

MassHealth Eligibility for Nursing Home Care

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Drastic differences between eligibility rules for single individuals and couples

- spousal impoverishment protections
- ability to get increased asset limit, do annuity for spouse and retitle assets



At a Glance



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MassHealth rules are obscure,
convoluted and filled with exceptions

- what follows below are the basics, but can't cover all exceptions and nuances
- advance planning is best, but it's never too late to do something
- when legal advice is necessary?





Resource Limit

- *Single Individual*
 - No more than \$2,000 of “countable assets”
- *Married Couples Who are Both Institutionalized*
 - Each spouse is limited to \$2,000 of “countable assets”
- *Married Couple When Only One is Institutionalized*
 - \$137,400 of “countable assets” called the Community Spouse Resource Allowance (CSRA)



Marital Transfers

- *90 Days to Shift Assets*
- *No Penalty for Asset Transfers Between Married Couples*



Calculation of MMMNA and Spousal Deduction



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- Community Spouse Resource Allowance (CSRA)

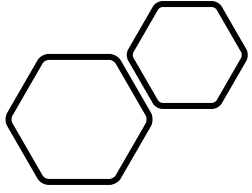
- The community spouse's income is insufficient to meet his or her monthly expenses.
- Appealing for an Increased CSRA with a fair hearing.



Countable Resources

As a general rule, MassHealth will deem as a countable resource any asset that was funded by the applicant or applicant's spouse and may be sold, liquidated or otherwise converted to cash by the applicant or applicant's spouse, unless specifically excluded.





Countable Resources



CASH



BANK ACCOUNTS



RETIREMENT ASSETS



Countable Resources

- *Securities*
- *Life Insurance*



Countable Resources Real Estate

- All real estate owned by the applicant or spouse is a countable asset, unless it is business property essential for self-support or it is the principal residence of the applicant or spouse.
- The value of the equity in the principal residence is countable to the extent it exceeds \$906,000 unless the applicant's spouse, or the applicant's child who is under 21 or who is blind or permanently and totally disabled resides in the home.



Countable Assets Real Estate Continued...

- *Nine-month Exemption of Real Estate*
- *Principal Residence vs. Former Home*



Countable Assets

- *Annuities*

-If an annuity can be converted to a lump sum by the applicant or spouse, the lump sum, less any penalties or costs of converting a lump sum, is a countable asset.

-The purchase of an annuity a disqualifying transfer of assets unless the annuity meets a very specific set of rules.



Countable Assets

- *Revocable Trusts*

- Assets held in a trust that is revocable or amendable by the applicant or spouse are countable assets.

- *Irrevocable Trusts Established by the Applicant or Spouse other than by Will*

- Maximum amount of payments or fair-market value of property that may be permitted under the terms of the trust to be distributed to the individual.



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Countable Assets

- *Trusts Established by the Will of the Applicant or Spouse and Trusts Established by Someone other than the Applicant or Spouse*

-Will be countable if the trustee is required to make payments of principal to the applicant or spouse. Distributions from such trusts, whether discretionary or mandatory, are also countable.



Non-Countable Resources



- *The Principal Residence*
 - Not a countable asset if located in Massachusetts and used as the principal residence, except when the equity interest exceeds \$955,000.
- *Business or Non-Business Property Essential for Self-Support*
 - Business and non-business property essential to self-support and property excluded under an SSA-approved plan for self-support are considered non-countable asset
- *Inaccessible Assets*
 - Assets that are generally countable assets are treated as non-countable, at least for a period of time, if they are deemed “inaccessible.” These are assets “to which the applicant or member has no legal access.”





Jointly Held Assets

- *Bank Assets*

- The entire amount of a jointly held bank asset as belonging to the applicant or spouse, unless the applicant or spouse can verify that the other joint owner contributed his or her own assets to the account.

