



# Medicaid Eligibility and the Treatment of Income and Assets under the New York State Partnership for Long-Term Care

## A Resource for Active Policyholders

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*The only plan covered in this document is the Total Asset 3/6/50 plan.*

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# DETERMINATION OF MEDICAID ELIGIBILITY FOR QUALIFIED NYS PARTNERSHIP PARTICIPANTS

The New York State Partnership for Long-Term Care (NYS Partnership) is a unique program housed within the NYS Department of Health which allows for the protection of some or all of your assets (resources) depending on the type of Partnership policy purchased. The information presented in this document is intended to offer **you** an overview of the Medicaid eligibility process, particularly how income is treated. **As a reminder, the Partnership program offers asset protection – not income protection.** The Medicaid eligibility process is demonstrated for you below through a series of income scenarios which illustrate how certain variables, including marital status and source of income, affect your eligibility for Medicaid nursing home care if you purchase a NYS Partnership policy.

## GENERAL INFORMATION – Section 1

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### 1A. Qualifying for Medicaid as a Partnership Participant

Medicaid coverage under the NYS Partnership is called Medicaid Extended Coverage. Eligibility for Medicaid Extended Coverage is based upon **TIME**. Individuals who purchase NYS Partnership policies and subsequently use three (3) years of nursing home benefits (3 years of nursing home days) or its equivalent benefits, six (6) years of home care days (2 home care days counting as 1 nursing home day), or some combination of the two which is the equivalent of three (3) years of nursing home days may apply for Medicaid Extended Coverage. Even if benefits remain under a NYS Partnership policy, individuals may still apply for Medicaid Extended Coverage as long as they have used three years of nursing home equivalent benefits. Once this time threshold has been met, you are considered a Qualified Partnership Policyholder.

The NYS Partnership permits a qualified applicant to apply for and receive Medicaid Extended Coverage regardless of the type or amount of resources he or she has. However, all **INCOME** rules in effect at the time of application for Medicaid Extended Coverage will apply in determining one's eligibility for Medicaid Extended Coverage.

### 1B. Excess Policy Benefits and Medicaid

Please note that although you may reach the minimum required amount of days to be eligible for Medicaid Extended Coverage, there may be residual monies remaining on your policy. If you apply for Medicaid after you've met your minimum required amount of days but still have remaining policy money, these remaining monies will be treated as excess income because Medicaid is always the payer of last resort. Although you may have reached the required minimum duration for Medicaid eligibility, you are not mandated to apply for Medicaid if there are residual monies remaining on your policy.

## 1C. Implications of Income Eligibility on Your Decision to Own a NYS Partnership Policy

Participation in the NYS Partnership is not for everyone. Participants must support the costs of their long-term care through some combination of the NYS Partnership insurance coverage and out-of-pocket payments for any required co-payment during the period that they are using the required three years of nursing home equivalent benefits.

While you may qualify for Medicaid Extended Coverage without regard to your resources, you still may not qualify for Medicaid Extended Coverage if your income is too high. The Medicaid Extended Coverage Worksheet set forth below will show how income affects your eligibility for Medicaid Extended Coverage.

Since you may apply for Medicaid Extended Coverage without regard to your resources, you are exempt from the transfer of resources penalty regulations if you participate in the NYS Partnership. If you participate in the NYS Partnership, you may sell, transfer, or spend your resources, before, during, and after applying for Medicaid Extended Coverage.

## TERMS AND DEFINITIONS – Section 2

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**Medicaid Extended Coverage (MEC):** Medicaid under the Partnership is called Medicaid Extended Coverage. When a participating consumer who purchases a 3/6/50 policy/certificate receives thirty-six (36) months of paid nursing home benefits (or its equivalent) under the policy, they may apply for Medicaid Extended Coverage. Though the term Medicaid Extended Coverage is unique to Partnership participants, the type of Medicaid benefits received under Medicaid Extended Coverage are the same as traditional Medicaid benefits. The only difference between Medicaid Extended Coverage and traditional Medicaid is, during the application process, resources are not counted toward eligibility for Qualified Partnership Participants.

