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KARLA	B. LEVINSON, THE LEVINS	ON FIRM, LLC	

MEDICAID ELIGIBILITY BASICS (SINGLE PERSON)

- Receiving institutional level of services that would be covered by Medicaid (includes home-based and assisted living care in DE)
- Under the INCOME LIMIT
- Gross monthly income below \$1,947.00 OR
 Establish a Miller Trust
- Under the RESOURCE LIMIT
 - \$2,000.00

MEDICAID ELIGIBILITY BASICS (SINGLE PERSON, CONT'D.)

- RESOURCE EXCLUSIONS
- One car
- Life insurance with a total face value of \$1,500 or less, regardless of cash surrender value

 Life insurance with no cash surrender value

 Pre-paid funeral

THE LOOKBACK RULE V. THE PENALTY PERIOD

- Applicant files Medicaid application February 6, 2019
- What is the lookback period?
- Medicaid has a right to lookback to February 6, 2014

TRANSFERS OF ASSETS AND CALCULATION OF THE PENALTY PERIOD

- Example One
- Uncompensated transfer of \$100,000.00
- Divide by the Medicaid Penalty Divisor (\$320.87 2019 penalty divisor)
- \$100,000/320.87=311
- Penalty period is 311 days

WHEN DOES THE PENALTY PERIOD BEGIN? CALCULATION OF THE PENALTY PERIOD: EXAMPLE 2

- \$100,000.00 uncompensated transfer on January 3, 2017
- Applicant enters skilled nursing facility care in January 2019 and files a Medicaid application on February 15, 2019
 Total countable resources are \$1,500.00 as of February 28, 2019.
- Gross monthly income is \$1,432.00
- How do you calculate the penalty and when will it begin and end?

CALCULATION OF PENALTY PERIOD, EXAMPLE 2 CONT'D.

- The penalty period begins the LATER OF the month during which assets have been transferred OR the date on which the individual is eligible for Medical assistance under the State plan and is receiving institutional level of care services (based on approved application for such services) that, were it not for the imposition of the penalty period, would be covered by Medicaid.
- What does this mean????

EXAMPLE 2, CONT'D.

- Is applicant "otherwise eligible" but for the transfer of assets?
- Applicant is residing in a skilled nursing facility
- The Medicaid application has been filed
- The applicant is below the monthly income cap of \$1,947 and the monthly resource limit of \$2,000.00
- If the applicant had not made the transfer they would have been qualified as of?
- February 1st. (DE Medicaid eligibility will go back to the first of the month as long as you are eligible by the end of the month)

EXAMPLE 2, CONT'D.

- The penalty would start February 1, 2019.
- The penalty is 311 days, so the penalty would finish on December 9, 2019
- What is the problem with this?
- The Medicaid applicant has no money to pay for long-term care while the penalty is running.

TIMING OF TRANSFERS, CONT'D.

- What is the worst case scenario??
- By filing a Medicaid application without considering these rules, a penalty period could be imposed for a period of longer than five years
- For example, if a \$600,000.00 residence was transferred within the lookback period, the penalty period would be 1,869 days, or 5.1 years!

PRESUMPTION OF ASSET TRANSFERS

 Medicaid presumes that any asset transferred for less than fair market value within the five year lookback was done for the purpose of qualifying for Medicaid.

EXAMPLE OF MEDICAID REBUTTAL LETTER

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EXCEPTION	NS TO	TRANSFERS	OF ASSETS

- Primary Residence–Transfer rules do not apply to transfers of residence
- A spouse
 A child under 21
 A child who is blind or disabled as defined by the SSI program
 A slibling who has an equity interest in the home and has resided for at least one year immediately before the date the individual becomes institutionalized
- A "caregiver child"

EXCEPTIONS TO TRANSFERS OF ASSETS (CONT'D.)

