

Exemptions Allowed for Medicaid Eligibility in the District of Columbia, Maryland and Virginia

By: Paul D. Pearlstein

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I. Introduction

Federal law allows the individual States and the District of Columbia to create a Medicaid program, with certain requirements and restrictions, to provide its citizens with low-cost, medical assistance, and receive Federal assistance for doing so.² Further, Federal law imposes mandatory eligibility criteria to qualify for Medicaid, and each State has the option of imposing additional eligibility limitations.³

The Federal Medicaid program requires that all applicants have certain, countable assets below a specified level.⁴ Everything an applicant owns is considered an asset. The term assets include all income and resources of the applicant and his or her spouse, but there are certain assets that are neither income nor resources because the applicant cannot convert them into cash. Assets that are not income or resources do not affect Medicaid eligibility. An example of an asset that is not a resource because it cannot be converted into cash is an irrevocable burial contract.⁵ Only assets that are considered income or resources will be counted against the applicant for eligibility purposes as countable assets.⁶ Such assets are called countable assets. Countable assets also include income or resources that the applicant or the applicant's spouse are entitled to but do not receive based on action or inaction by them or on their behalf.⁷

Resources include cash or any other liquid assets or any real or personal property that an applicant or applicant's spouse owns and has the right, authority, or power to convert to cash to be used for the applicant's support and maintenance.⁸ The term income for purposes of the Medicaid program includes both earned and unearned income. The amount of income an applicant is allowed to receive varies depending on where the applicant lives; each state sets their own income limits and determines what counts towards that limit.⁹

The Federal requirements consider both liquid assets, which have a cash value, and non-liquid assets, which have an equity value. For Federal purposes, in order to qualify for Medicaid benefits, applicants must have below \$2,500 of countable assets, at any given time, either in the form of income or resources. In the District of Columbia, this limit is increased to \$2,600 for a single applicant and \$3,000 for a married couple who are both in a nursing home.¹⁰ In Maryland, the \$2,500 limit is kept for a single applicant and \$3,000 is allowed for a married couple, both of which live in a nursing home.¹¹ In Virginia, the countable asset allowance for a single applicant is capped at \$2,000.¹² Exceeding the limit, by even \$1 at any time during the month, makes the applicant ineligible for Medicaid for the entire month.

However, in certain cases, the Federal and State Medicaid programs do allow applicants to "spend down" in order to meet eligibility criteria.¹³ This means that an applicant may be over the maximum resource or income level allowed in the particular jurisdiction, but can spend excess income, or liquidated resources and spend "for necessary medical and remedial services" and these

payments will not be counted in determining an applicant's financial eligibility.¹⁴

All three jurisdictions allow for a certain amount of resource and income protection and transfer of such assets in determining an applicant's eligibility for Medicaid. But the Federal Deficit Reduction Act (DRA) of 2006 has drastically changed the ability of and increased the penalty for applicants to spend down, transfer or protect their resources and income. This article is designed to guide the reader in determining which of their resources and income, or transfers of such assets, will be counted against them in determining their financial eligibility for Medicaid, and which, if any, will be exempt based on the new Federal DRA. The District of Columbia, Maryland and Virginia are each still creating their updated guidelines based on the DRA, and so this article will discuss the DRA and how it may affect the State requirements.¹⁵ The Federal and State Medicaid programs also impose nonfinancial eligibility requirements that this article will not deal with. However, for the reader's information, it is important to know that the applicant generally must fall within one of the following categories to meet the non-financial eligibility requirements for Medicaid: aged, blind, disabled, or a member of a family with dependent children.¹⁶ This article is intended to give the reader a basic overview of the financial criteria for Medicaid. Anyone who intends to apply for Medicaid is advised to obtain professional assistance and advice. This article ends with some basic suggestions to protect assets while still qualifying for benefits.

A. Criminal Sanctions and Fraud

In 1996, Section 217 of the Health Insurance and Portability and Accountability Act (HIPAA) created criminal penalties for "knowing and willful dispos[itions] of assets in order for an individual to become eligible for medical assistance". The criminal penalties became effective on January 1, 1997. In August of 1997, Section 4734 of the Balanced Budget Act of 1997 amended the HIPAA statute and shifted the imposition of criminal penalties from the individual who disposes of the assets to any person who "for a fee knowingly and willingly counsels or assists an individual to dispose of assets, or transfer assets into a trust, in order to become eligible for [Medicaid]. In March of 1998, in *New York State Bar Association v. Reno*, the United States District Court for the Northern District of New York issued a preliminary injunction preventing the enforcement of Section 4734 of the Balanced Budget Act of 1997. The injunction has since been made permanent and advisors of would-be Medicaid applicants are again free to function without the threat of criminal sanctions. However, it would be important to note that any such advisors must still concern themselves with possible criminal sanctions and fraud.

II. Transfers of Countable Assets

A. Federal, District of Columbia, Maryland, Virginia

Given the imposition of a maximum level of countable assets an applicant may have and still qualify for Medicaid, and the ensuing penalty of ineligibility if one goes over the maximum level, one may think to give away these countable assets to loved ones and the like in order to qualify for Medicaid. However, the Federal Medicaid program and the programs in all three jurisdictions impose a "look back" period, which may disqualify the applicant even if he or she is below the maximum level of countable assets. This look back period has been extended by the Federal DRA

guidelines, and is a specific period of time in which the Federal or State government, as it may be, will look at to see if there have been any assets transferred by the applicant for less than fair market value. Under the DRA, for institutionalized individuals, the look back period for transfers of assets will be 60 months from the date the applicant applies for Medicaid and would otherwise have been eligible except for the penalty period. The look back period will remain at 60 months for assets disposed of in certain trusts, and will be discussed later.¹⁷

If any transfers are found during the look back period, it may disqualify the applicant for Medicaid coverage for a penalty period. Under the DRA, the penalty period will not begin to run until the applicant applies and would have been found eligible for Medicaid services. The penalty period is determined by dividing the value of the asset by the average monthly cost of private, nursing facility care in the State of the applicant.¹⁸ The penalty period itself is calculated on a month-to-month basis. Two penalty periods cannot be served consecutively. In other words, if you transfer assets for less than fair market value, which would subject you to a penalty period, during an existing penalty period, you will be subject to a second, additional penalty period that will not begin until the first, existing penalty period has expired.¹⁹

Countable assets include all income and resources of the applicant and their spouse. This includes not only income that they receive, but also income that they do not receive because of some action or inaction on the part of the applicant, spouse, court, or other body with legal authority to act in place of the applicant or his or her spouse. Examples of action or inaction that would cause income or resources not to be received include waiving pension, disclaiming inheritance, tort settlement put into a trust by a defendant for the applicant who is a plaintiff, or failure to seek court action to obtain payments that are overdue.²⁰

Countable assets transferred by a parent, guardian, court, administrative body, or anyone acting in place of, or on behalf of, or at the request or direction of the applicant or applicant's spouse, are deemed to be assets transferred by the applicant or applicant's spouse. If a penalty is imposed as a result of assets transferred by a spouse, the penalty must be apportioned between the spouses if both are eligible for Medicaid, a penalty could be imposed against either spouse, and some portion of the penalty against the applicant remains after such apportionment. However, if one spouse is no longer subject to the penalty, the other spouse must serve, along with his or her own penalty period, the leftover portion of the spouse's penalty period.²¹

An exception to the prohibition on transfers for less than fair market value exists if the transfer is to or by a spouse or 3rd party for the sole benefit of the spouse, or to a child who is unmarried and under the age of 21 or disabled, in which case the applicant will not be subject to a penalty period based solely on this transfer.²² However, transfers to or by a spouse for the sole benefit of the spouse are required to be spent within a time frame actuarially commensurate with the spouse's life expectancy.²³ Transfers of assets to certain trusts for the sole benefit of certain children and disabled persons may be exempt. These trusts are discussed later in Section XIII.

