

ELDER LAW TODAY

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Updated Medicaid Figures for 2006

You may recall from past issues of *Elder Law Today* how the Medicaid laws work for a married couple when one of them needs nursing home care. The Spousal Impoverishment Provisions of the law make it clear that the Medicaid program does not intend to impoverish one spouse because the other needs care in a nursing home.

Much of this is based on the spend-down of assets and what levels must be met before someone qualifies.

The law says that for a married couple, the at-home spouse is entitled to keep a minimum amount of money with no spend-down. **The new minimum spousal share effective January 1st is \$19,020.** In addition, the nursing home spouse may keep \$2,000. In other words, for a couple with \$19,020 in countable assets (plus the small amount allotted to the nursing home spouse) there will be no spend-down.

The maximum spousal share has also been increased. This is the maximum amount that the at-home spouse is allowed to keep. For calendar year 2004, the amount was just over \$93,000. So if a married couple had \$186,000 or more, they had to spend down to \$93,000 for the at-home spouse plus the nursing home spouse's share \$2,000.

For calendar year 2005, the maximum spousal share has been increased to \$95,100. This means that if the couple has \$190,200 or more in countable assets, the at-home spouse will now be able to keep \$95,100 an increase of just over \$2,000.

The Medicaid laws also allow for a Minimum Monthly Maintenance Needs Allowance. **The minimum allowance that the at-home spouse is allowed to keep is \$1,562.**

There is also a maximum total maintenance standard. This is the amount of income that the community spouse is allowed to keep if his or her

expenses are great enough. Let's say there's a community spouse who lives in assisted living and has monthly rental costs of \$2,000. This at-home spouse would be able to keep more than the \$1,562 minimum. His or her figure would be increased to \$2,377.50. **The new maximum total maintenance standard for the community spouse is now \$2,377.50.**

This can sometimes allow a couple to greatly increase the amount of assets they keep. For instance, in earlier issues of *Elder Law Today*, we explained how it was possible for a married couple to go through division of assets, qualify for Medicaid, and not spend down. This increase in the maximum total maintenance standard will allow many couples to further increase the amount of assets that the couple is allowed to retain without spending down.

In a shocking development the Division of Medical Assistance released the **new average nursing home cost in Massachusetts at \$232 per day for 2005. This is a decrease from \$244 per day in 2004.** This important figure is used to calculate the penalty period when a nursing home resident makes a gift. A lower average nursing home cost results in a longer penalty period. It's likely that this new figure will be challenged. We'll keep you posted as issues develop.

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Helping families get good nursing home care for loved ones while legally preserving family assets

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