

ESTATE PLANNING

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Government Benefits and Its Role in Paying for Long-term Care Supports and Services

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LTSS Boot Camp

Stetson University SNT Conference

October 16, 2024

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Get

Medicaid!

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Why Is This So Complex?

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• Medicaid's Original Sin:

A Dual Federal / State System

• State Flexibility Through State Plans and Waivers

• State's Not Doing What They Should

• Politics

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SSI = Medicaid
(Mostly)

•Section 1634 States

•SSI Criteria States

•209(b) States



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5 Steps for Social Security Medical Eligibility

1.Substantial Gainful Activity (SGA). 2024 = \$1,550/month
(\$2,590/month for blind individuals).

2.Severity of Impairment.

3.Listed Impairment.

4.Past Relevant Work (PRW).

5.Vocational Adjustment to Other Work.

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Earned Income and SSI

1. Earned income

2. Apply the \$20 general income exclusion

3. Apply the \$65 earned income exclusion

4. Divide the remaining income by 2

5. Subtract countable income from the federal benefit rate

\$1,000

~~-\$20~~

~~-\$65~~

÷ 2

\$457.50

\$943 - \$457.50 = \$485.50

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Unearned Income and SSI

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1. Earned income

\$1,000


2. Apply the \$20 general income exclusion

- \$20

\$980

3. Subtract countable income from the federal benefit rate

\$943 - \$980 = \$0



Other Social Security Benefits

= Unearned Income

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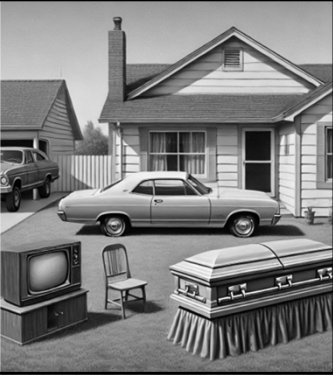
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SSI Asset Eligibility

• \$2,000 Individual

\$3,000 Couple

• Exempt Assets.



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Common Medicaid Income Eligibility Terms

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• Federal Poverty Level (FPL):

\$1,255/month in 48 states.

• Federal Benefit Rate (FBR):

Maximum SSI benefit/ \$943/month for individuals.

• Medically Needy Income Level (MNIL)

Varies by state/geography.

Example: Spend down \$1,000 if income is \$1,500 and MNIL is \$500.

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Common Non-SSI Medicaid Categories

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Categorically Needy

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- No Income Spend Down.
- Slightly higher income limit than SSI. Usually 100% FPL / \$1,255 in 2024.
- ~20 States.



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Medically Needy

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- Must spend down on medical expenses until the medically needy income level is reached.
- $\text{Income} - \text{Medical Expenses} < \text{Medically Needy Income Level}$.
- ~32 States.

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Special Income Group
("300% of SSI Group").

- Individuals who would otherwise require institutional care.
- 300% of the Federal Benefit Rate
\$2,829/month

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Adult Disabled Child
(formerly DAC)

- Medicaid disregards additional Social Security income when child goes from SSI to Adult Disabled Child benefits off a parent's benefit record.

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Medicaid Buy-In Programs

- Higher Medicaid Income / Asset Limits if the individual receives *earned income*.

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Strategies For Obtaining Income Eligibility

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Can The Income Be Assigned To A Special Needs Trust?

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- Child / Spousal Support with Court Order
- Military Survival Benefit Plans
- Annuities
- Pensions?

Assignment Must Be Irrevocable and
Before Age 65 (for standalone Trust!)

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Is a Miller Trust an Option?

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- aka, Qualified Income Trust.
- Available in ~22 States.
- Income in excess of income cap is put into trust.
- Payback requirement.

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Other Income Eligibility Strategies

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- Can client get into buy-in program?
- Can you get creative with medical expenses in a medically needy state?
- Advocate for higher limits in your state?
- Move?

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Strategies For Obtaining Asset Eligibility

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Asset Eligibility Strategies

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- Is there a MAGI-related Medicaid program that would work?
- Can you convert countable assets to exempt assets?
- For inheritances, is there a way to convert into 3rd Party money?

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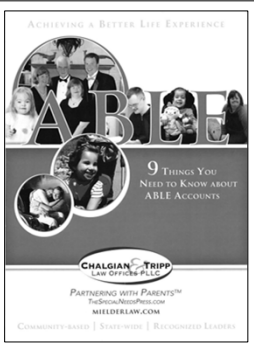
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Special Needs Trust?

- **First-Party Standalone Special Needs Trust**
 - Drafted by Attorneys.
 - Trustee / Asset Flexibility.
- **Pooled Trusts**
 - Managed by Nonprofits.
 - Professional management / investment diversification.

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ABLE Accounts

Pros of ABLE Accounts

- Independence/beneficiary control.
- Cheap.
- Tax-free growth.
- Investment diversification.
- Wide distribution discretion.
- Cheap TrueLink card.

Cons of ABLE Accounts

- Disability began before 26 (46 is 2026).
- The \$18,000 annual limit (tied to gift tax exemption).
- Spotty customer service.
- ABLE accounts can only handle cash.

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Other Asset Eligibility Requirements

- Is a Medicaid Buy-In Program an option?
- Divest assets?
- Move?



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