



South Dakota Medicaid Long Term Care Eligibility

October 2016

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Eligibility

To be eligible for Medicaid, an individual must be a member of a coverage group.

What is a group?

Individuals who share specific common characteristics and meet specific common requirements.

In Medicaid some coverage groups are mandatory some are optional.



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Eligibility

In South Dakota most all coverage groups consist of individuals who meet the following descriptions:

1. Child under the age of 19
2. An adult relative caring for a child under the age of 19
3. Pregnant women
4. Blind or individuals determined disabled by the Social Security Administration or the Department of Social Services
5. Aged (65 and older)

Eligibility

When looking at the aged and disabled groups, some additional requirements need to be met. Aside from meeting general income and resource requirements, individuals may need to meet level of care requirements to fit into a group.

A level of care is determined by reviewing the amount of care an applicant/recipient needs.

Individuals who need some type of long term care assistance may be eligible for Medicaid.

Long Term Care Assistance

Long Term Care Includes the Following:

- Hospital, swing-bed hospital, nursing home, assisted living, and adult foster care.
- Waiver Services including personal and nursing services provided to an individual in need of care in an institution, but who chooses to remain in his/her own home. Also included are people in Assisted Living who need help with medication administration.
- Specific services provided by community support providers (formerly known as adjustment training centers).

Home and Community Based Services

Four HCBS waivers extend Medicaid eligibility, and additional services, to individuals who may not otherwise qualify for Medicaid.

Choices Waiver – Provides supports to individuals with Intellectually Disabled/Developmentally Disabled (ID/DD) who meet Intermediate Care Facility/Intellectually Disabled (ICF/IID) level of care requirements to remain at home or in the community. Services include: service coordination; residential and day habilitation; supported employment; specialized medical equipment and supplies; and nursing.

Elderly Waiver – Allows persons age 19+ who meet nursing facility level of care to remain living at home and in the community. Services include: assisted living services; homemaker services, nursing; home delivered meals; emergency response; and adult day care.

HCBS Services Continued

Family Support Waiver – Allows persons age 22 and younger who meet the ICF/MR level of care to remain living at home and in the community. Services offered: service coordination, specialized equipment, and respite.

Assistive Daily Living Services Waiver – Allows persons with physical disabilities aged 18+ who meet the nursing facility level of care and who are able to manage and direct their own services to remain living at home and in the community. Services offered: case management; personal attendant services; consumer preparation services; nursing; and emergency response.

Each waiver also has their own specific state plan/



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Long Term Care Assistance

Long Term Care Application Process

- Individuals or persons acting on behalf of the individual such as a relative, legal guardian or power of attorney may complete the application.
- Individuals who are not already eligible for Medicaid under another program need to submit a signed EA-240 (long term care application). Applications are available at all local DSS offices, LTC facilities, or on-line at <http://dss.sd.gov/formspubs/>.
- Individuals who are already eligible for Medicaid under another medical category are not required to file an application, but will need to request long term care services by completing an EA-265 form.
- The application process for Medicaid can be done entirely by mail.



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Long Term Care Assistance

Long Term Care Application Process

•General inquiries about LTC and the application process should be referred to a LTC Benefits Specialist. LTC Specialist are located in the following DSS Offices.

Aberdeen – 626-3160	Pierre – 773-3612
Brookings – 688-4330	Rapid City – 394-225
Chamberlain – 734-4500	Sioux Falls – 367-5444
Huron – 353-7112	Watertown – 882-5000
Millbank – 432-9588	Yankton – 668-3030

•A long term care application will typically be processed within 45 days. Extensions may be necessary if problems are encountered while trying to obtain the necessary documentation and verifications.



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Application Process

Once a completed application is received the Department must process promptly and the applicant will be notified of the eligibility determination.

A completed application must be signed and is one that includes all necessary documentation.

