



Navigating  
Medicare

**MMAP, Inc.**  
Michigan Medicare/Medicaid Assistance Program

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# When Your Spouse is in a Nursing Home

*Taking Care of Your Financial Needs*

**1-800-803-7174**

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## **Myths about Medicaid...**

- I CAN DO THE SAME THING MY NEIGHBOR DID AND QUALIFY FOR MEDICAID
- I CAN GIVE AWAY \$10,000 or \$13,000 A YEAR TO EACH OF MY CHILDREN, AND QUALIFY FOR MEDICAID IMMEDIATELY.
- I GET SOCIAL SECURITY, SO I AUTOMATICALLY GET MEDICAID.
- ADDING MY CHILDREN TO MY HOUSE IS NOT A GIFT.
- I CAN “LOAN” THE MONEY TO THE KIDS - NO ONE WILL KNOW IF THEY DON'T REPAY IT.
- I CAN ONLY KEEP \$2,000.
- THEY WILL TAKE MY HOUSE.
- I HAVE A TRUST, (OR A WILL) SO MY ASSETS ARE PROTECTED.
- I AM GOING TO PROTECT MY ASSETS FROM MEDICAID BY BUYING AN ANNUITY.
- THEY WON'T FIND OUT.

FOR THE FACTS ABOUT NURSING HOME MEDICAID,  
READ ON...

## About This Booklet

The Michigan Medicare/Medicaid Assistance Program (**MMAP**) developed this workbook with you in mind. We have taken a difficult topic, Medicaid and paying for nursing home care, and put it into easy to understand language. This workbook will help you understand the Medicaid rules if you or your spouse needs to move to a nursing home.

If you do not already have a MMAP counselor, please call the MMAP office at 1-800-803-7174. You will be connected with a trained MMAP counselor in your community who can meet with you and help you with every step outlined in this book. Or visit [www.mmapinc.org](http://www.mmapinc.org) to find your local office.

## About MMAP

MMAP is a free health-benefits counseling service for Medicare and Medicaid beneficiaries and their families or caregivers. Our mission is to educate, advocate, counsel and empower people to make informed health benefit decisions.

MMAP is an independent program funded by state and federal agencies and is not affiliated with any insurance company. Nationally, this program is called the State Health Insurance Assistance Program (SHIP). Each State has a SHIP program. MMAP is Michigan's SHIP.

A MMAP counselor will help you work with the Michigan Department of Human Services (DHS), formerly known as the Family Independence Agency (FIA). DHS is the agency that administers the Medicaid program.

A MMAP counselor can answer questions like:

- Will I have to sell my home or family farm?
- Will I have enough income to maintain our home and pay for nursing home care?
- Will the government “take” my house if my spouse goes on Medicaid?

## What is the Department of Human Services (DHS)?

**DHS** is the government agency responsible for approving or denying your application for Medicaid assistance. There is a DHS office to serve each county.

To find the DHS office nearest to you, either visit the DHS website: [www.Michigan.gov/dhs](http://www.Michigan.gov/dhs) (click county office, then select your county) or look in the government section of your telephone book under “Department of Human Services”.

## Will all our assets go to a nursing home? When my spouse is in a nursing home, what resources will I have?

As you may expect, this “simple” question, does not have a simple answer. You must first give the DHS a “snapshot” of your financial situation. This snapshot will include assets owned by you, (“the **spouse in the community**”), as well as assets owned by your spouse (“the **nursing home spouse**”). You will provide this snapshot by completing an **Assets Declaration** Form. The Assets Declaration:

- Must reflect the value of your assets as of the exact date of the first hospitalization and/or nursing home admission that lasts, or is expected to last 30 or more days
- Is completed only once, even if assets change, or if the patient is discharged from and readmitted to the Nursing home; and

- Requires you to list all the assets that you and your spouse own individually, jointly, or with another person. It also requires proof of ownership and value of these assets.

Medicaid policy divides assets into two groups:

***Non-Countable assets:*** These assets will not be counted in determining eligibility for Medicaid assistance. (Remember, you still need to report them to DHS).

***Countable assets:*** These assets are counted in determining eligibility for Medicaid assistance.

## **What assets ARE NOT countable?**

Examples of assets that are not countable include:

- One home, and all attached property. This exemption used to be unlimited; however, it has now been limited to equity in a house up to \$500,000. The limit may not apply if a spouse remains in the home.
- One vehicle
- Personal belongings and household goods
- Some life insurance (if the total Face Value of all policies owned by one person is less than \$1500)
- Some prepaid funeral arrangements (check with your MMAP counselor or funeral director)
- Assets that cannot be sold (and you can prove it!)
- Some assets that you own jointly and the other owner refuses to sell.