III. Joint Assets

A. Federal, District of Columbia, Maryland, Virginia

A joint asset will be considered available, and thus a resource, to the applicant if he or she has the right to withdraw or the authority, acting alone, to liquidate the asset. If it is found that the asset is available to the applicant, the actual amount considered available will be derived from prorating the value of the asset according to the number of owners. However, jointly held assets that cannot be liquidated by the applicant without authorization from the other owners are not considered available resources to the applicant for eligibility purposes.²⁴

Any asset held by the applicant in a joint tenancy, tenancy in common, or similar arrangement, will be considered transferred for less than fair market value by the applicant if the applicant or any other person diminishes or eliminates the applicant's ownership or control of such asset.²⁵ As discussed above in Section II, this may subject the applicant to a penalty period during which the applicant will be ineligible for Medicaid.

IV. Countable Resources

A. Federal, District of Columbia, Maryland, Virginia

Generally, any countable resources transferred during the look back period for less than fair market value will disqualify an applicant for Medicaid coverage for a penalty period. In review, the term resources includes cash or any other liquid assets or any real or personal property that an applicant or applicant's spouse owns and could convert to cash to be used for the applicant's support and maintenance.²⁶ Some resources are exempt in determining financial eligibility. . Once again, the penalty period is calculated by dividing the value of the resource transferred by the average, monthly cost of a private, nursing facility care in the State of the applicant. The penalty period is calculated on a month-to-month basis.

It is important to note, however, that in certain cases the Federal and State Medicaid programs do allow applicants to "spend down" in order to meet eligibility criteria.²⁷ This means that an applicant may be over the maximum resource level allowed, but can liquidate excess resources and spend the excess income "for necessary medical and remedial services" and these payments will not be counted as income for determining eligibility.²⁸

Exempt from this general prohibition against transferring resources for less than fair market value are transfers of resources between, or for the sole benefit of the applicant's spouse; transfers to a blind or permanently disabled child or to a trust for such child; to an unmarried child under 21; or to a trust for a disabled person under 65.²⁹

B. Virginia

In Virginia, the transfer of an applicant's resource, which includes an applicant's legal equitable interest in real or personal property, for less than fair market value will result in a penalty period unless specifically exempted. If the uncompensated value of the resource is \$12,000 or less, then the applicant will be found ineligible for Medicaid for two years from the date of transfer. If the uncompensated value of the resource is \$12,000 or more, then the applicant

will be found ineligible for Medicaid for two years plus an additional two months for every \$1,000, or part thereof, of uncompensated value over \$12,000.³⁰

Further, Section 20-88.02 of the Code of Virginia states that any person to whom the applicant transfers \$25,000 or more worth of resources to, without compensation, can be asked to repay the State for any Medicaid costs paid on the applicant's behalf.³¹

V. Income

A. Federal, District of Columbia, Maryland, Virginia

Income that may be counted in determining an applicant's eligibility can be either earned or unearned. The amount of income an applicant is allowed to have at any given time varies depending on who the applicant is; each State has their own income limits and determines what income counts towards that limit.³²

In general, to qualify for Medicaid, the applicant and his or her immediate family must have an annual income equal to, or less than, the allowable amount for a family of his or her size specified in the Federal Poverty Income Guidelines. In certain cases, however, the Federal and State Medicaid programs do allow applicants to "spend down" in order to meet eligibility criteria.³³ This allows an applicant over the maximum income level to spend excess income "for necessary medical and remedial services" and these payments will not be counted as income for determining eligibility.³⁴

VI. Residence

A. Federal, District of Columbia, Maryland, Virginia

Under the Federal DAR, the residence of a Medicaid applicant may be an exempt resource. In the case of applicants applying for Medicaid after January 1, 2006³⁵, the DAR limits the amount of exempt equity in a residence to \$500,000, but permits the state to increase the limit to \$750,000.³⁶ The applicant's residence is not an exempt resource for institutionalized individuals, but is exempt up to the State's limit for non-institutionalized individuals, or institutionalized ones that intend to return home.³⁷ In the case of institutionalization of an individual applicant without the intention to return home, the residence will be exempt as an excludable resource for up to six months. Further, the residence will be considered an excludable resource indefinitely, even after six months, if a spouse, an unmarried child under age 21, or a blind or disabled child lives in the home.³⁸

By retaining title to his or her home, an applicant's principle residence will not be counted as an available resource as long as the equity held is not greater than \$500,000. The applicant's home will also not be counted as an available resource if the applicant transfers title to the home with equity of \$500,000 or less to: (1) a spouse; (2) a child under 21 who is blind or permanently disabled; (3) a sibling with an equity interest in the home, who was residing in the home for at least one year before the applicant's institutionalization for the purpose of providing care to the applicant so that the applicant could live at home as opposed to having to be institutionalized; or (4) a child,

who was residing in the home for at least the last two years before the applicant's institutionalization for the same purpose of providing care.³⁹

1. Proceeds from the Sale of an Exempt Home

a. Federal

The proceeds from the sale of a residence will not be considered an available resource to the applicant for up to six months if the cash is kept in a separate account from countable assets and there is a written agreement to purchase another residence.⁴⁰

b. Maryland

Proceeds from the sale of an exempt residence in Maryland remain exempt if the applicant purchases another exempt home within 90 days. After 90 days, the proceeds become an available asset.⁴¹

c. District of Columbia, Virginia

The proceeds from the sale of a residence will not be considered an available resource to the applicant for up to three months if the applicant gets another residence during this period⁴² and the residence sold was an excludable resource in the first place.⁴³

2. Contiguous Land

a. Federal

The value of all contiguous land to the applicant's principle residence is exempt.⁴⁴

b. District of Columbia, Maryland

Any land contiguous to the applicant's principle residence, or any buildings on that land, are completely excluded as being considered an available resource to the applicant no matter what the value of the land or the buildings. Further, any contiguous land will be considered part of the applicant's principle residence even if some of that land is owned under a separate deed or was acquired at a different time.⁴⁵

c. Virginia

All property contiguous to the applicant's principle residence, up to \$5,000, will be excluded as an available resource to the applicant in Virginia⁴⁶ if the applicant, his or her spouse, or a disabled child of the applicant resides in the home.⁴⁷

VII. Income-Producing Property

A. Federal, District of Columbia

The entire value of an income-producing asset is excluded as long as it produces a return consistent with its value.⁴⁸

B. Maryland

Income-producing property will be excluded as an available resource to the applicant only if the property produces a net annual return of at least six percent of the equity value of the property. The amount of combined equity value of such income-producing property that is excludable is capped at \$6,000.⁴⁹

C. Virginia

All business and farm income-producing property is exempt from being considered an available resource. If the property is not producing income, however, then it becomes a countable resource.⁵⁰ Up to \$6,000 in non-business or non-farm income producing property is exempt regardless of the rate of return if it is used to produce goods or services essential for consumption by the applicant's household.⁵¹ Up to \$6,000 in non-business or non-farm income producing property is exempt regardless of use if the rate of return is at least six percent.⁵²

VIII. Household Goods and Personal Effects

A. Federal, District of Columbia, Maryland, and Virginia

One wedding ring and one engagement ring up to any value will be considered an excludable resource of the applicant. An important loophole to note would be that the wedding and engagement rings do not actually have to be the original rings that the applicant proposed or wed with. Thus, the applicant may buy more valuable rings to protect his or her assets while not affecting their Medicaid eligibility.⁵³

B. Federal

The value of household goods and furniture are excluded as an available resource up to \$2,000 for a single applicant, and up to any value for a married applicant. Personal effects such as clothing, furniture, and jewelry are also exempt as long as they are of a reasonable value.⁵⁴

C. District of Columbia

In the District, household goods and furniture as well as personal effects are excluded as an available resource to the applicant up to a value of \$2,600 for a single applicant and up to \$3,000 for a married couple.⁵⁵

D. Maryland, Virginia

Household goods and personal effects that are necessary for the maintenance, use, and occupancy of the home are excluded regardless of value.⁵⁶ The equity value of all non-essential household goods or personal effects, however, is deemed a countable resource for Medicaid eligibility purposes.⁵⁷ But, equipment or devices required because of an applicant's physical

condition will also be deemed an excludable resource for Medicaid eligibility purposes.⁵⁸

IX. Automobiles

A. Federal

Any automobile with a value up to \$4,500 for a single applicant, or up to any value for a married applicant, is exempt from being counted as an available resource.⁵⁹