The state has 45 days to determine eligibility. If the disability determination is on the basis of disability we have 90. 42 CFR 435.912



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Application Process - Rights

All applicants/recipients have the following rights:

- The right to appeal decisions with which they do not agree
- The right to confidentiality
- The right to a prompt decision
- The rights contained in other Federal laws prohibiting discrimination.

Eligibility – Basic Requirements

The requirements for Medicaid can be divided into two basic areas.

1. Non-Financial
2. Financial

Eligibility – Non Financial Requirements

- Must be a resident of South Dakota
- Must be a US citizen or qualified alien.
- Must provide a Social Security Numbers
- Must be 65 years or older. If under age 65, a person must be blind or disabled.
- Assignment of rights to medical support and payment
- For certain groups individuals must have medical needs that are such that they require a level of care provided in a long term care facility.

Eligibility – Non Financial Requirements Cont.

Time Requirements

- Individuals in a long term care facility for 30 or more consecutive days or receiving waiver services a minimum of 30 consecutive days. (If an individual dies, the 30 days requirement may be considered met.)
The income limit for these individuals is \$2,199*
- Individuals in a long term care setting for less than 30 days
The income limit for these individuals is \$733*

*2016 figure – this number may change annually

Eligibility – Financial Requirements

Financial requirements are divided into two separate areas and each group has its own standards:

1. Income

- Earned Income (wages, salary)
- Unearned Income (disability benefits, retirement benefits, unemployment benefits, etc.)

2. Resources

- Cash or anything an individual owns that can be converted to cash.

Eligibility – Effective Date

If found eligible, eligibility will begin the 1st day of the month of application.

Or

Eligibility may begin 3 months prior to the month of application if:

- The individual would have met the eligibility requirements in each of the months; and
- The individual received services covered under the plan during those months.

Long Term Care Assistance

Resource Limit - \$2,000

If resources are more than \$2,000 as of 12:01 a.m. on the first of the month, individuals have an opportunity to reduce them before the end of that month. If they are below \$2,000 during that month, assistance may be approved for that month if all other eligibility conditions are met.

Examples of Countable Resources:

- *Bank Accounts / Bonds
- *Stocks / Annuities
- *Certificate of Deposits
- *Cash values of life insurance policies if total face values are \$1500 or more.
- *Contract For Deeds
- *Real Property
- *Available Trust Funds



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Long Term Care Assistance

Common Resources Not Counted in Limits:

- Most home property if the individual plans to return home or if it is occupied by the spouse.
- One vehicle used for transportation.
- Certain burial expenses.
- Property connected to the political relationship between Indian Tribes and the Federal government.
- Property with unique Indian significance.



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Native American Resource Exclusions

Resource Exclusions for Native Americans

For Medicaid programs with a Resource Limit, the following resources are excluded:

- Property held in trust or under the supervision of the Secretary of the Interior (BIA)
- IIM Accounts
- Property located within the most recent boundaries of a reservation
- Ownership interests in rents, leases, royalties or usage rights related to natural resources resulting from the exercise of federally protected rights.
- Items with religious, spiritual, traditional or cultural significance.

Long Term Care Assistance

Resource Transferred or Given Away

If resources are transferred without receiving fair market value or given away by the individual, spouse, or anyone acting on their behalf, eligibility for long term care assistance may be denied or delayed.

For all transfers the look back period for the transfer of assets is 60 months.

If a transfer occurred, an individual may still be eligible for other Medicaid coverage, for example, doctor or hospital services.

Long Term Care Assistance

Period of Ineligibility

ARSD 67:46:05:09. Calculating period of ineligibility.

The department shall establish a period of ineligibility for long-term care services if an asset has been disposed of for the purpose of establishing Medicaid eligibility. The period of ineligibility is determined by dividing the uncompensated value of the transferred assets by the monthly state-wide average of long-term care costs* for private pay individuals for the state's current fiscal year.

The department shall impose a partial month period of ineligibility if the sum arrived at in the above calculation results in a partial month remainder, rounded up to a whole day.