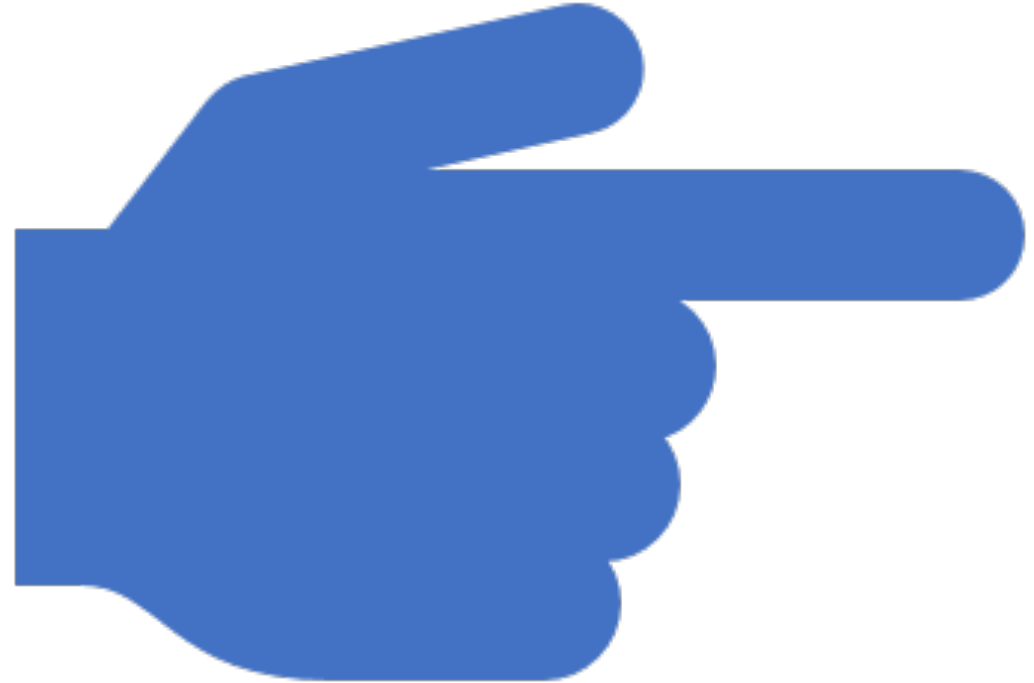
- *Non-Bank Assets*

- Presumed to be owned in equal shares and counted proportionately unless a different distribution of ownership is verified.



Transfer of Assets

- Post – DRA (on or after February 8, 2006)
 - One day of ineligibility for every \$410 of value transferred.
- The MassHealth agency has interpreted the DRA to mean that all of the following conditions must be met in order to begin the ineligibility period:
 - 1) the applicant is in a nursing facility and is clinically eligible for MassHealth coverage;
 - 2) the applicant is below the asset limit;
 - 3) the nursing home has not been paid in full; and
 - 4) the applicant's income is below the MassHealth reimbursement rate



