

Will Medicaid (MassHealth in Massachusetts) look at every check I write?

By: Brandon C. Walecka, Esq.

Walecka Law, P.C.

774-203-9003

Brandon@WaleckaLaw.com

We are often asked, “Will MassHealth look at every check I write when I’m applying for benefits?” When attempting to answer this question, I first try to educate the client on the basics of Medicaid eligibility and the look-back rules. Please note that when I refer to MassHealth in this article, that is the Medicaid program for Massachusetts residents; both programs are interchangeable.

What are the long-term (nursing home) MassHealth eligibility rules?

An individual who is living in a skilled nursing facility as a long-term care resident can apply for Long-Term (nursing home) MassHealth benefits to pay for care. To qualify for long-term MassHealth, the individual must have less than \$2,000 in countable assets. Countable assets are all except:

Home (primary residence worth less than \$906,000 in 2021);

Motor vehicle (one);

Prepaid funeral (any amount);

Burial account (up to \$1,500); and

Life insurance with a face value of \$1,500 or less.

If the applicant is married, MassHealth considers the assets of both spouses. The community spouse is currently allowed to keep all of the first \$130,380 in countable assets (in 2021). This amount changes almost every year. If there are excess assets, I work with clients to appropriately spend down within the rules. There are several simple and complex spend down strategies available. Seek the advice of a qualified elder law attorney to discuss these options.

Regarding income, once approved, the applicant must pay to the nursing home each month an amount known as the “patient paid amount” or “PPA”. The PPA is equal to the applicant’s gross income, less:

\$72.80 for personal needs (in 2021);

Any amount paid for health insurance. For example: the Medicare part B \$148.50 premium (in 2021) taken from the social security check and/or the amount paid by the applicant for a Medicare supplemental plan such as Blue Cross/Blue Shield Medex Bronze; and

Any amount the community spouse (the spouse who lives at home) is allowed to keep to meet the Minimum Monthly Maintenance Needs Allowance (MMMNA). The MMMNA is a minimum amount of income the state believes a community spouse needs to live independently in the community. The MMMNA is currently \$2,155 (in 2021). This amount changes each year.

If the applicant is married, the community spouse is allowed to keep all of his or her own income. If the community spouse’s income is lower than the MMMNA, then the community spouse is allowed to keep some of the applicant’s income. The amount of the applicant’s income that the community spouse can keep is the difference between the MMMNA and the community spouse’s income. Additionally, if the community spouse has high household expenses the community spouse may also be able to keep additional income and/or assets to support themselves

under certain circumstances.

What is a penalty period for (nursing home) MassHealth eligibility?

In my experience, the average cost of long-term care in a nursing home setting is about \$12 to \$14,000 a month or \$144,000 to \$168,000 per year. As you can see, this is expensive and may deplete one's assets quickly. To avoid this cost, many individuals and their families look to qualify for MassHealth to avoid these costs. Generally, to qualify for long-term (nursing home) MassHealth, an individual may only have \$2,000 in countable assets (as described above). To reach \$2,000 in assets, an individual may not give away (gift) their assets (with limited exceptions). The Commonwealth imposes a penalty for each dollar you give away during the five years before you apply for MassHealth to pay for nursing home care. A penalty period is a period during which MassHealth will not pay for nursing home care because the MassHealth applicant gave something away. The length of the penalty period varies by the value of the gift.

Review of Bank Statements

After learning about the MassHealth eligibility rules, clients sometimes ask, "Well, how will they even know I gave something away?" To determine whether an individual is eligible for MassHealth, MassHealth scrutinizes every bank transaction you have made in the last five years. When an individual applies for long-term (nursing home) MassHealth, they submit five years' worth of bank transactions for all accounts the individual holds. Typically, MassHealth asks for an explanation of all deposits and withdrawals over \$1,500. Did you write a check to your son for your share of a vacation he put on his credit card? Did you transfer a large sum of money from one account to another? These are the types of transactions that MassHealth will ask about and you will need to provide an explanation. This does not mean that you cannot

spend your money and live your life, but what it does mean is that if you are looking to qualify for MassHealth, some of the larger transactions will need to be explained.

This also does not mean that if you purchase an item or service for fair market value that it is a gift; it is allowed so long as the item or service was for your benefit. Also, there is no penalty imposed on transfers between spouses.

As you can see, the MassHealth application process can be complicated. Though an attorney is not always needed when filing a MassHealth application, in our experience, it is almost always advisable to consult with a qualified elder law attorney before submitting a MassHealth application. If an application is not done correctly, it may result in denial of vital MassHealth benefits for the senior. Have you already begun a MassHealth application on behalf of a loved one? Consulting a qualified elder law attorney who can advise you on the entire situation will give you peace of mind. And what you learn may mean significant financial savings or better care for you or your family member in the long run.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common estate planning tools. This article does not constitute legal advice.