## **What assets ARE countable?**

Examples of assets that are countable include:

- Cash, bank and credit union accounts, certificates of deposit
- Stocks, bonds
- Retirement accounts (IRA, 401k)
- Items held in a revocable trust (including a homestead)
- Real estate other than your home

- Multiple vehicles (first is exempt), boats, motorcycles, trailers and other recreational vehicles
- Cash surrender of life insurance (if the total Face Value of all policies to insure one person is over \$1500).

The DHS requires that both non-countable and countable assets be reported on the Assets Declaration Form. The DHS will use your Assets Declaration Form to determine the amount of countable assets you, the spouse in the community, are allowed to keep. The maximum amount of assets you may keep is your asset limit. Any assets you have above this limit are called excess assets.

You need to be below your asset limit before you apply. If you have excess assets you will be denied for Medicaid. (See “How can we use our excess assets?” on page 8.)

## **How much of our countable assets can I keep?**

In the year 2009, the spouse in the community is allowed to keep the greater of:

- \$21,912\* in countable assets ; OR
- One-half of the couple’s total countable assets, up to \$109,560.\*

This is called your ***Protected Spousal Amount***

\*These amounts change each January.

## How much of our countable assets can my spouse keep?

The nursing home spouse is allowed to keep up to \$2,000.

### Example #1

The Couple has \$21,000 in **Countable Assets** on the **snapshot date** used on their **Assets Declaration**.

- The couple is allowed to keep all of their assets because they are below the minimum. (\$21,912.00 + \$2,000.00)
- The assets can be in one or both names without affecting eligibility at the time of application.

### Example #2

The Couple has \$100,000 in **Countable Assets** on the **snapshot date** used on their **Assets Declaration**.

- The **spouse in the community** is allowed to keep \$50,000.
- The **nursing home spouse** is allowed to keep \$2,000.
- The **nursing home spouse** will be eligible for Medicaid when the couple's total countable assets are \$52,000.

### Example #3

The Couple has \$250,000 in **Countable Assets** on the **snapshot date** used on their **Assets Declaration**.

- The **spouse in the community** is allowed to keep \$109,560.
- The **nursing home spouse** is allowed to keep \$2000.
- The **nursing home spouse** will be eligible for Medicaid when the couple's total countable assets are \$111,560.

Reminder your **Snapshot date** is the date for which you will complete the **Assets Declaration** form. The **Assets Declaration** form will reflect the value of your assets as of the first day of a hospital and/or long term care facility stay that lasts 30 continuous days. All assets are counted on the assets declaration form regardless of who owns the asset, the spouse in the community or the spouse in the nursing home.

## How can we use our excess assets?

**STOP! Before you rush into spending down your assets, complete and submit an Assets Declaration form, so that you are aware of the amount of resources you are allowed to keep. A MMAP counselor can help you complete this form.**

For many people, the easiest way to qualify for Medicaid is to spend down their assets. The DHS allows excess assets to be used in several ways.

Some common examples include:

- Paying nursing home expenses,
- Purchasing personal need items for you or the nursing home spouse (clothing, TV, radio, etc.),
- Paying regular household bills and living expenses,
- Paying medical expenses of both spouses,
- Prepaying funeral expenses for the nursing home spouse and possibly the spouse in the community. (make sure to mention to the funeral director that Medicaid may be in your future),
- Making needed home repairs (replace roof/furnace/ water heater, remodel bathroom, etc.),
- Purchasing household goods (carpeting, cabinets, furniture, appliances, etc.),
- Upgrading a vehicle (ask yourself if your vehicle will last for as long as you want to drive), and

Depending on your situation, other planning options may be available. Consult with your MMAP counselor to find out more.

***You MUST keep careful records when spending excess assets. You may be asked to provide proof of how you spent down your assets. This includes copies of checks, and receipts in many cases.***

## What happens if I give my money or other assets away?

Bad things. Seriously.

The transfer of assets for less than fair market value for the purpose of obtaining Medicaid is called ***divestment*** and is subject to a Medicaid penalty period. Medicaid will not pay for your long term care during a ***penalty period***. The length of the penalty is based on how long you could have paid for your care with the amount of assets you gave away.

The penalty period begins on the date you are eligible and apply for long term care Medicaid benefits, and are in a nursing home.