**Resources (assets):** All or a portion (depending on the policy purchased) of a qualified New York State Partnership for Long-Term Care policyholder's resources are exempt from consideration in determining Medicaid eligibility. Additionally, since resources are exempt from consideration in determining a qualified policyholder's Medicaid eligibility, the transfer of resources provision (i.e., look-back period and penalty period) does not apply. Income produced from a resource can be considered in determining eligibility for Medicaid Extended Coverage. See **INCOME**, Section 3.

**Maximum Community Spouse Monthly Income Allowance:** Under the Medicare Catastrophic Coverage Act of 1988, a monthly maintenance allowance was established for the non-Medicaid spouse who remains at home (community spouse). This amount is adjusted each year. The Monthly Income Allowance for 2022 is \$3,435 per month. If the community spouse has income which is less than the Allowance, income may be

contributed by the nursing home spouse (if available) to bring the community spouse's income up to the current Allowance.

**Community Spouse Monthly Income Contribution:** Where the community spouse of a Medicaid eligible nursing home resident has monthly income, which exceeds the Maximum Community Spouse Monthly Income Allowance, he or she is requested to contribute up to 25% of any income over the current Allowance to the costs of care of the Medicaid eligible nursing home spouse.

**Net Available Monthly Income (NAMI):** A patient's NAMI equals his or her income which is available to offset the cost of care after all deductions have been made.

**Personal Needs Allowance (PNA):** Medicaid recipients in nursing homes are permitted to keep \$50 per month from their incomes to pay for personal items.

## **INCOME – Section 3**

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The information below is an abbreviated overview of individual income taken into account for eligibility under Medicaid. For married couples, both incomes are considered when determining eligibility. Where the income is distributed jointly to both spouses, it is assumed that each spouse shares an equal interest. Actual income contributions to the cost of care for the Medicaid eligible spouse, however, depend on the personal income of each spouse.

### **3A. Examples of Income:**

Total monthly income is the gross amount received by the individual or generated by his/her assets (resources). This includes but is not limited to:

- Pensions
- Social Security
- Income from Annuities/IRAs (See 4A, Annuities and IRAs).
- Net Income from Rents
- Interest on Loans and Mortgages
- Dividends and/or interest from Stocks, Bonds (see 3B, Income Exceptions), Bank Accounts, CDs, etc. Whether or not the individual actually receives the monies, rollovers and reinvested income are still income. (See 4A, Annuities and IRAs)

- Capital gain distributions, (e.g., from mutual funds, other regulated investment companies, or real estate investment trusts), noted on “Internal Revenue Form 1099-DIV, Dividends and Distributions,” whether paid as cash or reinvested.

### 3B. Income Exceptions

- Series E/EE Savings Bonds: Interest is **NOT** considered income.
- I Bonds: Interest is **NOT** considered income.
- Zero Coupon Bonds: Upon maturity, Medicaid considers interest as income.

Capital Gains: Capital gains (e.g., from the sale of a mutual fund or real estate) are considered an increase in the value of the resource and are exempt under Medicaid Extended Coverage.\* Note, however, that capital gain distributions (e.g., from mutual funds), annotated on Internal Revenue Form 1099-DIV, are considered unearned income.

- Capital Appreciation: This is **NOT** considered income.
- Income tax refunds: This is **NOT** considered income.
- Life Insurance: Where a person becomes the beneficiary of benefits under a life insurance policy, the moneys are considered income in the month in which they are received. Dividends from life insurance are **NOT** considered income, but interest on dividends from a life insurance policy **IS** considered income.

### 3C. Spousal Income or “Otherwise Available Income”

The income of the spouse at home may be adjusted by certain permissible deductions. The net result of this calculation is called “**otherwise available income**”. Although other specialized deductions exist, the most common permissible deductions from the spouse at home’s gross income are:

- Health Insurance Premiums (including premiums for long term care insurance).
- Incapacitated adult/childcare costs (actual); and
- Court Ordered Support (Paid Out).