B. District of Columbia

One automobile with a fair market value of \$4,650 or less is excludable. If the automobile has a fair market value over this amount, any excess will be considered an available resource to the applicant.⁶⁰

C. Maryland

Any automobile, regardless of value, will be deemed an excludable resource.⁶¹

D. Virginia

One automobile, up to any value, can be excluded as a countable resource.⁶²

X. Life Insurance

A. Federal

An insurance policy is only taken into account to the extent of its cash surrender value. However, if the total face value of all policies is under \$1,500, then no part of the value of the policy will be taken into account in determining Medicaid eligibility.⁶³

B. District of Columbia

The entire cash surrender value of a life insurance policy, as well as the face value of the insurance policy itself, will not be considered a countable asset of the applicant.⁶⁴

C. Maryland

Any life insurance policy with a maximum value of \$1,500 per person is excludable from being a countable resource. Further, policies that do not have a cash surrender value may not be used in determining the total face value of all policies for purposes of determining available resources.⁶⁵

D. Virginia

Any life insurance policy up to \$1,500 in value per person is excludable from being counted as an available resource. The cash surrender value of any policy with a face value of over \$1,500 is considered an available resource.⁶⁶

XI. Burial Plots and Funds

A. Federal

The value of burial plots for the applicant and his or her immediate family are exempt from being counted as an available resource.⁶⁷ The excludable value of any burial fund is to be determined by the individual States.

Any funds placed in an irrevocable pre-paid burial account or trust will not be considered available to the applicant, no matter what the amount.⁶⁸ Funds clearly designated for burial expenses, whether placed in revocable agreements, contracts, trusts, or any other burial arrangement, will not be counted as available to the applicant up to a certain amount. The maximum amount of such funds that will be deemed excludable is \$1,500 for the applicant, and \$1,500 for each person whose resources and income are assessed and included in determining the applicant's available income and resources.⁶⁹

Burial funds will only be excluded if they are not commingled with any assets, except excludable burial space assets, such as urns, headstones, and the like. However, any accumulated interest and/or dividends added to the burial funds are excluded from the \$1,500 limitation.⁷⁰

Any amounts set aside in excluded burial funds that are not actually used for burial services for the person they were set aside for become unearned income.⁷¹

B. District of Columbia

The District follows the Federal guideline with respect to burial plots and funds, except that the District does not exclude any financial accounts, as opposed to burial trusts, contracts, or other agreements, set up for burial purposes.⁷²

C. Maryland

The value of burial plots for the applicant, his or her immediate family members, or other individuals whose income and resources are considered in the Medicaid eligibility determination of the applicant, are excluded as available resources in determining Medicaid eligibility.⁷³ The value of any burial fund will be excluded up to \$1,500 for the applicant and for other persons whose income and resources are considered in the Medicaid eligibility determination. This amount will be reduced by the face value of any life insurance policies owned by the applicant or the applicant's spouse if the cash surrender value of such policies has been excluded from available resources in the eligibility determination. The \$1,500 shall also be reduced by any amounts placed in an irrevocable burial fund.⁷⁴

Any interest earned on a burial fund will also be considered an excludable resource, but only if it is used for burial services. Any part of the fund that is not used for burial services will render the applicant ineligible for Medicaid coverage until the applicant expends for medical services, an amount equal to the amount of money used out of the burial fund for non-burial services.⁷⁵

D. Virginia

The value of a prepaid burial fund is excluded as an available resource to the applicant up to \$3,500. This exclusion is reduced by the face value of any life insurance policy owned by the applicant or his or her spouse, if the policy was exempt from being counted in determining financial eligibility, and the amount of any other revocable or irrevocable trust, contract, or other agreement designated for the burial services of the applicant or his or her spouse if such trust, contract, or agreement was considered exempt.⁷⁶

XII. Spousal Allowance

A. Federal, District of Columbia, Maryland, Virginia

If one spouse becomes institutionalized, the community spouse, the spouse that remains at home, may keep the greater of: (1) all of the income paid to them in their name regardless of how much, or (2) all of the income paid to them in their name plus as much of the income of the institutionalized spouse as necessary to bring their income up to the “community spouse minimum monthly maintenance needs allowance” (MMMNA).⁷⁷ Each State is statutorily required to establish a MMMNA, which must fall between a minimum and maximum level established by Federal law.⁷⁸ This income will not be counted for eligibility purposes and could not exceed \$2,488 as of January 2006.⁷⁹

Further, if the community spouse’s shelter costs, including rent, mortgage, taxes, insurance, and fees, exceeds 30 percent of the MMMNA, then income given to the community spouse from the institutionalized spouse to pay for shelter above the 30 percent threshold can be excludable up to the maximum monthly maintenance needs allowance, thus increasing the community spouse’s MMMNA.⁸⁰ As of January 2006, this shelter allowance could not exceed \$455 in any of the jurisdictions.⁸¹

In Maryland, as of January 2006, a utility allowance up to \$304 is allowed if the heating bill is paid separately. If the heating bill is included in the allowance, the allowance may not exceed \$183 as of January 2006.⁸² In Virginia, a \$227 allowance is made for heating and utilities for one to three household members. A \$283 allowance is made for heating and utilities for households with four or more members.⁸³

Also, the applicant may be entitled to exclude from countable income, income spent on minor or dependent children, dependent parents, and dependent siblings. The amount excludable will equal 30 percent of the difference between the dependent family member’s gross monthly income and the MMMNA.⁸⁴

Next, the community spouse will be allowed to keep the larger of: (1) the minimum share of the couple's countable resources (\$19,908 as of January 2006), or (2) one-half of the couple's countable resources up to a maximum share (\$99,540 as of January, 2006).⁸⁵ The larger of the amounts will be considered excludable in determining Medicaid financial eligibility for the would-be institutionalized spouse. This exclusion is called the community spouse's resource allowance (CRSA).⁸⁶

B. Virginia⁸⁷

Generally, income in the community spouse's own name will not be considered available income to the institutionalized spouse.⁸⁸ However, in Virginia a spouse is under a legal obligation to pay support to a needy spouse. The Commonwealth is required to obtain financial contribution for the cost of institutionalization from the community spouse if their monthly gross income exceeds a certain amount. If the community spouse's monthly gross income is \$2,000, then he or she is expected to contribute \$15 per month. For every additional \$100 of gross income that the community spouse make per month over \$2,000, he or she is expected to contribute an additional \$10 per month for the cost of care on top of the \$15 base contribution.⁸⁹

XIII. Trusts

A. Federal, District of Columbia, Maryland, Virginia

Generally, any payment made to or for the benefit of an applicant from a trust, or similar legal device, will be considered income to the applicant in determining eligibility for Medicaid.⁹⁰ Any payments made to 3rd parties that could have been made to the applicant, or trusts established in whole or in part with the applicant's resources that preclude payments to the applicant, will be considered transfers for less than fair market value.⁹¹ As mentioned before, any transfers for less than fair market value during the look back period may disqualify an applicant for Medicaid coverage for a penalty period. It is important to note, however, that in determining countable assets for Medicaid eligibility, only that portion of the trust made up of assets from the applicant can be counted against the applicant.⁹²

1. Revocable Trusts Established by the Applicant

a. Federal, District of Columbia, Maryland, Virginia

If the trust established by the applicant is revocable, the entire corpus will be considered available to him or her. Any payments from a revocable trust either to or for the benefit of the applicant will be counted as income to the applicant. Any payments made from the trust that are not to or for the benefit of the applicant will be treated as transfers for less than fair market value.