Medicaid regulations regarding the divestment of assets have changed a lot in the past few years, making the penalties for divestments much stricter. What may have worked for your friend, neighbor, or relative a few years ago, might not work today.

**WARNING!!!!** Divestment rules are tricky and unforgiving. Make sure you seek the assistance and advice of an individual who works with these programs frequently before making any gifts of your assets.

## Important Information about giving away your assets.

- The DHS considers any transfer of an asset a divestment unless you can prove otherwise.
- You **MUST** report any assets you or your spouse have transferred or given away, or sold for less than its value within the past 5 years (60 months).
- Giving away your car or home, or putting another person's name on the deed to your home **IS** divestment.
- Transfers to a spouse or a blind or disabled child are **NOT** considered divestment.
- Using a countable asset to purchase a non-countable asset of equal value is **NOT** divestment. For example, using the cash from a certificate of deposit (CD) to purchase a car, household appliance, etc. is **NOT** considered divestment.

### Example of Divestment

George enters a nursing home. George and his wife Mary complete an Assets Declaration and Medicaid Application, because their countable assets are below the minimum. However, in the past 3 years, George and Mary have given each of their four children, \$10,000. The penalty period is calculated as follows

- $\$10,000 \times 4 = \$40,000$  (total divestment amount)
- $\$40,000 \div \$6,362^* = 6$  months 9 days.

The penalty period in this example is 6 months, 9 days from the time of applications. During the penalty period Medicaid will NOT pay for George's care. George and Mary now have to pay for George's nursing home care out of pocket during the penalty period because of their gifts. OUCH!

\* \$6362 is the 2009 divestment divisor, which is the average cost of a month of nursing home care in the State of Michigan, according to DHS. This number changes every January.

## How much of our income will I be allowed to keep for our household expenses?

For many couples, a major concern is how their income will be handled after the nursing home spouse becomes eligible for Medicaid. The amount of income the nursing home spouse is required to pay to the nursing home is called the Patient Pay Amount. Here are a few helpful tips about the

### ***Patient Pay Amount:***

- The spouse in the community will not have to contribute any of her/his own income toward the care of the nursing home spouse.
- The nursing home spouse may be able to contribute all or part of his or her income to the spouse in the community.
- Calculating the Patient Pay Amount for a married person in a nursing home is a very individualized process. Because many factors are considered, no two cases are the same.

The DHS will need proof of income for both spouses to determine how much the nursing home spouse will have to pay as his or her Patient Pay Amount. In addition, you will be asked to provide proof of your household expenses (mortgage, taxes, insurance, utilities, rent or other shelter expenses.)

If the spouse in the community's income does not meet a minimum amount, the nursing home spouse is allowed to contribute some or all of his or her income to the spouse in the community. In 2009, the minimum amount of income for the spouse in the community is \$1,750.00/month. If the shelter expenses of the spouse in the community are high, the nursing home spouse may be able to give the spouse in the community some income to help the spouse in the community remain independent, up to a maximum of \$2,739.00 per month in 2009.

## How do I apply for Medicaid?

You must first complete the Assets Declaration, and then the Medicaid Application. Your MMAP counselor can give you these forms, or you can obtain it by contacting your local DHS office.

### **In addition to completing the actual application, you must:**

- Provide proof of the current value of your assets,
- Prove your total monthly income,
- Provide proof for all closings of accounts, transfers, sales, gifts, and other activity involving your assets within the past 60 months,
- Provide proof of your living expenses, and
- Show, through receipts and/or documentation, how your excess assets were used, (when applicable).

## What happens after my Medicaid application is submitted?

The DHS will approve or deny your application. While your application is being processed you may have to pay the nursing home an estimated Patient Pay Amount. The DHS will give you the estimated amount. The DHS may also request additional documentation that you must provide within 10 days, unless you request an extension.

## What happens once my application is approved?

You may need to complete the *Intent to Contribute* form. This form indicates the amount of income the nursing home spouse will contribute to the spouse in the community.

## Is there anything I need to do after the Medicaid application is approved?

The nursing home spouse is presumed eligible for one year. At the end of the year, the countable assets in the name of the nursing home spouse must be less than \$2,000 to continue to receive Medicaid. Therefore, you will need to remove the name of the nursing home spouse from most countable assets. Remember to keep proof that the nursing home spouse's name has been removed.

### In addition, you may want to do the following:

- Start, or continue, to have your spouse's income direct-deposited into a joint checking account with you. This gives you access to the account, so you can write checks. Keep this as your spouse's account. Remember, the account balance must remain below \$2,000.
- Open a separate checking account for yourself only. Have your income go into that account by direct deposit.