- Any Asset. Transfer penalties do not apply to any asset transferred to:
- An individual's spouse

 An individual's spouse

 An individual's child who is permanently or totally disabled

 A self-settled special needs trust (d(4)(a))

 A pooled trust (d(4)(c))

TRANSFERRING REAL PROPERTY	
Considerations Loss of basis step-up Loss of senior citizen tax exemptions Subjects real estate to donees' liabilities and creditors Trigger of due on sale clause	
ADDITIONAL CONSIDERATIONS - Transfer to MAPT - 2/3 sale permitted - Be careful of titling	
HALF-LOAF ANNUITY PLANNING	

HALF LOAF EXAMPLE ONE

 Mrs. Jones is moving to a skilled nursing facility. The monthly nursing home cost will be approximately \$10,500.00. She has Social Security and pension of \$2,500.00 per month. She has a total of \$150,000.00 of assets in a checking and money market account.

MRS. JONES ANNUITY CALCULATION | Confidence | Confidence

MEDICAID-QUALIFIED ANNUITY

- Irrevocable
- Non-assignable
- Non-transferableActuarially sound
- Term certain
- State of DE named as the primary beneficiary to the extent benefits are paid.
- No transfer for penalty for conversion of assets to purchase an annuity; counts as applicant's income

FACTORS TO CONSIDER IN HALF-LOAF PLANNING

- Family dynamics
- Cost of care
- Likelihood of increased cost of care
- Facility choice
- Testamentary intent
- Income tax implications

HALF-LOAF PLANNING- MRS. BROWN

- Monthly income: Social Security and Pension \$2,730.00
- Assisted Living costs: \$7,000.00
- Assets: Home worth \$225,000.00 (cost basis \$35,000.00)
- IRA \$150,000.00
- Checking and savings \$150,000.00
- POA that limits gifting, no power to create trusts
- Wants to disinherit one of her three children
- · Wants to protect assets, wants to update her EP documents

MRS. BROWN ANNUITY CALCULATION **Qualified Annuity Formula** Monthly Nursing Home Cost Total Monthly Income Spend Down Amount Nathi-IC Hound to 2 digits Amount to gift Annuity Amount Amounty monthly Period

what issues do you see with moving forward with this plan and what should you advise mrs. brown?	
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POTENTIAL ISSUES FOR MRS. BROWN	
Loss of basis step up and primary residence capital gain exclusion if	
house is transferred Income taxation if 401k is liquidated Potential for increased care costs if her care needs increase and she	
Fotential for increased care costs it net care needs increase and sne has to move to a skilled nursing facility Inadequate power of attorney	
Family dynamics	
MRS. MILLER	
 Social Security \$1,700.00 gross monthly income Home worth approximately \$200,000.00 with a mortgage of approximately \$75,000.00 	
Daughter has been living with her for her whole life, receives Social Security Disability of \$1,800.00.	
Other daughter lives independently and works full-time Other savings approximately \$100,000.00	
What issues should you consider for Mrs. Miller and what would you advise her?	

What is a second of the second	
What issues do you see planning for Mrs. Miller and what would you advise her?	
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MRS. MILLER PLANNING ISSUES	
Transfer to a disabled child exception Transfer to a disabled child exception Potential issue with transferring home subject to a mortgage	
* Foreitten issue with transferring notice subject to a mongage * Testamentary intent and potential unfair distribution of assets	
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MARRIED COUPLE PLANNING	_

INCOME FOR MARRIED COUPLES	
 Medicaid recipient \$1,947 gross monthly income limit Allowed deductions of \$50,00 per months for personal needs and Medicare and 	
supplemental insurance premiums Community spouse No income limit	
Minimum monthly maintenance needs allowance \$2,057.50 - \$3,160.50	
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CALCULATION OF THE MMMNA, EX. 1	
 Mr. Smith's gross monthly income is \$1,800.00 and he is applying for Medicaid. Mrs. Smith is the community spouse. Mrs. Smith's gross monthly income \$800.00. How much of Mr. Smith's income is Mrs. Smith 	
allowed to keep? * ANSWER: \$1,257.50	
	1
CALCULATION OF THE MMMNA, EX. 2	
 Mr. Smith's gross monthly income is \$1,800.00 and he is applying for Medicaid. Mrs. Smith is the community spouse. Her monthly income is 	
\$3,200.00 per month. * ANSWER: NONE	