2. Irrevocable Trusts Established by the Applicant [with provisions allowing for payment to the applicant under the terms of the trust]

a. Federal, District of Columbia, Maryland, Virginia

Any payments from the income or from the corpus of the irrevocable trust to or for the

benefit of the applicant will be treated as income to the applicant. Any income or portion of the corpus that could be paid to or for the benefit of the applicant will be treated as an available resource for purposes of determining Medicaid eligibility. Meanwhile, any payments from the income or the corpus of the trust that are not made to or for the benefit of the applicant will be treated as transfers for less than fair market value. It is important to note that the distinguishing treatment of this type of trust is that only the usual 36-month look back period will apply here, as opposed to the extended 60-month look back period imposed with other trusts.⁹³

3. Irrevocable Trusts Established by the Applicant [with provision prohibiting payment to or for the benefit of the applicant under any circumstances]

a. Federal, District of Columbia, Maryland, Virginia

When all or a portion of the corpus or income cannot be paid to the applicant, then all or such portion of the corpus or income will be treated as a transfer for less than fair market value. Here, the look back period will be extended to 60 months. This will only occur, however, and a trust will only be treated as such, if there is absolutely no circumstance in which the applicant could receive payment from the trust. If there is even a remote chance payment could be made to or for the benefit of the applicant then the usual 36-month look back period will apply.⁹⁴

4. Certain Trusts That Will Not Be Considered An Available Resource To The Applicant

a. Federal, District of Columbia, Maryland, Virginia

i. Third Party Trusts

Any non-applicant may create a trust for a Medicaid applicant with discretionary provisions to terminate the trust if it is to be included in the applicant's non-exempt assets. In such an event the trustee may terminate the trust and distribute the assets to beneficiaries other than the Medicaid applicant to avoid inclusion with the applicant's assets.

ii. Special Needs Trusts⁹⁵

Special needs trusts are created out of a disabled applicant's own funds. The applicant must be under 65 years of age and the trust must be for the applicant's own benefit. The trust may continue after the applicant reaches the age of 65, but, funds may not be added to the trust and the trust may not be altered in any way after the applicant turns 65.⁹⁶ At death, the trust assets all must be transferred to the State providing the Medicaid benefits.

iii. Pooled Trusts

A Pooled trust consists of the assets of a disabled person that is administered by a nonprofit organization for the benefit of that disabled person.⁹⁷

iv. Miller or Qualifying Income Trusts (QIT)

These trusts are composed only of pension, social security, and other income belonging to the applicant, including accumulated interest in the trust. No other resources may be used to establish or augment the trust. While exempt in some jurisdictions, they are not exempt in the District of Columbia, Maryland or Virginia.

v. Burial Trusts

Burial trusts are trusts established by the applicant for the purpose of paying, at some point in time, the applicant's burial and funeral costs. If irrevocable, then the trusts are excludable regardless of value.⁹⁸

B. Recoupment After Death

As a condition to any of the above trusts not being included as an available resource to the applicant, the Federal and State governments require that the trusts expressly allow the State to recoup any funds paid in the form of Medicaid benefits upon the applicant's death.⁹⁹

C. Maryland

In Maryland, trusts that were established on or before August 10, 1993, other than by will, by an applicant or their spouse, under which the applicant may be the beneficiary of all or part of the payments from the trust, and the distribution of payments is determined by one or more trustees who are allowed to use discretion in making payments to the applicant, are considered Medicaid Qualifying Trusts.¹⁰⁰ The amount that will be considered available to the individual for Medicaid eligibility purposes will be the maximum amount of payments that the applicant could receive under the terms of the trust, assuming that the trustees used their discretion to distribute the maximum amount to the applicant.¹⁰¹

All trust established after August 10, 1993, follow the Federal guidelines describe above.

D. Virginia

The amount that is deemed available to the applicant in Virginia from a Medicaid qualifying trust is the maximum amount that the trustee(s) is allowed to distribute to the applicant under the terms of the trust. This amount will be considered an available resource to the applicant whether or not any distribution to the applicant is actually made. Such trusts had to have been established on or before August 10, 1993, to constitute a Medicaid qualifying trust. All trusts established after this date follow the Federal guidelines described above.¹⁰²

XIV. Estate Recovery

A. Federal

Federal law requires that a State attempt to recover from a Medicaid beneficiary's probate estate whatever benefits it paid for the beneficiary's care. However, no recovery may

take place until the death of the beneficiary's spouse or if the beneficiary has any surviving children under 21, blind or disabled. Further, Federal law gives States the option of seeking recovery against property in which the beneficiary had an interest but which passed outside of probate. Federal law also allows States to place a lien on real estate owned by the Medicaid beneficiary during his or her life unless certain dependent relatives are living on the property.¹⁰³

B. District of Columbia

The District of Columbia seeks estate recovery from a beneficiary's probate estate, but not from property that passes outside of probate.¹⁰⁴

C. Maryland

Maryland seeks recovery from a beneficiary's probate estate, but not from property that passes outside of probate.¹⁰⁵

In Maryland, if the State determines that the institutionalized beneficiary of Medicaid benefits has no reasonable chance of returning to live at home, then the State is allowed to place a lien on the beneficiary's home. However, no lien can be placed on the home if the community spouse, an unmarried child, a blind or disabled child, a sibling who has an equity interest in the home and was residing in it at least for one year before the beneficiary was institutionalized, is living in it. Any lien placed on the home will be lifted if beneficiary returns to his or her home.¹⁰⁶

Upon death of the beneficiary, no recovery can be had through a lien if the beneficiary leaves behind any surviving persons of the type stated above or if the residence is occupied by a child who was residing in the home for at least two years prior to the beneficiary's institutionalization and provided care to the beneficiary so that he or she could reside at home, as opposed to a nursing facility.¹⁰⁷

Maryland will seek recovery of payments made on behalf of Medicaid recipients from their estate after their death if the payments were made when the recipient was 65 years of age or older, and none of the above exceptions apply.¹⁰⁸

D. Virginia

Virginia seeks not only recovery from a Medicaid beneficiary's probate estate, but also from property that the beneficiary had an interest in that passed out of probate.¹⁰⁹

Virginia does not impose liens on a Medicaid beneficiary's property in order to recover Medicaid costs spent on behalf of the beneficiary. However, the Commonwealth does allow estate recovery if the beneficiary was 65 years of age or older when he received benefits, the beneficiary's spouse has died, the beneficiary has no surviving children under the age of 21, blind, or disabled, and there is no surviving sibling who had an equity interest in the beneficiary's residence who also resided in it for at least one year prior to the beneficiary's institutionalization.¹¹⁰

XV. Strategies to Maximize Exemptions and Still Qualify for Medicaid

There are many strategies and tactics available to the potential Medicaid applicant and his or her counselor. This section describes only a few of the most obvious and least complex strategies available. Whatever approach is taken it must be understood there is no guarantee of asset protection. There is an incredible tension between the State and Federal government Medicaid providers and the applicants and their advisors. The laws, rules and regulations are extremely dynamic and may change at any time to destroy the best laid, asset protection planning.

It should also be noted that the vast majority of people receiving Medicaid benefits are extremely poor. These people have little or no opportunity to do any planning. It is usually only the middle and upper income families that even consider Medicaid eligibility planning. Typically, it is a well-to-do family with a member in the first stages of dementia or Alzheimer's disease that scrambles to maximize Medicaid exemptions. These families are the least welcome under the Medicaid tent and their asset protection planning techniques will be carefully scrutinized.

A. Spend Down

Anyone may become Medicaid eligible after they have spent down their assets to the eligibility level. This typically applies to the middle class person who has been unable to do any planning. They go into a facility and pay at the private rate until their assets are depleted. At that time they may apply for and receive Medicaid if the facility is a Medicaid provider.

B. Act Before the Look Back Period

When planning is available, the easiest way to protect a Medicaid applicant's assets is to have the applicant transfer his or her assets 60 months before the applicant applies for Medicaid coverage. This will usually keep the transfers out of the range of the look back period. In the case of trusts the look back period is also 60 months. The applicant will have had to transfer assets into such a trust 60 months before he or she applies for Medicaid to avoid eligibility penalties.

C. Putting Money Into and Transferring Exempt Assets

1. The Residence

Perhaps the most significant amount of asset protection can be provided by the applicant's residence, up to \$500,000 or more if allowed by Maryland or D.C..¹¹¹ An applicant can invest in a larger, more valuable residence, pay off an existing mortgage or make significant repairs and improvements to an existing residence without inducing financial eligibility penalties. Also, remember that an applicant can transfer title to his or her home to his or her spouse, children or siblings in certain circumstances for less than fair market value without any eligibility penalty.