## Is there anything I will have to do on an annual basis?

At the end of each year, your spouse will have to submit a new Medicaid application, called a ***Redetermination***.

### The Redetermination

- Requires proof that the assets of the nursing home spouse are below \$2,000,
- Does not require that the assets of the spouse in the community be reported,
- Requires verification of the income of both spouses,
- Requires proof, through documentation, that the nursing home spouse's name was taken off all countable assets, except for her/his \$2,000, and

- Requires proof of utility, health insurance and shelter expenses, to ensure that you continue to receive income from your nursing home spouse, if applicable.

## Are there other things I need to consider?

- Take your spouse's name off any non countable assets that may be sold (cars, house, etc.). The spouse in the community has one (1) year to transfer assets out of the nursing home spouse's name once Medicaid eligibility has been determined. If the asset is eventually sold, the proceeds of the sale will go to the spouse in the community. Otherwise, the sale may lead to problems with continued Medicaid eligibility for the nursing home spouse.
- See an attorney to update your estate planning. (***Will, power of attorney, and designation of patient advocate*** are some examples of documents to consider).

## Tips on selecting a Medicaid Attorney

If you are trying to find an attorney who is knowledgeable about Medicaid and how it factors into estate planning, the following questions may help in making your suggestions. Ask the prospective attorney:

- Are you familiar with Medicaid rules and regulations?
- Do you have an up to date manual in your office?
- Is anyone else in your firm familiar with Medicaid rules and regulations?
- When was the last time you worked with a Medicaid client?
- What training have you had about Medicaid? How recently?

# Glossary of terms

*Below is a list of terms you may encounter while navigating the long term care system. Not all terms are used in this booklet.*

**Activities of Daily Living (ADLs):** *The term used to describe things people usually do for themselves, but which they may need to have assistance with if they are suffering from a medical condition. Measuring the extent to which an individual can perform ADLs is used to decide what type of housing situation is suitable for the individual.*

**Annuity:** *Financial arrangement in which an individual transfers funds to a company, and in return receive a promise to have those funds returned to them at some future date, under terms established by the annuity contract. While annuities may be appropriate investments for some individuals, unfortunately some annuities are inappropriately marketed to seniors as a “fix all” for Medicaid eligibility.*

**Asset Limit:** *The maximum amount of countable assets a person can have and still qualify for Medicaid benefits.*

**Assets Declaration:** *The DHS form which reflects the value of the assets of the couple as of the snapshot date (Initial Assessment Date).*

**Bed Hold:** *The payment for a nursing home during temporary periods away from the nursing home in order to insure the availability of the nursing home bed upon return to the facility. An example of a temporary period away from the nursing home would be a hospital stay.*

**Cash Surrender Value (CSV):** *A term that refers to the amount of cash a person can withdraw from their life insurance policy. For Medicaid eligibility purposes, the CSV of a life insurance policy is typically considered an asset.*

**Centers for Medicare and Medicaid Services (CMS):** *CMS is a division of the Department of Health and Human Services, which finances and administers the Medicare and Medicaid programs. Among other responsibilities, CMS establishes the standards for the operation of nursing facilities that receive funds under the Medicare and Medicaid program.*

**Conservator:** *An individual or entity appointed by the court who manages the property and finances of another person, whom the court has determined needs assistance with those matters. A person who has executed a Durable Power of Attorney typically would not need a Conservator.*

**Countable assets:** *These assets are counted in determining eligibility for Medicaid assistance.*

**Department of Human Services (DHS):** *The State agency that makes determinations regarding Medicaid eligibility.*

**Divestment:** *A term used in Medicaid policy that refers to the transfer of an asset, for less than fair market value, to become eligible for Medicaid benefits.*

**Estate Recovery:** *A program through which a State recovers resources from the Estate of a Medicaid beneficiary, after the beneficiary has died. As of the date of the publication of this booklet, Michigan does not have an Estate Recovery program.*

**Excess Assets:** *The amount of assets a person has over his or her asset limit for Medicaid. A person with Excess Assets is not eligible for Medicaid.*

**Face Value:** *A term that relates to the original death benefit of a life insurance policy.*

**Guardian:** *A person appointed by the court, to make medical and other decisions for another person (the ward), whom the court has determined to be legally incapacitated. A person who has executed a Patient Advocate Designation would typically not need a Guardian.*

**Intent to Contribute:** *The DHS form that must be completed which allows a nursing home spouse to contribute some or all of his or her income to the spouse in the community if he or she is allowed to, based on the Patient Pay Amount.*

**Long Term Care Insurance:** *Private insurance designed to pay for long term care services, including care in a nursing home, and for some policies, in a home or other appropriate setting.*

**Level of Care Screening:** Medicaid requires that an individual applying for Nursing Home Medicaid benefits is screened to ensure they need a nursing home level of care. The nursing home must complete a screen of each resident applicant to ensure that the individual does require nursing home level of care.