*For 2016 this amount is \$204.35 per day/ \$6,215.58 per month.

Long Term Care Assistance

Resource Transferred or Given Away Examples:

Situation: Ms. Smith entered a nursing home on February 23, 2016. An application for LTC assistance is received in the local Social Services Office on March 29, 2016. Ms. Smith reports on the application that she transferred \$10,000 to her brother on December 20, 2008. She meets all other Medicaid eligibility requirements for February and March 2016.

This transfer occurred prior to the 60 month look back period so there is no penalty.

Long Term Care Assistance

Resource Transferred or Given Away Examples:

Situation: Ms. Jones enters a nursing home on May 3, 2016, and an application for LTC assistance is received in the local Social Services Office on June 29, 2016. Ms. Jones reports on the application that she transferred \$10,000 to her brother on February 20, 2013. She meets all other Medicaid eligibility requirements for May and June 2016.

The transfer occurred during the look back period of 60 months. The penalty period calculates to be 49 days and it begins May 3, 2014 - the first day of the month during or after which assets have been transferred; or the date the individual is otherwise Medicaid eligible for LTC facility services, whichever is later. The penalty period runs until June 25, 2016. Medicaid coverage for non-nursing home services (for example, doctor visits) begins May 1, 2016.

Long Term Care Assistance

Some Exceptions Exist – Transfer of the home to one of the following people will NOT prevent eligibility:

- Spouse.
- Son or daughter under age 21.
- Son or daughter with a disability as determined by the Social Security Administration.
- Son/daughter who lived in the home at least 2 years prior to parent entering a medical facility **and** who provided care to prevent earlier nursing home care.
- Brother/sister who has an equity interest in the home **and** who resided in the home at least 1 year prior to the individual entering a medical facility.

Long Term Care Assistance

Recoveries

Estate Recovery - Allows recovery of Title XIX expenditures from one's estate. Recovery may be made for nursing home expenditures regardless of age. In addition, medical payments for home and community based services, intermediate care for the intellectually disabled, hospitalization, and prescription drugs can be recovered for individuals 55 or older.

Note: Recovery of Title XIX expenditures may also be made against the estate of a surviving spouse. The surviving spouse may limit the recovery amount by filing a petition within 6 months of the spouse's death. Recovery will not be made while the surviving spouse is living or if there is a surviving child under age 21 or a child meeting the Social Security Administration's definition of blind or disabled.

Certain Indian income and resources are exempt from Medicaid Estate Recovery.



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Long Term Care Assistance – Additional Information for Spouses

Resources

If one spouse is entering a medical facility (hospital/nursing home) and is expected to remain or has remained in a medical or nursing facility for 30 or more days, eligibility for assistance with the medical costs allows for some resources to be "protected" for the community spouse. "Protecting" resources may also be available for couples when the spouse needing assistance chooses:

- To remain with the other spouse at home and receives personal/medical waiver services, or
- To be in an Assisted Living Facility and he/she receives Waiver Services based on income/assets and the need for medication management.



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Long Term Care Assistance – Additional Information for Spouses

Establishing "Protected Share"

To determine the "protected share" of the couple's resources for the community spouse, a Resource Assessment is completed based on the following:

- Resources existing at 12:01 am on the day the spouse entered the medical facility (hospital; nursing home if not in hospital first); or began receiving Waiver Services.
- "Countable" resources, regardless of ownership.
(Prenuptial agreements are not taken into account when looking at the total resources for couple.)

Long Term Care Assistance – Additional Information for Spouses

Common resources NOT counted in "Protected Share"

- Home property occupied by the community spouse.
- One vehicle used for transportation.
- Certain burial expenses.

Long Term Care Assistance – Additional Information for Spouses

The "protected share" for the community spouse is:

- \$23,844* minimum, or
- 1/2 of the countable resources up to a maximum of \$119,220*
or
- Amount specified by court order or through a fair hearing.