2. One Wedding and One Engagement Ring

One wedding and one engagement ring will be excluded as a countable asset for purposes of determining Medicaid financial eligibility. The rings themselves do not have to be the originals. This allows an applicant to liquidate non-exempt assets and purchase a ring of substantial value, all of which will be exempt when the government determines the applicant's financial eligibility.

3. Burial Services and Burial Plots

Burial services and burial plots for the applicant and his or her immediate family (and for other persons whose income and resources are included in determining the applicant's Medicaid financial eligibility) may also be purchased, without fear of Medicaid ineligibility. The total amount or value exempt may vary from State to State.

4. Transfer to Exempt Assets

Before applying for Medicaid, a party may purchase exempt assets, improve them and pay off loans to maximize the exemptions for that particular asset. Depending on the jurisdiction, such items include, inter alia: life insurance, disability support items, contiguous land, income-producing property, or a car.

5. Estate Recovery Rules and Liens

Estate recovery provisions will often allow a State to recover Medicaid costs from a Medicaid beneficiary's probate estate. To prevent this, Medicaid applicants may transfer exempt assets during their lifetime to a spouse, an unmarried child under 21, a blind or disabled child in his or her sole name or to a trust for such child, or to a trust for a disabled person, which could include the applicant, under 65. Transfers to anyone else would have to be done before the look back period in most cases.

D. Transferring Non-exempt Assets

Transferring non-exempt assets to a spouse will not exempt such assets from being included in determining an applicant's Medicaid eligibility. However, an at-home spouse is allowed to keep one-half of the couple's resource-only assets up to a maximum value as of the first day of the month that the applicant becomes institutionalized. Thus, the greater the value of the resources a couple has on this date, up to \$199,080, the greater the amount the at-home spouse can keep without such resources being counted as available to the institutionalized spouse for medical support. Therefore, the couple could borrow before this date to increase the value of their total resources for this date, and thus protect the highest value of resource-only assets they possibly can.

These resources will be protected and will continue to be protected for the at-home spouse upon the death of the institutionalized spouse. Unfortunately, if the at-home spouse dies first, then almost all of these assets will have to be used to pay the medical expenses for the institutionalized spouse because the institutionalized spouse is only allowed to exempt assets up to a value between \$2000 to \$3000 (depending on the jurisdiction). In order to keep these assets protected, the institutionalized spouse should transfer such assets to the at-home spouse, a disabled or blind child or an unmarried child under 21 in his or her sole name or to a trust for a such a blind or disabled child, or to a trust for a disabled person, which could included the applicant, under 65. The at-home spouse or child should then execute a will passing the assets to a desired third party.

E. Inheritance, Joints Assets, Durable Powers of Attorney

The Medicaid applicant should be aware of any potential inheritance. Such an inheritance could have the affect of instantly rendering the applicant financially Medicaid ineligible. Care should be taken to ensure that alternative beneficiaries are named where desired in the event of the applicant's institutionalization.

All joint assets should be transferred to an at-home spouse, a disabled or blind or unmarried child under 21 in his or her sole name or to a trust for such a child, or to a trust for a disabled person under 65. The at-home spouse or child should will such assets to any desired third parties. Joint assets held by the applicant and someone other than the aforementioned should be transferred before the look-back period in order to successfully accomplish asset protection.

It is also recommended that spouses execute durable powers of attorney with the power to gift and perform estate planning. This way an at-home spouse can transfer jointly held assets if the institutionalized spouse were to be declared incompetent.

F. Putting Assets into Trusts & Annuities

The value of the assets of a trust may be exempt under certain circumstances. This is discussed in Section XIII above. If the trust pays out a fixed amount of money on a regular basis to the applicant, it cannot pay out so much as to render the applicant Medicaid financially ineligible. The trust must be created by the applicant at least 60 months prior to the institutionalization of the applicant. If the trust is exempt, only the interest income on the trust will be considered an available asset to the applicant for financial eligibility purposes. However, any amounts transferred from the trust to persons other than the applicant, his or her spouse, or for the sole benefit of either, during the look back period will be considered transfers by the applicant for less than fair market value for which an eligibility penalty period may be imposed.

The Deficit Reduction Act encourages the structure and purchase of Medicaid related annuities.¹¹² It requires, however, that the state providing the Medicaid services be the remainder beneficiary after the spouse and disabled child. If well calculated, an annuity offers a way to cover the medical costs while waiting for a penalty period to run. Because many applicants will be unable to predict entry in nursing homes 5 years in advance, annuities can provide a safety. When the decision is made to dispose of assets, 50% can be given away, and 50% can be used to purchase an annuity. The annuity should pay just under the monthly cost for care over the penalty period.¹¹³ As soon as the disposal of assets and purchase of annuity has been made, the person should apply to start the penalty period. In that way, while waiting for the penalty period to run, the costs of the nursing care will be covered almost completely by the annuity, and 50% of the assets will have been saved from being spent down completely.

G. Conclusion

Despite the suggestions above there are no guarantees when it comes to asset protection. The earlier an individual plans and the more frequently an individual reviews his or her estate planning strategies, the more likely is the applicant's success. Anyone who intends to apply for

Medicaid should obtain professional help in their jurisdiction to assist them with their specific circumstances.

Section XVI. Bibliography

A. Helpful Phone Numbers and Websites

1. Federal

877-267-2323 (Centers for Medicaid and Medicare Services)

<http://www.cms.hhs.gov/medicaid/> (Centers for Medicaid and Medicare Services)

2. District of Columbia

1-202-422-5988 (DC Department of Health)

<http://dchealth.dc.gov/index.asp> (Department of Health)

3. Maryland

1-800-492-5231 (Medical Assistance Hotline)

1-410-767-1463 (Medicaid Eligibility)

<http://www.dhr.state.md.us/fia/medicaid.htm> (Maryland Department of Human Resources)

4. Virginia

1-804-786-4231 (Virginia Department of Medical Assistance Services)

<http://www.dmas.virginia.gov/> (Virginia Department of Medical Assistance Services)

B. Statutes and Regulations

United States Code, 42 U.S.C. § 1396 (2000).

Code of Maryland Regulations, 10 COMAR §§ .08-.10, .15 (2004).

Virginia Administrative Code, 12 VA ADC §§ 20-30-110, 30-40-300, 30-110-930 (2004).

C. Publications

Andrew H. Hook, Virginia Medicaid Explanation (Oast & Hook, P.C.) (2004).

Centers for Medicare & Medicaid Services, State Medicaid Manual, Part3—Eligibility, available at http://www.cms.hhs.gov/manuels/45_smm/sm_03_3_3410_to_3493.asp (7/20/04).

Centers for Medicare & Medicaid Services, Estate Recovery Provision, available at <http://www.cms.hhs.gov/medicaid/estaterec.asp> (5/27/04).

Centers for Medicare & Medicaid Services, Medicaid: A Brief Summary, available at <http://www.cms.hhs.gov/publications/overview-medicare-medicaid/default4.asp> (7/06/04).

Centers for Medicare & Medicaid Services, Medicaid Facts, available at http://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std_adp.php?p_sid=yC8kUIfh&p_lva=&p_faqid=1923&p_created=1051813476&p_sp=cF9zcmNoPSZwX2dyaWRzb3J0PSZwX3Jvd19jbnQ9MjAm cF9jYXRfbHZsMT04JnBfcGFnZT0x&p_li= (07/06/04).

Centers for Medicare & Medicaid, Transfers of Assets, available at <http://www.cms.hhs.gov/medicaid/eligibility/assets.asp> (5/27/04).

Centers for Medicare & Medicaid, Treatment of Trusts, available at <http://www.cms.hhs.gov/medicaid/eligibility/trust.asp> (5/27/04).

DC Government, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.

Elder Law Answers, Elder Law Resource for Key Medicaid Figures for Virginia, available at <http://www.elderlawanswers.com/resources/s7/r33559.asp> (7/20/04).

Estate Planning & Elder Law Firm, P.C., Medicaid Desk Reference, District of Columbia, available at www.virginiamedicaid.com/Desk_Reference/DC_desk_reference2003.asp (5/27/04).