**Long Term Care Ombudsman:** The Long Term Care Ombudsman program advocates for the rights of all residents in long term care facilities. The Ombudsman visits the nursing home on a regular basis. It is their job to assist residents with dispute resolution with the long term care facility, investigate complaints, and be an advocate for residents.

**Medicaid:** A federally supported, state operated public assistance program that pays for health care services to people with low income, including elderly or disabled persons who qualify.

**Medicaid Application:** A form which needs to be completed to request Medicaid benefits on behalf of an individual.

**Medicaid Certified bed:** A nursing facility bed in a building or part of a building which has been determined to meet federal standards for serving Medicaid recipients.

**Medicare:** A government health insurance program that is available to all individuals who have paid sufficient Medicare taxes and who are either over age 65 or disabled. Medicare has four parts. Individuals may be eligible for all or some of these parts:

Part A: Primarily assists with payment of hospital care

Part B: Primarily assists with payment of doctor visits

Part C: The optional managed care coverage through which Medicare beneficiaries receive private insurance coverage in lieu of traditional Medicare.

Part D: Pays for some outpatient prescription costs.

**MMAP:** Is a free service that can help individuals make health benefit decisions. MMAP is funded by a grant from the Michigan Office of Services to the Aging through funding received from the Centers for Medicare and Medicaid Services, the Medicare agency and a grant from the

*Administration on Aging.*

**Non-Countable assets:** *These assets will not be counted in determining eligibility for Medicaid assistance. (Remember, you still need to report them to DHS).*

**Nursing Home Spouse:** *The spouse who is a resident of a nursing home.*

**Patient Advocate Designation:** *The legal document whereby one appoints another person to make medical decisions for the him/her in the event the he/she is unable to make his or her own decision. It can also be called a Health Care Power of Attorney.*

**Patient Pay Amount:** *An amount, calculated by DHS, which the nursing home spouse is responsible to pay to the nursing home each month towards his or her care.*

**Penalty Period:** *A length of time for which Medicaid will not pay for the long term care costs of a Medicaid beneficiary, due to divestment.*

**Power of Attorney:** *A legal document allowing one person (the Agent) to act in a legal matter on another's (the Principal) behalf relating to financial or real estate transactions. A Durable Power of Attorney includes language stating that the Agent is still allowed to act, even if the principal becomes incompetent.*

**Redetermination:** *The annual review for an ongoing Medicaid recipient to continue to receive Medicaid benefits.*

**Snapshot Date:** *The date for which an individual completes an Assets Declaration. The first date for which an individual is the resident of a hospital or long term care facility and is expected to remain for at least 30 consecutive days. Also called the Initial Assessment Date.*

**Spouse in the Community:** *The spouse who is not living in a nursing home.*

**Trust:** *An agreement between the settlor and the trustee, where the trustee agrees to manage the property of the settlor, according to the terms of the agreement, for the beneficiaries of the trust. A trust can be revocable (changeable) or irrevocable (not changeable). Most trust created for estate*

*planning reasons are revocable. While a revocable trust may be used in Medicaid planning, it does not shelter assets from Medicaid. Specific types of irrevocable trusts can be used for Medicaid planning.*

***Will:*** *A legal document through which an individual nominates a personal representative to administer the individual's estate, and directs how the property shall be distributed after the individual's death.*

## **Helpful websites for your reference...**

MMAP Inc: [www.mmapinc.org](http://www.mmapinc.org) (to find out more about MMAP)

Department of Human Services: [www.michigan.gov/dhs](http://www.michigan.gov/dhs) (to find your local DHS office, and to download forms)

Social Security Administration: [www.ssa.gov](http://www.ssa.gov) (to get a copy of your annual benefit letter)

Medicare: [www.medicare.gov](http://www.medicare.gov) (check out Nursing Home compare)

Michigan Office of Services to the Aging: [www.michigan.gov/miseniors](http://www.michigan.gov/miseniors)  
(see Long Term Care issues)





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**For more information call**

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**Or visit  
[www.mmapinc.org](http://www.mmapinc.org)**

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LOCAL HELP FOR PEOPLE WITH MEDICARE