- Mr. Smith's gross monthly income is \$1,800.00 and he is applying for Medicaid. Mrs. Smith is the community spouse. Mrs. Smith's gross monthly income is \$800.00. Mrs. Smith has a mortgage of \$1.800.00 per month, her utilities are \$300.00 per month and her food expenses are \$500.00 per month. How much of Mr. Smith's income is Mrs. Smith allowed to keep?
- ANSWER: \$1,300.00

CALCULATION OF THE CSRA

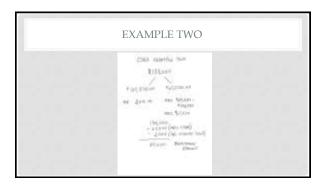
- CSRA is between \$25,284.00 and \$126,420.00.
- The CSRA is calculated as of the "snapshot date."
- The "snapshot date" is the sooner of the first continuous period of institutionalization lasting longer than 30 days or the date of the filing of the Medicaid application.

CALCULATING THE CSRA EXAMPLE 1

- Mr. A. is applying for Medicaid. Mrs. A. is the community spouse. Their total countable assets are \$35,000.00.
- What is Mrs. A's CSRA?
- What can Mr. A. keep?
- What is the total spenddown amount?

E	XAMPLE ONE ANSWER	
	The controlled women.	

Mr. A. is applying for Medicaid. Mrs. A. is the community spouse. Their total countable assets are \$135,000. What is Mrs. A's CSRA? How much is Mr. A. allowed to keep? What is the spenddown amount?	EXAMPLE 2
	total countable assets are \$135,000. What is Mrs. A's CSRA? How much is Mr. A. allowed to keep?



EXAMPLE THREE • Mr. A. is applying for Medicaid. Mrs. A. is the community spouse. Their total countable assets are \$275,000.00. • What is the CSRA? • How much is Mr. A. allowed to keep? • What is the spenddown amount?

EXAMPLE THREE ANSWER (121A specified state) (121A specified state)

PERMISSIBLE SPENDDOWN EXPENDITURES Daily living expenses Debts, including mortgages Nursing care Irrevocable prepaid funeral Home repairs Medicaid-qualified annuity

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				EXAM	PLE 1			

- MR. AND MRS. C., MR. C. is in a nursing home, Mrs. C. is the community
- GROSS MONTHLY INCOME: MR. C. Social Security \$2,200.00, MRS. C. Social Security \$800
- ASSETS
- Primary Residence \$250,000.00
- Car worth \$25,000.00, car loan \$10,000.00
 Mrs. C. inheritance \$50,000.00
 Mr. and Mrs. C. savings \$100,000.00

- Mr. C. IRA \$30,000.00

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- What is the spenddown amount?
- How would you propose that Mr. and Mrs. C. become Medicaideligible?
- What issues do you need to advise them about?

EXAMPLE TWO

Mr. D. is at home paying caregivers approximately \$3,500.00 per month. Mrs. D. is healthy but she would like to apply for Medicaid to get extra help for her husband. Mr. D's monthly income is \$2,200.00 and Mrs. D.'s monthly income is \$4,200. They own a home worth \$45,000.00 with a mortgage of \$50,000.00. Mr. D. has an IRA worth \$300,000.00. Mrs. D. has an IRA worth \$500,000.00. They have total combined savings of \$100,000.00.

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EXAMPLE TWO	
EMINI LE IVIO	
What is the spenddown amount?	
 How would you propose that Mr. and Mrs. D. become Medicaid- eligible? 	
What issues do you need to advise them about?	
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EXAMPLE THREE	
 They own a home worth approximately \$350,000.00. They also own a beach house worth approximately \$400,000.00 that they purchased 	
many years ago for \$50,000.00. Mr. E. is the owner and insured of a life insurance policy with a death benefit of \$500,000.00 and a cash	
surrender value of \$50,000.00. They have other savings of	
approximately \$700,000.00.	-
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EXAMPLE THREE	
What is the spenddown amount? I have yould you propose that Mr. and Mr. F. become Madiegid.	
 How would you propose that Mr. and Mrs. E. become Medicaid- eligible? 	
What issues do you need to advise them about?	

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