Estate Planning & Elder Law Firm, P.C., Medicaid Desk Reference, Maryland, available at www.virginiamedicaid.com/Desk_Reference/MD_desk_reference2003.asp (5/27/04).

Estate Planning & Elder Law Firm, P.C., Medicaid Desk Reference, Virginia, available at www.virginiamedicaid.com/Desk_Reference/VA_desk_reference2003.asp (5/27/04).

Jason A. Frank, Elder Law in Maryland—Chapter 10, Second Edition (LEXIS Law Publishing) (2003).

Jonathan D. Freiden, Medicaid Eligibility Planning for Aged Clients in Virginia (University of Richman Law Review Association) (October, 1997).

Louis D. Torch, Spousal Impoverishment or Enrichment?: An Assessment of Asset and Income Transfers by Medicaid Applicants (Elder Law Journal) (Fall 1996).

McGrath Insurance Group, Medicaid Rule on Transfer of Assets, available at <http://www.mcgrathinsurancegroup.com/ltc/medicaid.htm> (6/1/04).

Ron M. Landsman, Elder Law Answers, Elder Law Resources for Key Medicaid Figures for the District of Columbia, available at <http://www.elderlawanswers.com/resources/s7/r33547.asp> (7/20/04).

Ron M. Landsman, Elder Law Answers, Elder Law Resources for Key Medicaid Figures for Maryland available at <http://www.elderlawanswers.com/resources/s7/r33546.asp> (7/20/04).

State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Section 3250-3259.8 (2004).

Virginia Department of Social Services, Asset Transfer, available at <http://www.co.henrico.va.us/dss/assetTransfer.html> (1/29/04).

Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, M06-F&C Resources, available at http://www.dss.state.va.us/benefit/medicaid_manual.html (7/19/04).

Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children, General Rules for Families and Children Resources, M 0630.100, M0630.115, M640.510, M1130.430.

Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Resources for Aged, Blind, and Disabled Individuals, S1130.503.

**Medicaid Exemptions in the District of Columbia,
Maryland and Virginia**
By Paul D. Pearlstein

Items	Federal	District of Columbia	Maryland	Virginia
Assets	<p>All included unless if transferred:</p> <ul style="list-style-type: none"> ▪ 60 or more months before the applicant applies for Medicaid. ▪ for fair market value. ▪ to or by a spouse or 3rd party for the sole benefit of the spouse or applicant ▪ to an unmarried child under 21 or blind or disabled or to a trust for such a child or a trust for a disabled person under 65. 	Follows the Federal guidelines.	Follows the Federal guidelines.	Follows the Federal guidelines.
Joint Assets	<p>Exempt if the asset cannot be liquidated by the applicant w/out authorization from the other owners.</p> <p>Not exempt if the asset held by the applicant was put into a joint account, tenancy, or similar arrangements by which the applicant's ownership or control of the assets is diminished during the look back period.</p>	Follows the Federal guidelines.	Follows the Federal guidelines.	Follows the Federal guidelines.
Resources	<p>Exempt up to \$2,500.</p> <p>Exceptions transferred:</p> <ul style="list-style-type: none"> ▪ for any value 60 months or more before the applicant applies for Medicaid. ▪ for fair market value. 	Exempt up to \$2,600 for a single applicant, \$3000 for a married couple who are both in a nursing home.	Exempt up to \$2,500 for a single applicant, \$3000 for a married couple both in a nursing home.	Exempt up to \$2,000 for any applicant. Otherwise, follows the Federal guidelines except that the VA Code provides that if the

Items	Federal	District of Columbia	Maryland	Virginia
	<ul style="list-style-type: none"> ▪ for any value if between, or for the sole benefit of, the applicant's spouse, unmarried child under 21, blind or permanently disabled child, a trust for such a child, or a trust for a disabled person under 65. 	Otherwise, follows the Federal guidelines	Otherwise, follows the Federal guidelines.	uncompensated value of the transfer is \$12,000 or less, then the applicant will be ineligible for 2 yrs.; if it is more than \$12,000, then the applicant is ineligible for 2 yrs. plus an additional 2 months for every \$1,000, or part thereof, of uncompensated value over \$12,000.
Residence	<p>Not exempt for institutionalized individuals, but residences with up to \$500,000 in equity are exempt for noninstitutionalized individuals, or institutionalized ones that intend to return home.</p> <p>(States are permitted to raise the exempt equity limit to \$750,000.)</p> <p>Exceptions to the non-transfer rule are: If applicant transfers title in a residence with \$500,000 or less in equity to:</p> <ul style="list-style-type: none"> ▪ a spouse, ▪ a child under 21 who is blind or permanently disabled ▪ a sibling w/ an equity interest in the home, who was living in the home for at 	Transfer of title rules same as Federal.	Transfer of title rules same as Federal.	Transfer of title rules same as Federal.

Items	Federal	District of Columbia	Maryland	Virginia
	<p>least 1 yr. before the applicant's institutionalization for the purpose of providing care so that the applicant could remain at home</p> <ul style="list-style-type: none"> ▪ a child who was living in the home for at least 2 yrs. before institutionalization of the applicant, for the purpose of providing care so that the applicant could remain in the home. <p>A single institutionalized individual's residence is exempt for 6 months after institutionalization.</p> <p>The residence will still be exempt after 6 months if a spouse, an unmarried child under 21, or a blind or disabled child lives in it.</p> <p>Proceeds from sale of residence exempt for up to 6 months.</p> <p>Contiguous land exempt.</p>	<p>Residence exemption for institutionalized individual same as federal.</p> <p>Proceeds exempt up to 3 months.</p> <p>Contiguous land exempt.</p>	<p>Residence exemption for institutionalized individual same as federal.</p> <p>Proceeds exempt up to 90 days.</p> <p>Contiguous land exempt.</p>	<p>Residence exemption for institutionalized individual same as federal.</p> <p>Proceeds exempt up to 3 months.</p> <p>Contiguous land exempt up to \$5,000.</p>
Income	Not exempt; but there are numerous state specific exceptions.	Same as Federal rule.	Same as Federal rule with various differences in the exceptions to the rule.	Same as Federal rule with various differences in the exceptions to the rule.
Household Goods	Exempt up to \$2,000 for a single applicant, and up to any value for a	See personal effects.	Exempt, regardless of value, only if necessary for the	Exempt, regardless of value, only if necessary for the

Items	Federal	District of Columbia	Maryland	Virginia
	married applicant.		maintenance, use, and occupancy of the home.	maintenance, use, and occupancy of the home.
Personal Effects	Exempt if of a reasonable value. One wedding ring and one engagement ring, regardless of value and regardless of whether they are the original rings.	Household goods and personal effects up to \$2,600 for a single applicant and up to \$3,000 for a married couple. Wedding and engagement rings same as Federal rule.	Exempt, regardless of value, only if necessary for the maintenance, use, and occupancy of the home. Wedding and engagement rings same as Federal rule.	Exempt, regardless of value, only if necessary for the maintenance, use, and occupancy of the home. Wedding and engagement rings same as Federal rule.
Automobiles	Exempt up to \$4,500 for a single applicant, and up to any value for a married applicant.	Exempt up to \$4,650.	One automobile exempt up to any value.	One automobile exempt up to any value.
Life Insurance	Exempt if total cash value of all policies owned by the applicant is less than \$1,500.	Exempt.	Exempt up to \$1,500.	Exempt up to \$1,500.
Burial Plots and Funds	The value of burial plots for the applicant and his or her immediate family are exempt. Funds placed in an irrevocable pre-paid burial account or trust are exempt. Funds placed in a revocable agreement, contract, trust, or other burial arrangement, are exempt up to \$1,500 for the applicant, and \$1,500 for each person whose resources and income are assessed and included in	Same as Federal law except the District: - does not exempt financial accounts set up to pay for burial services -exempts only up to \$1,500 of accumulated interest and/or dividends added to the fund.	The value of burial plots for the applicant and his or her immediate family are exempt. Funds placed in a revocable agreement, contract, trust, or other burial arrangement, are exempt up to \$1,500 for the applicant. However, this amount is reduced by: ▪ the face value of	The value of burial plots for the applicant and his or her immediate family are exempt. Funds placed in a revocable agreement, contract, trust, or other burial arrangement, are exempt up to \$3,500 for the applicant. However, this amount is reduced by: ▪ the face value of

