

# WHEN LIFE GETS LEGAL

## CAREGIVERS: ELIGIBILITY FOR MEDICARE

June 12, 2024  
12pm - 1pm

### Session Notes

Below is a summary of the topics and items discussed on the June 12th session of When Life Gets Legal, Caregivers: Eligibility for Medicare.

**A recording of this session is available for viewing at [www.LRseminars.com](http://www.LRseminars.com)**

\*The information presented in this webinar is provided by Attorney Paul Vangellow for informational purposes only. Attorney Vangellow is licensed to practice law in the state of Virginia, and the details shared are based on his understanding of the laws within that jurisdiction. The webinar content is intended to be general in nature and may not reflect the laws of other states or regions. Attendees are advised to consult with a qualified legal professional in their respective jurisdiction for advice tailored to their specific circumstances.

### SESSION TOPICS

- Medicare
- Medicaid
- Eligibility Test
- Medicaid Lookback Rule
- Spend Down Strategies
- Medicaid Asset Protection Trust

#### What is the difference between Medicare and Medicaid?

- Medicare is a federal program with consistent coverage, primarily for those 65 and older or with disabilities.
- Medicaid is a state-administered program, varying in coverage and eligibility, aimed at low-income individuals.

#### How do Medicare and Medicaid differ in terms of cost and coverage?

- Medicare involves premiums, deductibles, and co-insurance and covers medical services, hospital stays, etc.
- Medicaid covers long-term care and additional services not typically covered by Medicare, with costs varying by state.

#### What are the long-term care categories for Medicaid in the state of Virginia? Who administers and determine eligibility for the program?

The long-term care categories are *Institutional Nursing Home Medicaid*, which is an entitlement program for anyone needing assistance, a *Medicaid Waiver Program*, which isn't guaranteed and may have a waiting list, but it is for home- and community-based services. This program is designed to delay and prevent the need for huge costs or nursing home care and the benefits are provided on a financially reasonable basis. Lastly, *Age, Blind, and Disabled Programs*, which are entitlement programs for eligible individuals, including personal care and adult daycare. The program is administered by the Virginia Department of Medical Assistance Services and eligibility is determined by one's local Department of Social Services.

#### What are the tests for determining eligibility for Medicare or Medicaid?

- Income Tests
  - Accountable Income
    - employment, wages, alimony, pension, stocks, and various pension withdrawals through retirement accounts
      - if married couple is applying, only income of the applicant is counted while the non-applying spouse may be entitled to a minimum monthly maintenance needs allowance (\$2500 in VA)
  - Noncountable Income
    - Holocaust restitution payment and various Veterans Administration benefits
- Asset Tests
  - Countable assets
    - counted by a Medicaid Agency
    - cash, the money in your bank accounts, CDs, bonds, mutual funds, stocks, pension, retirement accounts that do not pay out qualifying yearly distributions, life insurance policies with cash values over \$1,500, all vehicles other than one primary vehicle, land, buildings that are not your primary residence or part of ongoing business and investment items that are not exempted or excluded. Vehicles include boats, RVs, and motorcycles.

- o Unavailable assets
  - accountable, but you do not have access to
  - ex. inheritance from a relative that is still alive
- o Uncountable/Excluded Assets
  - primary residence according to state limits, the land your residences is on, one primary vehicle, household goods, family heirlooms, life insurance policies with a cash value less than \$1,500, an income producing property, a burial account of up to \$1,500 for burial plots for yourself and family members, prepaid burial contracts, various pension and retirement plans that pay out qualifying yearly distributions

\*\*\* Everything you own does not automatically go into the mix for the Medicaid eligibility determination process, but it is important to pay attention to what your state provides and obtain further guidance in that regard.



**What are the income and asset limits for Virginia’s Medicaid coverage for different household situations, and what is the significance of the Medicaid lookback rule?**

- Single Person: Income limit is \$2,829/month; asset limit is \$2,000.
- Married Couple: Combined income limit is \$5,658/month; asset limit is \$4,000.
- Married with One Spouse Applying: Applicant's income limit is \$2,829/month; asset limit is \$2,000. The non-applying spouse can retain assets up to \$154,140.

The **Medicaid lookback rule** prevents transferring or disposing of assets within five years of applying for Medicaid, meaning those assets are still considered ineligibility assessments. Virginia allows limited gifting up to \$4,000 annually for three years without violating the rule.

**What are spend down strategies, and how do they help in qualifying for Medicaid?**

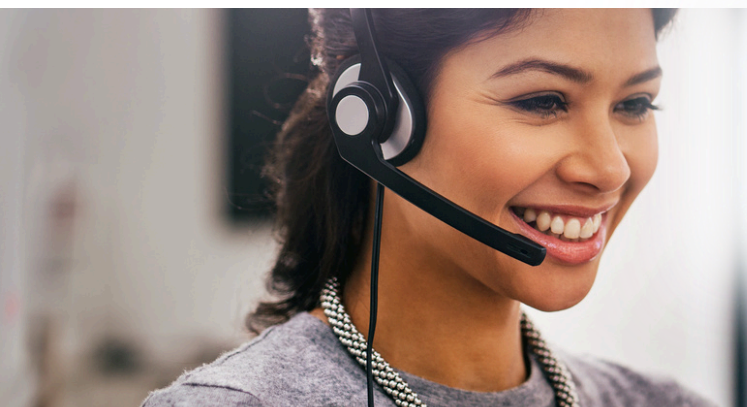
Techniques to reduce assets below state limits, such as home improvements and debt repayment, to meet Medicaid eligibility.

**What is a Medicaid Asset Protection Trust, and what are its pros and cons?**

A trust to protect assets from Medicaid and creditors, offering tax benefits but limiting access to assets and being costly to set up.

**About our speaker: PAUL VANGELLOW PAUL P. VANGELLOW, PC**

Paul orients his representation to the client's best interests, engaging in critical legal analysis from many different perspectives, determining the most effective course to navigate through legal issues and always performing a cost-benefit analysis with the client before moving forward. Admissions – District of Columbia, 1982 – Commonwealth of Virginia, 1984. – Admitted to the bars of the Federal and local courts in Virginia and Washington, D.C. Education – Hobart College – BA History – Antioch University School of Law – J.D. Awards & Honors – Washingtonian Magazine’s Best Lawyers, 2004



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