### 3D. Transferring Income

Where the transfer or conversion of protected resources results in the transfer or loss of income that was earned by those protected assets, no transfer penalty shall apply. However, income transfer other than through the transfer of income attached to protected resources may result in penalties.

### 3E. How Income is Treated During the Eligibility Process

All available income is counted in determining income eligibility. Generally, infrequent or irregular income is countable in the month in which the income is received. Income eligibility for Medicaid is determined on a monthly basis. Because of this, Medicaid differentiates between periodic income and non-periodic income. Periodic income is received on a regular schedule, for example, once a month, once a quarter, once a year, etc. Some examples of periodic income are pensions, annuities, and IRA withdrawals. Non-periodic income is income received on an irregular schedule such as an inheritance, or an award.

- **Non-periodic income** is counted in the month in which it becomes available. After that, it is considered a resource. This means that if the individual were to receive moneys that would cause their income to exceed the cost of their care, they would be ineligible for Medicaid for that month only, regardless of whether the money is all spent by the end of the month. For example, needed care is \$5,000/month and a CD matures. When the CD's interest is combined with the individual's regular monthly income, the income for the individual is calculated at \$7,000 that month. In this instance, the individual would be ineligible for Medicaid in that month but eligible in the following month even if they merely deposit the extra amount.
- **Periodic income** is applied on a **monthly** basis regardless of how often it is received during the year. For example, if an annuity paid out once a year, the amount paid would be divided by twelve (12) to establish total monthly income.

## ANNUITIES AND IRAs – Section 4

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### 4A. Annuities and IRAs: How Payments are Treated

If you are applying for Medicaid to receive *community-based services*, interest income received from an annuity or IRA is **NOT** considered during the eligibility process. However, interest earned is considered when applying for *Medicaid in a nursing home* (chronic care budgeting).

All monies received on a periodic basis from an annuity or IRA, whether received monthly, quarterly, semi-annually, or annually, are considered income regardless of whether such

monies represent a payout of interest or principal. However, if the total principal were to be withdrawn in a lump sum, the money would be considered a resource.

If an applicant elects to begin receiving regular distributions from an annuity, the annuity is considered to be in payout status and the payments are countable income. If no election is made to receive periodic payments but the applicant makes an irregular withdrawal, the irregular withdrawal would be a conversion of the resource the month of the withdrawal and subject to treatment as a resource, if retained beyond the month of withdrawal.

Roth IRAs are treated the same as traditional IRAs. Irregular withdrawals that are taken from a retirement account are considered the conversion of a resource the month of withdrawal and a resource thereafter. So, for a Partnership policyholder with Total Asset Protection (or Dollar for Dollar with the balance of the IRA protected), an irregular withdrawal is not countable income. As a reminder, there is no Required Minimum Distribution (RMD) for Roth IRAs.





# New York State Partnership for Long-Term Care

## *Medicaid Extended Coverage Eligibility Worksheet*

This worksheet is provided to demonstrate, in general terms, how income is treated when Medicaid eligibility is determined for nursing home residents. This information is meant for **illustrative purposes only**. This worksheet utilizes a simplified eligibility determination process; therefore, the outcome of an actual application process may differ. The results of this worksheet are subject to the details of the applicant's case and the Medicaid eligibility rules in effect at the time of an actual application.

While this worksheet is designed to be a helpful tool in determining Medicaid eligibility and the treatment of one's income, questions relating to Medicaid applications should always be directed to the [Local Department of Social Services \(LDSS\)](#) Medicaid office. For applicants applying for community-based Medicaid, the LDSS located within the county where care is being received should be contacted. For applicants applying for chronic care Medicaid who reside in a skilled nursing facility, the LDSS located within the county where the individual formerly resided should be contacted.