Items	Federal	District of Columbia	Maryland	Virginia
	determining the applicant's available income and resources.		<p>any life insurance policies owned by the applicant or his or her spouse if the cash surrender value of such policies has been excluded from being counted as an available resource.</p> <ul style="list-style-type: none"> ▪ any amounts put into an irrevocable burial fund. 	<p>any life insurance policies owned by the applicant or his or her spouse if the cash surrender value of such policies has been excluded from being counted as an available resource.</p> <ul style="list-style-type: none"> ▪ any amounts put into an irrevocable burial fund.
Spousal Allowance	<p>Exempt is the greater of (1) all of the income paid to the spouse in his or her name regardless of amount, or (2) all of the income paid to the spouse in his or her name plus as much of the income of the institutionalized spouse as necessary to bring the spouse's income up to the "community spouse minimum monthly maintenance needs allowance" (MMMNA). This figure could not exceed \$2,319 as of January 2004. An additional shelter and/or utility and/or dependant family exemption is allowed in some cases. Also exempt is the larger of (1) the minimum share of the couple's nonexempt resources (\$18,552 as of 2004), or (2) ½ of the couple's</p>	Same as Federal.	Same as Federal.	Same as Federal, except, in VA, a spouse is under a legal obligation to pay support for a needy spouse if their income is \$2,000 per month or more.

Items	Federal	District of Columbia	Maryland	Virginia
	countable resources up to a maximum share (\$92,760 as of 2004).			
Trusts	Income or corpus generally not exempt.	Same as Federal.	Same as Federal, except for trusts established other than by will before August 10, 1993, in which case the maximum amount of payments that the applicant could receive under the terms of the trust will be counted as available.	Same as Federal, except for trusts established other than by will before August 10, 1993, in which case the maximum amount of payments that the applicant could receive under the terms of the trust will be counted as available.
Estate Recovery and Liens	Federal law permits States to implement estate recovery procedures or impose liens against a Medicaid beneficiary's property in order to recover funds.	Same as MD.	<p>Will only be sought after the recipient's death if the Medicaid benefits were provided to the recipient after he or she turned 65 yrs. old and none of the following survived the recipient:</p> <ul style="list-style-type: none"> ▪ spouse ▪ child unmarried, under the age of 21 ▪ child who is blind or disabled. <p>MD will only attempt recovery from probate estate.</p> <p>Liens are allowed if no reasonable chance of the institutionalized applicant returning to live at home or the applicant has died.</p>	<p>Will only be sought after the recipient's death if the Medicaid benefits were provided to the recipient after he or she turned 65 yrs. old and none of the following survived the recipient:</p> <ul style="list-style-type: none"> ▪ spouse ▪ child unmarried, under the age of 21 ▪ child who is blind or disabled. <p>VA will attempt recovery from both the probate estate and property that passes out of probate.</p> <p>VA does not impose Medicaid liens.</p>

Items	Federal	District of Columbia	Maryland	Virginia
			<p>However, no lien can be placed on the applicant's home if any of the following are living in it:</p> <ul style="list-style-type: none"> ▪ the spouse ▪ an unmarried child under 21 ▪ a blind or disabled child ▪ a sibling who has an equity interest in the home and resided in it at least 1 yr. before applicant's institutionalization. ▪ A child who was residing in it at least 2 yrs. before the applicant's institutionalization and provided care to applicant so he or she could reside at home. 	

¹ The author wishes to acknowledge the contributions of David F. Wenninger, Juris Doctorate Candidate May 2005, American University—Washington College of Law and Julia J.W. Ovando, Juris Doctorate Candidate May 2008, George Mason University School of Law.

² 42 U.S.C. § 1396 (2000).

³ 42 U.S.C. § 1396 (2000).

⁴ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3257.

⁵ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, M06-F&C Resources, http://www.dss.state.va.us/benefit/medicaid_manual.html, 7/19/04.

⁶ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, Distinction between Assets and Resources, M0610.100.

⁷ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3250.

⁸ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3250.

⁹ Medicaid Facts, Centers for Medicare & Medicaid Services,

http://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std_adp.php?p_sid=yC8kUIfh&p_lva=&p_faqid=1923&p_crea_ted=1051813476&p_sp=cF9zcmNoPSZwX2dyaWRzb3J0PSZwX3Jvd19jbnQ9MjAmcF9jYXRfbHZsMT04JnBfcGFnZT0x&p_li=,07/06/04.

¹⁰ Medicaid Desk Reference, District of Columbia, The Estate Planning & Elder Law Firm, P.C.,

www.viriniamedicaid.com/Desk_Reference/DC_desk_reference2003.asp, 5/27/04.

¹¹ Medicaid Desk Reference, Maryland, The Estate Planning & Elder Law Firm, P.C.,

www.viriniamedicaid.com/Desk_Reference/MD_desk_reference2003.asp, 5/27/04.

¹² Medicaid Desk Reference, Virginia, The Estate Planning & Elder Law Firm, P.C.,

www.viriniamedicaid.com/Desk_Reference/VA_desk_reference2003.asp, 5/27/04.

¹³ Medicaid: A Brief Summary, Centers for Medicare & Medicaid Services,

<http://www.cms.hhs.gov/publications/overview-medicare-medicaid/default4.asp>, 7/06/04.

¹⁴ Jonathan D. Frieden, Medicaid Eligibility Planning for Aged Client in Virginia, University of Richmond Law Review Association, October 1997.

¹⁵ Telephone interview with Ms. Cynthia Wiggins, Director of D.C. Medicaid Eligibility Office, 7/11/06. At this date, the District had been sued for enforcing the DAR requirement of proof of legal presence requirement, involving birth certificates. They have not yet addressed the new assets requirements, nor the increased look back periods or penalties. They do not plan to address the issues until the cases present themselves.

¹⁶ Louis D. Torch, Spousal Impoverishment or Enrichment? An Assessment of Asset and Income Transfers by Medicaid Applicants, Elder Law Journal, Fall 1996.

¹⁷ Transfer of Assets, Centers for Medicare & Medicaid Services,

<http://www.cms.hhs.gov/medicaid/eligibility/assets.asp>, 5/27/04.

¹⁸ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).

¹⁹ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3258-3258.11.

²⁰ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3258-3258.11.

²¹ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3258-3258.11.

²² Transfer of Assets, Centers for Medicare & Medicaid Services,

<http://www.cms.hhs.gov/medicaid/eligibility/assets.asp>, 5/27/04.

²³ 12 VA ADC § 30-40-300 (2004).

²⁴ Jason A. Frank, Elder Law in Maryland—Second Edition, LEXIS Law Publishing, Chapter 10 Medical Assistance.

²⁵ 12 VA ADC § 30-40-300 (2004).

