

ESTATE PLANNING	Will & Trust Contests	Special Needs	Elder Law	
Guardianship & Conservatorship	Medicaid Planning	ESTATE & TRUST ADMINISTRATION	Financial Exploitation of Vulnerable Adults	
Contact Us	EVENTS	Meet Our Lawyers	Social Workers & Case Managers	

**CHALGIAN TRIPP**  
LAW OFFICES PLLC

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

Christopher W. Smith  
smith@mielderlaw.com | (248) 799-2711

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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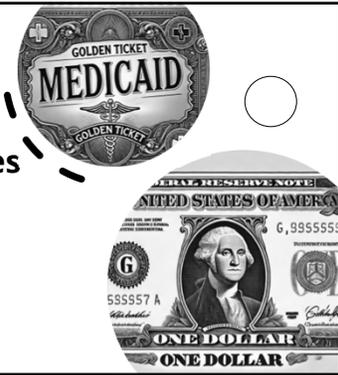
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**SSI = Medicaid  
(Mostly)**



- 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	<b>\$1,000</b>
2. Apply the \$20 general income exclusion	<b>-\$20</b> <b>\$980</b>
3. Apply the \$65 earned income exclusion	<b>-\$65</b> <b>\$915</b>
4. Divide the remaining income by 2	<b>÷ 2</b> <b>\$457.50</b>
5. Subtract countable income from the federal benefit rate	<b>\$943 - \$457.50 = \$485.50</b>

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## Unearned Income and SSI

ooooooo

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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### 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 and 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

oooooooo

- 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 3<sup>rd</sup> Party money?

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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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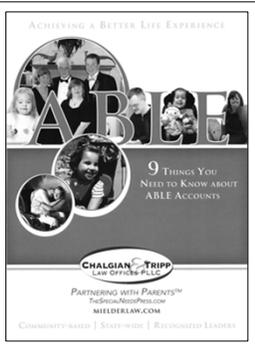
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**ABLE Accounts**

**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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