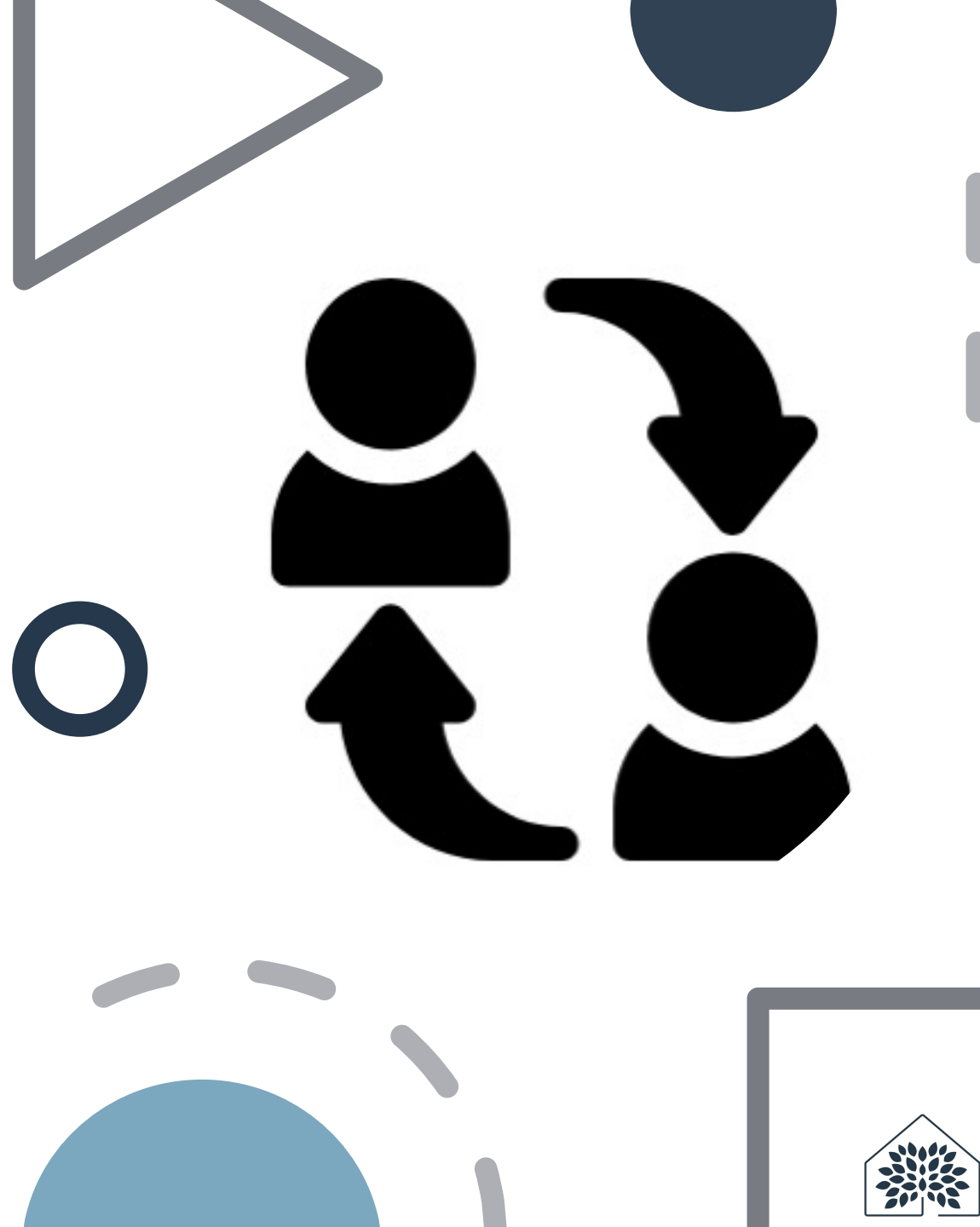
Transfer Penalty Exceptions

- *Assets including home*
 - 1) to a spouse or another for the sole benefit of the spouse;
 - 2) either directly or into a trust for the sole benefit of a child who is blind or permanently and totally disabled;
 - 3) to a trust established solely for the benefit of an individual who is under 65 and disabled; or
 - 4) to a pooled trust solely for the benefit of a permanently disabled individual; or to a separately identified burial account or burial arrangement pursuant to 130 C.M.R. s. 520.008 (F).



Transfer Penalty Exceptions

- *Home exceptions*
 - 1) the spouse;
 - 2) a child who is under age 21, or who is blind or permanently and totally disabled, a sibling who has an equity interest in the home and who is residing in the home for the year immediately prior to nursing home admission of the institutionalized sibling; and
 - 3) a child who is residing in the home for at least two years prior to the parent's nursing home admission and who is provided care for the parent that enabled the parent to remain at home.