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- ²⁶ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets for Less Than Fair Market Value, Sections 3250.
- ²⁷ Medicaid: A Brief Summary, Centers for Medicaid & Medicare Services, <http://www.cms.hhs.gov/publications/overview-medicare-medicaid/default4.asp>, 7/06/04.
- ²⁸ Jonathan D. Frieden, Medicaid Eligibility Planning for Aged Client in Virginia, University of Richmond Law Review Association, October 1997.
- ²⁹ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfer of Resources, Sections 3250-3256.
- ³⁰ 12 VA ADC § 30-40-300 (2004).
- ³¹ Virginia Department of Social Services, Asset Transfer, <http://www.co.henrico.va.us/dss/assetTransfer.html>, 1/29/04.
- ³² Medicaid Facts, Centers for Medicare & Medicaid Services, http://questions.cms.hhs.gov/cgi-bin/cmshhs.cfg/php/enduser/std_adp.php?p_sid=yC8kUIfh&p_lva=&p_faqid=1923&p_created=1051813476&p_sp=cF9zcmNoPSZwX2dyaWRzb3J0PSZwX3Jvd19jbnQ9MjAmcF9jYXRfbHZsMT04JnBfcGFnZT0x&p_li=07/06/04.
- ³³ Medicaid: A Brief Summary, Centers for Medicaid & Medicare Services, <http://www.cms.hhs.gov/publications/overview-medicare-medicaid/default4.asp>, 7/06/04.
- ³⁴ Jonathan D. Frieden, Medicaid Eligibility Planning for Aged Client in Virginia, University of Richmond Law Review Association, October 1997.
- ³⁵ Deficit Reduction Act of 2005, Title VI.
- ³⁶ Email communication from Ms. Vikki Simmons, Information Office of DMAS on 7/11/06 indicated that the new requirements for Virginia's Medicaid eligibility would be published in the July 24 Virginia Registry of Regulations, but that it would keep the exempt equity in a residence at \$500,000.
- ³⁷ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfer of Resources, Sections 3250-3256.
- ³⁸ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ³⁹ State Medicaid Manual, Chapter 3, General and Categorical Eligibility Requirements, Transfer of Resources, Sections 3250-3256.
- ⁴⁰ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁴¹ Telephone interview with Mr. Howard Hettleman, Division of Eligibility Services, Office of Operations & Eligibility, Department of Health & Mental Hygiene, 7/22/04.
- ⁴² Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Resources for Aged, Blind, and Disabled Individuals, M1130.110.
- ⁴³ DC, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁴⁴ Centers for Medicare & Medicaid Services, State Medicaid Manual, Part 3 – Eligibility, http://www.cms.hhs.gov/manuals/45_smm/sm_03_3_3410_to_3493.asp, 7/20/04
- ⁴⁵ Jason A. Frank, Elder Law in Maryland—Second Edition, LEXIS Law Publishing, Chapter 10 Medical Assistance.
- ⁴⁶ 12 VA ADC § 30-40-300 (2004).
- ⁴⁷ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, M0630.115.
- ⁴⁸ DC, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁴⁹ COMAR, Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁵⁰ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, M06-F&C Resources, http://www.dss.state.va.us/benefit/medicaid_manual.html, 7/19/04.
- ⁵¹ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Resources for Aged, Blind, and Disabled Individuals, S1130.502.
- ⁵² Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Resources for Aged, Blind, and Disabled Individuals, S1130.503.
- ⁵³ Medicaid Rule on Transfer of Assets, <http://www.mcgrathinsurancegroup.com/ltc/medicaid.htm>, 6/1/04.
- ⁵⁴ Medicaid Rule on Transfer of Assets, <http://www.mcgrathinsurancegroup.com/ltc/medicaid.htm>, 6/1/04.

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- ⁵⁵ Telephone interview with Mr. Brain Haile, Income Maintenance Administration in the District of Columbia, 7/21/04.
- ⁵⁶ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, M1130.430.
- ⁵⁷ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁵⁸ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁵⁹ Medicaid Rule on Transfer of Assets, <http://www.mcgrathinsurancegroup.com/ltc/medicaid.htm>, 6/1/04.
- ⁶⁰ DC, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁶¹ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁶² Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, Distinction between Assets and Resources, M0630.100.
- ⁶³ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁶⁴ DC, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁶⁵ COMAR, Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁶⁶ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, Distinction between Assets and Resources, M0610.100.
- ⁶⁷ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁶⁸ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁶⁹ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁷⁰ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁷¹ Fed, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁷² DC, Part VI: Financial Eligibility Requirements, Chapter 1: Determining Countable Assets.
- ⁷³ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁷⁴ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁷⁵ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ⁷⁶ Virginia Department of Social Services, Medicaid and FAMIS Policy and Manuals, Families and Children Resources, General Rules for Families and Children Resources, M0640.510.
- ⁷⁷ Jason A. Frank, *Elder Law in Maryland—Second Edition*, LEXIS Law Publishing, Chapter 10 Medical Assistance.
- ⁷⁸ Louis D. Torch, Spousal Impoverishment or Enrichment? An Assessment of Asset and Income Transfers by Medicaid Applicants, *Elder Law Journal*, Fall 1996.
- ⁷⁹ Medicaid Desk Reference, District of Columbia, The Estate Planning & Elder Law Firm, P.C., <http://www.virginiamedicaid.com/resources-desk.html>, 7/11/06.
- ⁸⁰ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .10 (2004).
- ⁸¹ Medicaid Desk Reference, District of Columbia, The Estate Planning & Elder Law Firm, P.C., <http://www.virginiamedicaid.com/resources-desk.html>, 7/11/06.
- ⁸² Medical Assistance Manual, Release No. MR-134, Issued June 2006.
- ⁸³ Medicaid Desk Reference, Virginia, The Estate Planning & Elder Law Firm, P.C., <http://www.virginiamedicaid.com/resources-desk.html>, 7/11/06.
- ⁸⁴ Jason A. Frank, *Elder Law in Maryland—Second Edition*, LEXIS Law Publishing, Chapter 10 Medical Assistance.
- ⁸⁵ Medicaid Desk Reference, District of Columbia, The Estate Planning & Elder Law Firm, P.C., <http://www.virginiamedicaid.com/resources-desk.html>, 7/11/06.
- ⁸⁶ Louis D. Torch, Spousal Impoverishment or Enrichment? An Assessment of Asset and Income Transfers by Medicaid Applicants, *Elder Law Journal*, Fall 1996.

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- ⁸⁷ VA Code § 20-88.
- ⁸⁸ 12 VA ADC § 30-110-930 (2004).
- ⁸⁹ Andrew H. Hook, *Virginia Medicaid Explanation*, Oast & Hook, P.C., 2004.
- ⁹⁰ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets and Treatment of Trusts, Sections 3257-3258.5.
- ⁹¹ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Transfers of Assets and Treatment of Trusts, Sections 3257-3258.5.
- ⁹² 12 VA ADC § 30-40-300 (2004).
- ⁹³ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Treatment of Trusts, Section 3259.6.
- ⁹⁴ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Treatment of Trusts, Section 3259.6.
- ⁹⁵ 42 U.S.C. § 1396p(d)(4)(A).
- ⁹⁶ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Treatment of Trusts, Section 3259.7.
- ⁹⁷ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Treatment of Trusts, Section 3259.7.
- ⁹⁸ State Medicaid Manuel, Chapter 3, General and Categorical Eligibility Requirements, Treatment of Trusts, Section 3259.8.
- ⁹⁹ Treatment of Trusts, Centers for Medicare & Medicaid Services, <http://www.cms.hhs.gov/medicaid/eligibility/trusts.asp>, 5/27/04.
- ¹⁰⁰ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ¹⁰¹ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .08 (2004).
- ¹⁰² 12 VA ADC § 30-40-110 (2004).
- ¹⁰³ Estate Recovery Provision, Centers for Medicare & Medicaid Services, <http://www.cms.hhs.gov/medicaid/estaterec.asp>, 5/27/04.
- ¹⁰⁴ Ron M. Landsman, *Elder Law Answers*, Elder Law Resource for Key Medicaid Figures for the District of Columbia, <http://www.elderlawanswers.com/resources/s7/r33547.asp>, 7/20/04.
- ¹⁰⁵ Ron M. Landsman, *Elder Law Answers*, Elder Law Resource for Key Medicaid Figures for Maryland, <http://www.elderlawanswers.com/resources/s7/r33546.asp>, 7/20/04.
- ¹⁰⁶ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .15 (2004).
- ¹⁰⁷ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .15 (2004).
- ¹⁰⁸ Code of Maryland Regulations (COMAR), Title 10 Department of Health and Mental Hygiene, Subtitle 09 Medical Care Programs, Chapter 24 Medical Assistance Eligibility, Section .15 (2004).
- ¹⁰⁹ *Elder Law Answers*, Elder Law Resource for Key Medicaid Figures for Virginia, <http://www.elderlawanswers.com/resources/s7/r33559.asp>, 7/20/04.
- ¹¹⁰ Jonathan D. Frieden, *Medicaid Eligibility Planning for Aged Client in Virginia*, University of Richmond Law Review Association, October 1997.
- ¹¹¹ As of 7/11/06, Maryland and DC have not yet decided to increase the exempt equity up to \$750,000, but may consider doing so in the future.
- ¹¹² Ron M. Lansman, P.A., “A preliminary Analysis of Medicaid Eligibility and Planning After the DRA.” P5, 2006.
- ¹¹³ *Id.*