



Medicaid Resource Eligibility

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Date: October 2015

Eligibility

To be eligible for Medicaid, an individual must be a member of a coverage group.

What is a group?

Individuals who share specific common characteristics and meet specific common requirements.

In Medicaid some coverage groups are mandatory some are optional.

Eligibility

In South Dakota most all coverage groups consist of individuals who meet the following descriptions:

1. Child under the age of 19
2. An adult relative caring for a child under the age of 19
3. Pregnant women
4. Blind or individuals determined disabled by the Social Security Administration or the Department of Social Services
5. Aged (65 and older)

Eligibility

South Dakota has 26 separate coverage groups which are outlined in the Medicaid State Plan and South Dakota Administrative Rule 67:46:01:02

<http://legis.state.sd.us/rules/DisplayRule.aspx?Rule=67:46:01:02>

Some examples of these groups include:

- Individuals receiving SSI payments
- Pregnant women with income under 133% of the federal poverty level (FPL)
- Children with household income under 209% FPL

Eligibility – Basic Requirements

The requirements for Medicaid can be divided into two basic areas.

1. Non-Financial
2. Financial

Eligibility – Non Financial Requirements

- Must be a resident of South Dakota
- Must be a US citizen or qualified alien.
- Must provide a Social Security Numbers
- Assignment of rights to medical support and payment
- For certain groups individuals must have medical needs that are such that they require a level of care provided in a long term care facility.

Eligibility – Financial Requirements

Financial requirements are divided into two separate areas and each group has its own standards:

1. Income

- Earned Income (wages, salary)
- Unearned Income (disability benefits, retirement benefits, unemployment benefits, etc.)

2. Resources

- Cash or anything an individual owns that can be converted to cash.

Eligibility Groups with Resource Tests

Resources are used in determining eligibility for groups relating to aged or disabled. Examples of these groups include:

- Individuals receiving Supplemental Security Income (SSI)
- Individuals receiving long term care assistance
- Individuals receiving assistance with Medicare premiums
- Individuals receiving assistance through the Medical Assistance for Workers with Disabilities (MAWD) program

Long Term Care Assistance

Long Term Care Includes the Following:

- Hospital, swing-bed hospital, nursing home, assisted living, and adult foster care.
- Waiver Services including personal and nursing services provided to an individual in need of care in an institution, but who chooses to remain in his/her own home. Also included are people in Assisted Living who need help with medication administration.
- Specific services provided by community support providers (formerly known as adjustment training centers).

Countable Resources

Resource Limit -

If resources are above the resource limit as of 12:01 a.m. on the first of the month, individuals have an opportunity to reduce them before the end of that month. If they are below the resource limit at some point during that month, assistance may be approved for that month if all other eligibility conditions are met.

Examples of Countable Resources:

- *Bank Accounts / Bonds
- *Stocks / Annuities
- *Real Property
- *Certificate of Deposits
- *Life Estates
- *Cash values of life insurance policies if total face values are \$1500 or more.
- *Contract For Deeds
- *IRA/401K
- *Mineral Rights
- *Available Trust Funds
- *Vehicles

Resources Not Counted

Common Resources Not Counted in Limits:

- Most home property if the individual plans to return home or if it is occupied by the spouse.
- One vehicle used for transportation.
- Certain burial expenses.
- Property connected to the political relationship between Indian Tribes and the Federal government.
- Property with unique Indian significance.

Trusts

All trusts or similar legal devices to which an individual is beneficiary or has created, are evaluated by DSS legal staff. Legal staff review for countable income, countable resource, or possible transfer for less than fair market value regardless of:

- who established the trust;
- the purpose for which the trust was established;
- whether or not the trustee has or exercises discretion; or
- whether distribution from the trust is restricted or unrestricted

The terms of the trust indicate what portion of the principal and what return on the principal are available to the beneficiary.

Typically Excluded Trusts

Disabled Under Age 65 Trust: This trust must meet the following criteria:

- The trust must contain only the individual's (beneficiary's) assets (income/resources);
- The individual (beneficiary) must be disabled and under age 65;
- The trust must be established for the sole benefit of individual (beneficiary);
- The trust must be established by parent, grandparent, legal guardian or a court; and,
- The trust must provide that upon the death of the individual (beneficiary) and before any other distribution from the trust. The Department must receive all amounts remaining in the trust not to exceed the total Medicaid payments paid on behalf of the individual (beneficiary).