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## Worksheet Instructions

The treatment of income under the Medicaid program differs for married couples and single persons. To assist you in estimating eligibility for Medicaid Extended Coverage based on you and your spouse's income under current Medicaid rules, select **single** or **married**, as applicable. Fill in the blanks and then refer to the appropriate situation as directed. End notes with key clarifications are located on the last page of the worksheet. Using approximate amounts for gross income is acceptable since this exercise **does not** constitute an actual application for Medicaid benefits.

For the purpose of this exercise, it is recommended that you investigate an approximation of the average private monthly charges of nursing homes in your area. You can find such information from the New York State Partnership for Long-Term Care website (<https://nyspltc.health.ny.gov>) or by calling several nursing homes in your area. You can locate private nursing homes by accessing the following link: [NYS Nursing Home Profiles](#). Nursing home costs vary across New York State and subsequently, the determination for Medicaid eligibility will also vary. This is because Medicaid eligibility is largely determined by comparing your income to cost of the private nursing home situation specific to you. After determining the approximate average monthly rate (or the actual rate for a specific nursing home), use that dollar amount as the **private nursing home rate** as you use this worksheet.

## SINGLE

*If you are a single individual with no spouse.*

- |  |                         |
|--|-------------------------|
| 1. ENTER YOUR GROSS MONTHLY INCOME. <sup>1</sup>   | \$ _____                |
| 2. SUBTRACT \$50.00. <sup>2</sup>  | – \$ <u>50.00</u>       |
| 3. SUBTRACT ANY HEALTH INSURANCE PREMIUMS. <sup>3</sup>  | – \$ _____              |
| <b>3a. NET AVAILABLE MONTHLY INCOME.</b>   | \$ _____                |
| 4. IS NET AVAILABLE MONTHLY INCOME ( <b>Line 3a</b> ) EQUAL TO OR LESS THAN THE PRIVATE NURSING HOME RATE? | <b><u>YES OR NO</u></b> |

→ If **YES**, net available monthly income will be contributed to your nursing home care and you are eligible for Medicaid Extended Coverage.

→ If **NO**, you are not eligible for Medicaid Extended Coverage for nursing home care. However, if you incur additional medical expenses, you may be eligible for Medicaid Extended Coverage for other services.

## MARRIED

*If you are a married couple with no dependent family member <sup>4</sup>.*

1. ENTER GROSS MONTHLY INCOME OF THE SPOUSE IN THE NURSING HOME. <sup>1</sup> \$ \_\_\_\_\_
2. ENTER OTHERWISE AVAILABLE MONTHLY INCOME OF THE SPOUSE AT HOME. <sup>5</sup> \$ \_\_\_\_\_
3. IS OTHERWISE AVAILABLE INCOME OF THE SPOUSE AT HOME LESS THAN \$3,435? <sup>6</sup> YES OR NO

IF YES, GO TO MARRIED: 1

IF NO, GO TO MARRIED: 2

**MARRIED: 1**

- 1. ENTER \$3,435.00.<sup>6</sup> – \$ 3,435.00
  
- 2. SUBTRACT OTHERWISE AVAILABLE MONTHLY INCOME OF THE SPOUSE AT HOME.<sup>5</sup> – \$ \_\_\_\_\_
  
- 2a.** THE SPOUSE AT HOME MAY RECEIVE THIS AMOUNT FROM THE MONTHLY INCOME OF THE SPOUSE IN THE NURSING HOME IF THE NURSING HOME SPOUSE’S INCOME IS SUFFICIENT. \$ \_\_\_\_\_
  
- 3. ENTER GROSS MONTHLY INCOME OF THE SPOUSE IN THE NURSING HOME.<sup>1</sup> \$ \_\_\_\_\_
  
- 4. SUBTRACT \$50.00.<sup>2</sup> – \$ 50.00
  
- 5. SUBTRACT THE COMMUNITY SPOUSE’S INCOME ALLOWANCE (**LINE 2a**). – \$ \_\_\_\_\_
  
- 6. SUBTRACT HEALTH INSURANCE PREMIUMS PAID BY THE SPOUSE IN THE NURSING HOME.<sup>3</sup> – \$ \_\_\_\_\_
  
- 6a.** NET AVAILABLE MONTHLY INCOME. \$ \_\_\_\_\_
  
- 7. IS NET AVAILABLE MONTHLY INCOME (**Line 6a**) EQUAL TO OR LESS THAN THE PRIVATE NURSING HOME RATE? **YES OR NO**

→ If **YES**, net available monthly income will be contributed to your nursing home care and you are eligible for Medicaid Extended Coverage.

