NORC Center for Public Affairs Research, with funding from the SCAN Foundation, conducted a series of three studies on the public's experiences and attitudes with long term care and its financing throughout the country. The studies have explored issues like the caregiving experience, person-centered care experiences, and opinions on long term care policy. One finding showed a majority of Americans over 40 had misperceptions about long term care services.

Click here to access the survey and findings.

From the Administration

Administration for Community Living

ADA Social Media Toolkit

The Administration for Community Living has created a social media toolkit to celebrate the 25th anniversary of the Americans with Disabilities Act. The toolkit includes tweets using the hashtag #DgovADA25, Facebook posts, social media graphics, and blog posts.

If you would live to be involved in commemorating the ADA, share and re-tweet the items on the various modes of social media.

Click here to view the toolkit.
Click here to view the blog.

American Samoa & Guam CIL Competition Grant

The Administration for Community Living is providing a funding opportunity to create Centers for Independent Living (CILs) in American Samoa and Guam. CILs provide services to assist individuals with disabilities to achieve their maximum potential within their families and communities. Applicants must be able to demonstrate compliance with standards and assurance as outlined in section 725 of part C of Title VII of the Rehabilitation Act of 1973. The grant award is between $95,096 and $154,056. Required letters of intent are due by **July 21, 2015,** and applications are due by **August 17, 2015.**

Click here to view the grant application information.

Statewide Independent Living Council Training and TAC Grant

The Administration for Community Living is seeking applicants for a two-year cooperative agreement to operate a Statewide Independent Living Council Training & Technical Assistance Center. The grant award is up to $400,000 in fiscal year 2015 and $250,000 in fiscal year 2016. Applications are due by **August 17, 2015.**

Click here to view the grant application information.

Centers for Medicare and Medicaid Services

Medicare and Medicaid Twitter Campaign

In July of 1965, President Johnson enacted legislation that created the Medicare and Medicaid programs. Both programs have been crucial to the health and overall well-being of millions of American families. The

CMS Office of Communications is currently doing a 50-day countdown to the 50th Anniversary. To celebrate, they are tweeting facts each day about the programs. Please visit their Twitter feed and retweet these important facts of write some of your own!

Click here to view the Twitter feed.

Federal Emergency Management Agency

Webinar: Best Practices for Community Emergency Response Team Participants

The Federal Emergency Management Agency Individual and Community Preparedness Division is hosting a webinar on practices and procedures that ensure safe and accessible experience for Community Emergency Response Team (CERT) participants with disabilities and others with access and functional needs. The webinar will be hosted on **Wednesday, July 15, 2015,** from **3:00 to 4:30 p.m. ET**. Guest speakers from various fields of emergency management will share insights and advice based on their personal experiences.

Click here to view details and register.

Internal Revenue Service

Regulations Published for Implementation of ABLE Act

The Internal Revenue Service published proposed regulations concerning the implementation of the Stephen Beck, Jr., Achieving a Better Life Experience Act (ABLE Act) of 2014. The proposed regulations are titled Guidance Under Section 529A: Qualified ABLE Programs and were published on June 22, 2015. The regulations address an explanation of provisions, the qualifications of an ABLE program, the standard for disability determination, limits on contributions to the account, and various other issues. Public comments are due by **September 21, 2015**. A public hearing to address these regulations is scheduled for **October 14, 2015**.

Click here for the full version of the regulations.

Office of Disability Employment Policy

ODEP Advisory Committee Meeting

The Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities is holding its fourth meeting on **July 13-14, 2015,** in Washington, DC, from **8:30 a.m. to 5:00 p.m. ET and 8:00 a.m. to 4:00 p.m. ET**, respectively. The four subcommittees of the Committee will report on their work thus far on the draft chapter for the interim report. There will also be expert panels that will address issues with provider transformation to Competitive Integrated Employment and a panel of providers. Acknowledgement will be given to the 25th Anniversary of the Americans with Disabilities Act. On **July 13**

from 2:15 to 3:00 p.m. ET, there will be a public comment period.

Click here for more information.