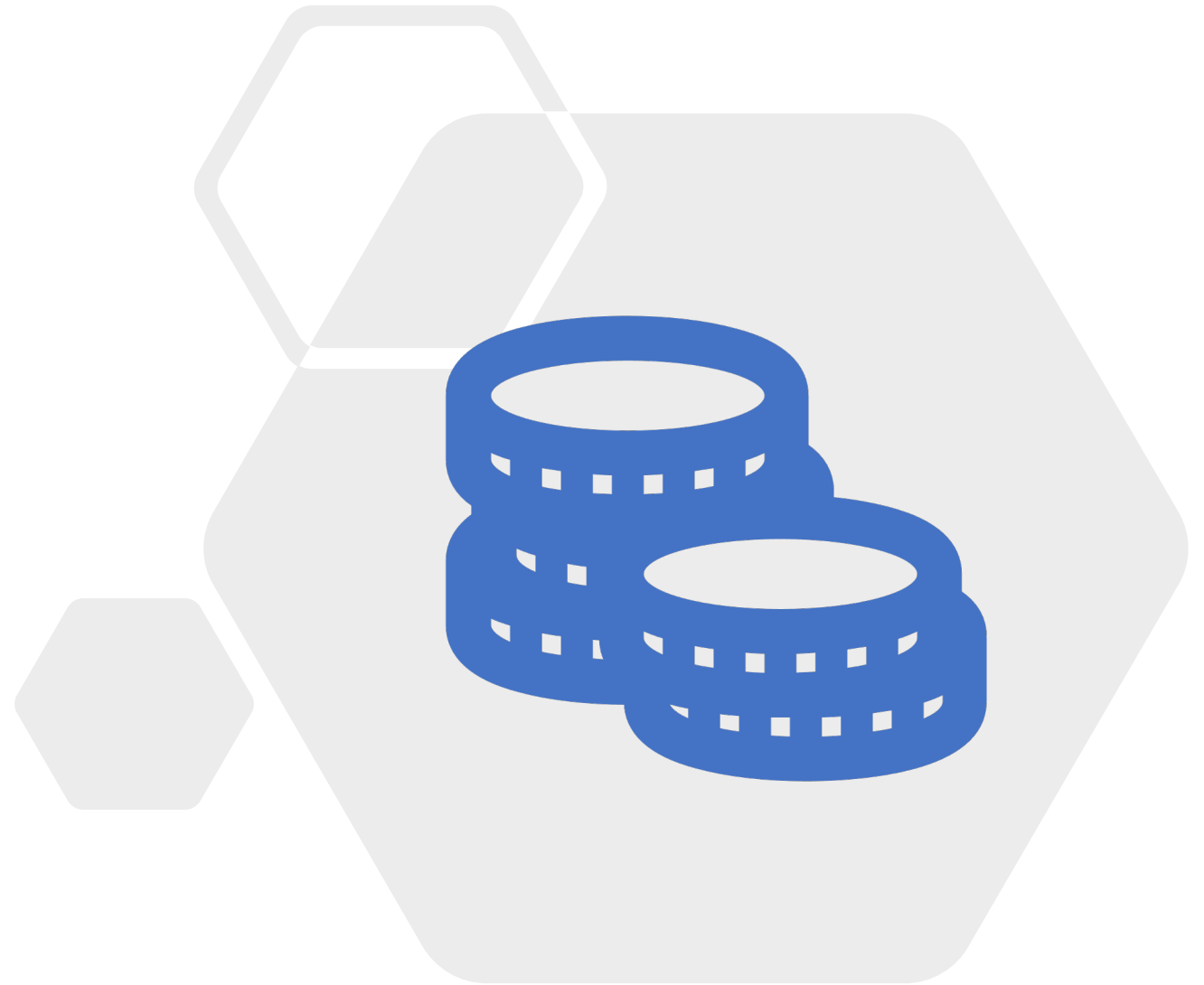
Waiver of Ineligibility Period

In Limited circumstances, the MassHealth agency will waive the ineligibility period based on hardship if the applicant can establish that the denial will deprive the applicant of care and that his or her life or health would be endangered or at risk of serious deprivation.



Curing Transfers

- *Gifts*
 - All assets are returned to the applicant who made prior transfers.
- *Trust Revision*
 - Revising a trust so that it complies with the special needs or pooled trust rules.



MassHealth Application Process



Information Requests

-Once the application is submitted, the MassHealth agency will commonly request that the applicant submit further information.



Failure to Provide Requested Information

-Generally, if all of the requested information is submitted by the appeal hearing date, the previous failure to have provided all the information will not jeopardize the original application date, and therefore, the client may obtain retroactive coverage as of the eligibility date.



Eligibility Date

-Retroactive coverage for medical expenses as long as such services were not provided before the first day of the third month prior to the month of application.



MassHealth Appeals

- Any person receiving an adverse decision regarding MassHealth eligibility may appeal the decision for a so-called Fair Hearing with the MassHealth Board of Hearings within 30 days of receiving notice.
- The hearing will be held by a hearing officer.
- Hearing officers often exercise more discretion than MassHealth intake workers in determining eligibility.
- An adverse Fair Hearing decision may be appealed to Superior Court under the Administrative Procedures Act. M.G.L. c. 30 A within 30 days of the receipt of the adverse decision.





Being a Resource



Q & A

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