

Legal Assistance of Western New York, Inc. ®

Medicaid with a Sp

We provide free legal aid to people with civil legal problems in western New York.

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Medicaid with a Spend-Down

Medicaid is a state and federally funded Public Health Insurance Program, that provides health insurance for individuals who meet income guidelines. Expanded income guidelines are available to individuals over the age of 65, and those under 65 who are certified disabled.

Individuals who are over the age of 65, or certified disabled may be "over-income" for traditional Medicaid, and pay a "spend-down" in order to qualify for Medicaid on an ongoing basis. This coverage can be retroactive for up to 3 months prior to the date of the application.

A "Spend-down" is determined by calculating the difference between the Medicaid income level, and your monthly income. For example, if the Medicaid income level is \$825, and your income is \$900 monthly (gross income), you would have a "spend-down" of \$75.00.

It is important to know how your income is budgeted through your Local Department of Social Services (also known as Department of Human Services, or HRA in New York City). \$20.00 is automatically disregarded from your gross monthly income. Additionally, any health insurance premiums (besides your Medicare Part B premium) are disregarded. For instance, if your monthly income is \$900, and you pay \$50.00 a month for a Medicare Supplemental Insurance plan, your countable income is \$830.00 ($\$900 - \$20 - \$50 = \830.00).

In order to receive Medicaid coverage, you must meet your spend-down each month. There are several ways to meet this spend-down, which are discussed below.

Medical Bills: Medical bills can be used to meet a monthly spend-down requirement. These bills do NOT need to be paid, they only need to be incurred.

You can use the following types of bills to meet a spend-down: Your own bills, your spouse's medical bills (even if they are not applying for Medicaid), and bills for any dependent children under the age of 21.

Medical bills not covered under insurance (such as a deductible, or co-insurance), services not covered by Medicaid that are medically necessary (chiropractors, podiatrists, etc), PAST paid or unpaid medical bills, EPIC or ADAP expenses.

A new application may use past medical bills to meet their spenddown when applying for

Medicaid.

When using a PAID bill, this can be used to meet the spend-down only if the services were provided and paid for in the retroactive period, or during active Medicaid coverage after the application is approved.

When using an UNPAID bill, these bills can be years old, as long as they are still viable (meaning, a provider can still recover in court- generally this means bills that are 6 years old or younger can be applied).

Pay-In Program

This program allows individuals to pre-pay their spend-down to Medicaid for a period of One to Six months. Once paid, your Medicaid is activated for this period. This option may make sense for you if you have a low spend-down, so that you can afford to pay 3-6 months at a time.

Supplemental Needs Trusts

A Supplemental Needs Trust, is a trust that is approved by Federal and State law. It allows individuals who are Certified Disabled to deposit income or resources that would otherwise make them ineligible for public benefits programs such as Medicaid. ** If you would like to use a Supplemental Needs Trust to meet your spend-down, it is suggested you meet with an attorney to discuss your legal rights and responsibilities.**

There are two main types of trusts available in New York State for disabled individuals.

First Party Individual Trusts: These are trusts that are privately set up by a disabled individual's parents or grand-parents, usually through a financial institution such as a bank. These are only available to people who are under the age of 65. In order to establish this trust, you will have to meet with a private attorney, as we do not currently provide this service in our LawNY offices.

Third Party Pooled Trusts: These are trusts that are run by a third party non-for-profit organization. They are approved by New York State, and have a relationship with a financial institution that monitors these trusts. Individuals of any age can enter these trusts. They usually have fees to set up the trust, monthly maintenance fees, and annual fees.

For all types of trusts, only certain types of expenses can be paid for with monies from the trust, for example- rent or mortgage payments, taxes, utilities, car payments, insurance payments, travel expenses, and so on. Additionally, any funds that are left in a trust when the beneficiary either disenrolls or passes away are given to New York State to help reimburse the costs of Medicaid coverage. For more detailed information please meet with an attorney.

It is also important to note, that money deposited into a Supplemental Needs Trust, may be counted as a transfer penalty, should you need nursing home coverage. This depends on your age at the time of the deposit.

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This article provides general information about this subject. Laws affecting this subject may have changed since this article was written. For specific legal advice about a problem you are having, get the advice of a lawyer. Receiving this information does not make you a client of our office.

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