White House Conference on Aging

Discussion Guide and Ways to Engage

The White House Conference on Aging will be held this **Monday, July 13, 2015.** This year is the 50th anniversary for Medicare, Medicaid, and the Older Americans Act. The conference offers the opportunity to recognize the importance of these programs while also looking forward to explore what changes can be made. As the conference will be live streamed online, the WHCOA encourages individuals and organizations to watch together. A conference discussion guide is available, and participants can engage in the Q&A in Washington DC via Twitter or Facebook.

Click here to view a live stream of the conference on Monday.

From Other Organizations

AARP

Webinar Recap: Care Coordination

Last week's AARP Public Policy Long Term Care Update Webinar, including the PowerPoint presentation, audio recording, report, and brief are posted on the AARP website. This webinar featured Susan Reinhard from AARP Public Policy Institute, Brian Burwell, and Paul Saucier, both from Truven Health Analytics.

Click here to access the webinar resources.

American Society on Aging

Webinar: Aging and Addiction: Implications for Patients, Caregivers and Clinicians

The American Society on Aging is hosting a webinar that focuses on the issue of rampant substance abuse and addiction in older adults. This webinar on **Thursday, July 16 from 10:00 a.m. to 11:00 a.m. ET**, will examine the issues of substance abuse and treatment for the older adult population. Presenters Dr. Jon Dyben and Terry Macho of the Hanley Center will guide viewers on the trends in aging, effects of drugs on aging bodies, and related comorbidities.

Click here to access registration and details on the webinar.

Mathematica Policy Research

Disability Research Consortium Annual Meeting

The Disability Research Consortium's (DRC) Annual Meeting will be held in

Washington, DC, **August 5-6, 2015**. Registration is now open, and will close on **July 23** or when space is filled. The 2015 Conference will include access to the latest research findings, speakers from state and federal programs, and general information to improve the national disability support system. Additionally, there is a webcast registration option to virtually attend the meeting.

Click here to view conference details.

Click here to view registration details.

National Council on Aging

New NCOA Website

The National Council on Aging has a new and improved website. Some of the new features include a search bar to access news, quickly find resources, and upcoming events.

Click here to access the website.

Events

2015 Annual Conference on Independent Living

The National Council on Independent Living's Annual conference will be held in Washington, DC, **July 27-30, 2015.** This year will specifically focus on the Americans with Disabilities Act Generation, or the generation of youth advocates with disabilities, and celebrate the 25th anniversary of the ADA. There will be several different workshop tracks with focuses like Statewide Independent Living Councils, youth, Independent Living Administration, and orientation for new attendees.

Click here to view conference details.

Click here to register.

Healthy Aging Summit

The American College of Preventative Medicine will be holding a Healthy Aging Summit in Washington, DC, from **July 27-28**. Registration is now open until **Monday, July 13.** The Social and Community Context track focuses on how social support and engagement affect quality of life and healthy aging. It will include speakers from the federal government, academics, researchers, non-profit workers, and individuals from the health care field.

Click here to view registration and event details.

Job & Internship Postings

Vermont Developmental Disabilities Services Division Director

The Vermont Department of Disabilities, Aging, and Independent Living is seeking applicants for the position of Developmental Disabilities Services Division Director. The director will be responsible for leading Vermont's state team under a budget of $180 million to improve services that promote dignity, respect, and independence of people with developmental disabilities and traumatic brain injuries. Qualified applicants will have a minimum of a bachelor's degree in human services or a related field and six years or more of professional experience in developmental disabilities services, including two or more in program administration and supervision of staff. The application period will close on **July 19, 2015.**

Click here to view the full posting.

Area Agency on Aging Director in VA

The Prince William County Government of Virginia is seeking applicants for the position of Area Agency on Aging Director. The director will be responsible for planning and directing programs, and monitoring and evaluating county programs funded through the ADA. Qualified applicants will have a minimum of 5 years professional level experience coordinating and directing programs for senior citizens. The application period will close on **July 26, 2015.**

Click here to view the full posting.

Friday Update Archive

DIVISION FOR THE AGING

DARS | VIRGINIA DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

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