* 2016 figures. Usually updated annually in January

Long Term Care Assistance – Additional Information for Spouses

Examples:

Mr. Erickson entered a nursing home on March 27, 2016. He and his wife together own \$200,000 in countable resources. One half of their countable resources is \$100,000. Mrs. Erickson living at home, is able to keep \$100,00 and the remaining \$100,000 was counted for Mr. Erickson. Since resources exceeded the \$2,000 resource limit, he did not qualify for Medicaid payments to the nursing home at this time. Note: The \$100,000 can be spent down to the \$2,000 resource limit by either Mr. or Mrs. Erickson.

Mr. Roth entered a nursing home on May 1, 2016. Mr. and Mrs. Roth together have countable resources of \$11,000. All the resources were protected for Mrs. Roth since the total resources are less than \$23,844, and Mr. Roth is resource eligible for Medicaid.

Long Term Care Assistance – Additional Information for Couples

Examples:

Spouse entered a medical facility January 26, 2016, but does not apply for assistance until May 5, 2016.

The couple's combined countable resources on January 26, 2016 were \$35,000. The protected share for the community spouse is \$23,844.

The couple's combined countable resources in May 2016 are \$24,500. There IS resource eligibility as \$23,844 is protected for the community spouse and \$2,000 is allowed for the spouse in the nursing home.



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Long Term Care Assistance – Additional Information for Couples

Examples:

➤ Combined resources of the couple are \$28,000.
The "protected share" is \$23,844.

➤ Combined resources of the couple are \$200,000.
The "protected share" is \$100,000.

➤ Combined resources of the couple are \$300,000.
The "protected share" is \$119,220.

➤ Combined resources of the couple are \$18,000.
The "protected share" for the community spouse is \$18,000. There IS resource eligibility for the spouse in the medical facility or Waiver Program.

Note: The spouse in the nursing home or receiving Waiver services is also entitled to have \$2000 in resources.



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Long Term Care Assistance – Post Eligibility Treatment of Income (PETI)

Federal regulations require that the income of Long Term Care recipient be applied towards the cost of their care.

Income deductions are allowed in the following order:

- Personal Needs Allowance
- Spouse Allowance
- Dependent Allowance
- Medicare premium
- Private Health Insurance
- Employment deduction
- Home Maintenance
- Other



Long Term Care Assistance – Additional Information for Couples

Income Example

Mr. Smith lives in a nursing home with \$1300 gross income. Mrs. Smith lives at home with \$900 gross monthly income. Income protected for Mrs. Smith is determined as follows:

Mr. Smith (in facility) \$1300 – gross monthly income - \$60 – personal needs \$1,240 – up to allowable amount available for Mrs. Smith	Mrs. Smith (at home) \$1,966.25* – income allowance - \$900 – gross monthly income \$1066 – allowable amount from Mr. Smith's income.
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Mr. Smith has \$174 remaining after giving the \$1066 to Mrs. Smith. From this amount Mr. Smith can pay a private health insurance premium or Part D co-payments. Any remainder would be the co-payment to the facility for LTC services.

* Changes yearly in July



Long Term Care Assistance – Post Eligibility Treatment of Income

Mr. Smith's contribution to his cost of care is as follows:

Income	-	\$1,300.00
Personal Needs Allowance	-	\$ 60.00
Spouse Allowance	-	\$ 1066.00
Dependent Allowance	-	
Medicare premium	-	\$ 104.90
Private Health Insurance	-	
Employment deduction	-	
Home Maintenance	-	
Other	-	
Total Contribution toward Cost of Care	=	\$ 69.00



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Long Term Care Assistance – Additional Information for Couples

Income Example

Mrs. Rogers lives in a nursing home with \$400 gross income. Mr. Rogers lives at home with \$900 gross monthly income. Income protected for Mr. Rogers is determined as follows:

Mrs. Rogers (in facility) \$400 – gross monthly income -\$60 – personal needs \$340 – available for Mr. Rogers	Mr. Rogers (at home) \$2,002.50* – income allowance -\$ 900. – gross monthly income \$1,102.50 – could be allowed from Mrs. Rogers income, but she only has \$340 to give
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There would be no co-payment to the facility in this case.

