

## Medi-Cal Eligibility: Resource Limitations

Medicaid, or Medi-Cal as it is known in California, is a joint federal-state program that provides *health insurance coverage* to low-income children, seniors and people with disabilities, who have very limited resources, as well as *nursing home coverage* for those who qualify. In the absence of any other public program covering long-term nursing home care, Medicaid has become the default nursing home insurance of the middle class.

While Congress and the federal Health Care Financing Administration set out the main rules under which Medicaid operates, each state runs its own program. As a result, the rules are somewhat different in every state, although the framework is generally the same throughout the country.

### ***“Available Resources”***

In most states, including California, in order to qualify for Medicaid benefits, an unmarried nursing home resident may have no more than \$2,000 in "countable assets," "non-exempt assets," or "available resources," as they're often called. In addition, the spouse of a nursing home resident, called the "community spouse," may have no more than \$89,280 (in 2002) in available resources. (The \$89,280 figure changes each year to reflect inflation.) Applicants with available resources in excess of these statutory limits are simply ineligible for Medicaid benefits.

"Availability" of resources differs somewhat from state to state. In general, all assets are available unless they fall within a short list of "non-countable assets," "exempt" assets," or "unavailable resources," as they're often called. Bank accounts and investments are often considered available, because a Medicaid program expects a nursing home resident to use those resources to pay for nursing home care. Unavailable resources often include a necessary automobile, a wedding ring, household furnishings, and a burial plot. Many other items are considered unavailable; the complete list of unavailable resources varies from state to state.

In California, the following assets are "non-countable" or "exempt" assets:

- The nursing home resident's home (see below for further discussion)
- Other real property if used in whole or in part to generate income
- Household goods and personal effects
- Jewelry (wedding and engagement rings, heirlooms, and items worth less than \$100)
- One car if used for the benefit of the resident or it's medically necessary
- Whole life insurance with a face value of \$1,500 or less
- All term life insurance
- Burial plots
- Prepaid irrevocable funeral trusts
- Designated burial fund of \$1,500
- Pension funds, IRAs, and qualified annuities
- Cash reserve of \$2,000 (typically the resident's checking/savings account)
- Community Spouse Resource Allowance ("CSRA") of \$89,280 (in 2002) or more if needed to generate additional income towards guaranteed Minimum Monthly Maintenance Needs Allowance ("MMMNA") of \$2,232 (in 2002)

### ***The Home***

A home is generally considered unavailable as long as the nursing home resident subjectively intends to return to it, regardless of whether or not the resident is actually able to return to it. In fact, the Medi-Cal application asks the resident if he or she intends to return to his or her home: if

that question is answered “yes,” Medi-Cal will not count the value of that home against the resident’s resource limitation.

Regardless, nursing home residents and their families are often told to sell the resident's home in order to pay for the cost of nursing home care. This is particularly bad advice: such a sale converts an unavailable resource (the home) into an available resource (cash) which likely will make the resident ineligible for Medicaid for some time.

Next week, we'll examine how these rules can benefit a prospective Medicaid applicant.

Editor’s Note: This article is one in a series of articles dedicated to the need for long-term care planning in a comprehensive estate plan and how to pay for nursing home care without going broke. This information is for general informational purposes only and does not constitute legal advice. Please do not rely on the limited information given here. Medicaid is a highly complex area of the law; it varies from state to state and even within a particular state. *Unfortunate and costly mistakes can be made if you do not know what you are doing.* Before taking any steps to protect assets, you are strongly urged to consult with an elder law attorney who is competent in this area of the law so that you will understand all of the ramifications of your actions, including but not limited to property, estate, gift, and income tax; financial and estate planning considerations; and even possible *criminal sanctions*.

If you need help in planning for long-term care as part of a comprehensive estate plan or finding the right nursing home or paying for it without going broke, please give us a call. We can help!

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