Cash paid directly from the trust to the individual is countable unearned income. Disbursements from the trust by the trustee to a third party are not income. For example, if trust funds are used to pay a provider of medical services for care rendered to the individual, the disbursements are not income to the individual.

Typically Excluded Trusts

Pooled Trust: This trust must meet the following criteria:

- The trust must contain only the individual's (beneficiary's) assets;
- The trust must be established and maintained by a qualified nonprofit association;
- The nonprofit association must maintain the individual's assets in a separate account but may pool the individual's account with others for purposes of investments and management of funds;
- The accounts in the pool must be established solely for the benefit of individuals who are disabled and must be established by the individual, the individual's parents, grandparent, legal guardian or the court;
- The trust must provide that upon the death of the individual (beneficiary) or termination of the trust during the individual's lifetime, whichever is sooner, the Department shall receive any amounts remaining in the individual's trust subaccount up to an amount equal to the total medical assistance paid on behalf of the beneficiary. The association may retain reasonable administrative fees and expenses, not to exceed the annual amount normally charged by the association for that trust subaccount.
- An individual can establish an account with a pooled trust at any age subject to the above criteria, however, funds of an individual age 65 or older that are transferred to this type of trust are subject to the imposition of a transfer penalty.

Typically Excluded Trusts

Special /Supplemental Needs Trust (Hamilton Trust):

- The settler of these types of trusts is a third party and not the individual (beneficiary).
- These trusts are established to pay for items not covered by Medicaid and are established from funds other than the applicant's/recipient's. Such funds may come from inheritance, litigation or settlement.
- The funds in this trust are generally not a resource to the applicant/recipient but the distributions from the trust may be income.
- The trust should not contain any of the applicant's/recipient's funds. Any transfer of the applicant's/recipient's funds to this type of trust may be subject to the imposition of a transfer penalty.

Long Term Care Assistance

Resource Transferred or Given Away

If resources are transferred without receiving fair market value or given away by the individual, spouse, or anyone acting on their behalf, eligibility for long term care assistance may be denied or delayed.

For all transfers the look back period for the transfer of assets is 60 months.

If a transfer occurred, an individual may still be eligible for other Medicaid coverage, for example, doctor or hospital services.

Long Term Care Assistance

Some Exceptions Exist – Transfer of the home to one of the following people will NOT prevent eligibility:

- Spouse.
- Son or daughter under age 21.
- Son or daughter with a disability as determined by the Social Security Administration.
- Son/daughter who lived in the home at least 2 years prior to parent entering a medical facility and who provided care to prevent earlier nursing home care.
- Brother/sister who has an equity interest in the home and who resided in the home at least 1 year prior to the individual entering a medical facility.

Long Term Care Assistance

Recoveries

Estate Recovery - Allows recovery of Title XIX expenditures from one's estate. Recovery may be made for nursing home expenditures regardless of age. In addition, medical payments for home and community based services, intermediate care for the mentally retarded, hospitalization, and prescription drugs can be recovered for individuals 55 or older.

Note: Recovery of Title XIX expenditures may also be made against the estate of a surviving spouse. The surviving spouse may limit the recovery amount by filing a petition within 6 months of the spouse's death. Recovery will not be made while the surviving spouse is living or if there is a surviving child under age 21 or a child meeting the Social Security Administration's definition of blind or disabled.

Certain Indian income and resources are exempt from Medicaid Estate Recovery.

Long Term Care Assistance – Additional Information for Spouses

Resources

If one spouse is entering a medical facility (hospital/nursing home) and is expected to remain or has remained in a medical or nursing facility for 30 or more days, eligibility for assistance with the medical costs allows for some resources to be "protected" for the community spouse. "Protecting" resources may also be available for couples when the spouse needing assistance chooses:

- To remain with the other spouse at home and receives personal/medical waiver services, or
- To be in an Assisted Living Facility and he/she receives Waiver Services based on income/assets and the need for medication management.

Long Term Care Assistance

The program rules and information that were shared in this presentation are subject to change. This presentation was prepared in October 2015. To ensure that you have the most accurate and up to date information, please contact your local Long Term Care Benefits Specialist.

***OUR AGENCY CANNOT AND WILL NOT PARTICIPATE IN
FINANCIAL ESTATE PLANNING***

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