* Changes yearly in July



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Long Term Care Assistance – Post Eligibility Treatment of Income

Mrs. Rogers's contribution to his cost of care is as follows:

Income	\$	400.00
Personal Needs Allowance	-	\$ 60.00
Spouse Allowance	-	\$ 340.00
Dependent Allowance	-	
Medicare premium	-	
Private Health Insurance	-	
Employment deduction	-	
Home Maintenance	-	
Other	-	
Total Contribution toward Cost of Care	=	\$ 0.00



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Long Term Care Assistance

Gross Income Limits

Long Term Care income limit for an individual needing medical assistance is \$2,199*. If income is over this amount, a special income trust established for the sole purpose of paying for care is required to meet the income eligibility requirements.

Examples of Income:

- | | |
|-------------------------|-------------------------|
| Social Security or SSI | Workman's Compensation |
| VA Benefits | Pensions/Annuity Income |
| Railroad Retirement | Unemployment Benefits |
| Some Interest/Dividends | Life Insurance Proceeds |
| Trust Income | Earnings / Rent Income |
| Inheritance | Indian Lease Income |
| | over \$2000 a year |

*Effective 1-1-2016, number usually changes annually.



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Long Term Care Assistance

Income not counted in the Eligibility Determination Gross Income Limits

- State or county assistance
- Income tax or sales tax refunds
- Veteran's aid and attendance payments
- Dividends paid on life insurance policies
- Irregular (receipt is unexpected) and infrequent income (received once a quarter from same source)
 - If earned income – amount is less than \$30 a quarter
 - If unearned income – amount is less than \$60 a quarter



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Long Term Care Assistance

Native American Income not counted in the Eligibility Determination Gross Income Limits

- Distributions from Alaska Native Claims Settlement Act (ANCSA) Corporations and Settlement Trusts
- Distributions from trust/reservation property
- Distributions from Individual Income Money (IIM) accounts
- Income from property and rights related to hunting, fishing, and natural resources
- Income from the sale and use of cultural/subsistence property
- Payments made under benefits programs for general welfare. This applies only to payments based upon need. When payments are made on a per capita basis, they are not considered general welfare.



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Eligibility Criteria – Medicare Savings Programs

There are three different Medicare Savings Programs:

Qualified Medicare Beneficiary Program (QMB)

Pays for Part A (if not free) and B Premiums.
 Individuals on this program will receive a Medical ID Card, but benefits are limited to payment for Medicare’s deductibles, co-insurance and co-payments. If a service is not covered by Medicare this program will not cover either.

Specified Low-Income Beneficiary Program (SLMB)

Pays for Medicare Part B Premium.

Qualified Individuals Program (QI)

Pays for Medicare Part B Premium.



Eligibility Criteria – Medicare Savings Programs

Monthly Income limit

- QMB: Have income under 100% of the federal poverty level and be entitled to, but not necessarily enrolled in, Medicare Part A.
 \$ 1,010 Single * \$ 1,355 Couple*
- SLMB: Have income that exceeds 100% but less than 120% of the federal poverty level and be entitled to, but not necessarily enrolled in, Medicare Part A.
 \$ 1,208 Single* \$ 1,622 Couple*
- QI: Have income between 120% and 135% of the federal poverty level and be entitled to, but not necessarily enrolled in, Medicare Part A. QI recipients cannot be eligible for any other Medicaid program.
 \$ 1,357 Single* \$ 1,823 Couple*

*Includes \$20 General Income Disregard

Resource Limit - \$7,280 Single or \$10,930 Couple



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