→ If **NO**, you are not eligible for Medicaid Extended Coverage for nursing home care. However, if you incur additional medical expenses, you may be eligible for Medicaid Extended coverage for other services.

## MARRIED: 2

1. ENTER OTHERWISE AVAILABLE MONTHLY INCOME OF THE SPOUSE AT HOME. <sup>5</sup> \$ \_\_\_\_\_
2. SUBTRACT \$3,435.00. <sup>6</sup> - \$ 3,435.00
- 2a. OVERAGE: AMOUNT OF OTHERWISE AVAILABLE MONTHLY INCOME OF THE SPOUSE AT HOME WHICH EXCEEDS \$3,435.00. <sup>6</sup> \$ \_\_\_\_\_
3. MULTIPLY OVERAGE (Line 2a) BY 25%. x \$ 0.25
- 3a. 25% OF OVERAGE (ROUNDED DOWN TO THE NEAREST DOLLAR): THE SPOUSE AT HOME IS REQUESTED TO CONTRIBUTE THIS AMOUNT TOWARD THE COST OF CARE OF THE SPOUSE IN THE NURSING HOME. \$ \_\_\_\_\_
4. ENTER GROSS MONTHLY INCOME OF THE SPOUSE IN THE NURSING HOME. <sup>1</sup> \$ \_\_\_\_\_
5. SUBTRACT \$50.00. <sup>2</sup> - \$ 50.00
6. SUBTRACT HEALTH INSURANCE PREMIUMS PAID BY THE SPOUSE IN THE NURSING HOME. <sup>3</sup> - \$ \_\_\_\_\_
7. ADD THE AMOUNT THE SPOUSE AT HOME IS CONTRIBUTING. (LINE 3a) + \$ \_\_\_\_\_
- 7a. TOTAL NET AVAILABLE MONTHLY INCOME. \$ \_\_\_\_\_
8. IS NET AVAILABLE MONTHLY INCOME (Line 7a) EQUAL TO OR LESS THAN THE PRIVATE NURSING HOME RATE? **YES OR NO**

→ If **YES**, net available monthly income will be contributed to your nursing home care and you are eligible for Medicaid Extended Coverage.

→ If **NO**, you are not eligible for Medicaid Extended Coverage for nursing home care. However, if you incur additional medical expenses, you may be eligible for Medicaid Extended Coverage for other services.

## END NOTE

1. See **INCOME** for a description of how income is defined under the New York State Medicaid program.
2. Medicaid recipients in nursing homes are permitted to keep \$50 per month of their incomes as a Personal Needs Allowance (PNA).
3. Health Insurance premiums include, for example, premiums for traditional health insurance, Medigap insurance and long-term care insurance.
4. A dependent family member includes a minor child, dependent child, dependent parent or dependent sibling of the institutionalized spouse or community spouse, who resides with the community spouse, and who has over 50% of his or her maintenance needs met by the community spouse and/or the institutionalized spouse.
5. **Otherwise Available Income** refers to income that is available to the individual. In determining otherwise available income, the following deductions, if applicable, shall be made: actual incapacitated adult/child care expenses, court-ordered support payments and health insurance premiums paid by the spouse at home.
6. Under the Medicare Catastrophic Coverage Act of 1988, a minimum monthly maintenance needs allowance for the community spouse was established. This amount is adjusted each year. The minimum monthly maintenance needs allowance for 2022 is \$3,435/month.