

# Important phone numbers

**NYC Department  
for the Aging**  
212-442-1100

**NYC Human Resources  
Administration**  
877-472-8411

**NYS Office for the Aging  
Helpline**  
800-342-9871

**Assemblyman  
Edward C. Braunstein**  
718-357-3588

# You don't have to lose your life savings to qualify for Medicaid

*New York State's  
Spousal  
Impoverishment  
Law protects seniors*

[www.assembly.state.ny.us](http://www.assembly.state.ny.us)



*Admitting  
a loved one  
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lifetime.*

## *A message from...*

### **Assemblyman Edward C. Braunstein**

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Room 557 LOB, Albany, NY 12248 • 518-455-5425  
[braunsteine@assembly.state.ny.us](mailto:braunsteine@assembly.state.ny.us)

Dear Friend,

Thousands of New York State residents live in nursing homes. Many have spouses who continue to reside in the community.

Prior to 1989, in order to pay for the high costs of nursing home care, many couples had to “spend down” their resources to poverty levels to qualify for Medicaid. This would often leave the at-home spouse with few resources to cover even the smallest daily living expenses.

Admitting a loved one to a nursing home is hard enough on a family without losing everything a couple has worked for over a lifetime. Fortunately, it no longer has to be that way. The Spousal Impoverishment Law allows the “at-home spouse” to keep his or her house, with certain limitations, additional assets and monthly income, while protecting the Medicaid eligibility of the spouse in the nursing home.

The Deficit Reduction Act of 2005 (DRA) made substantial changes to Medicaid eligibility for nursing home and long-term care services. This brochure highlights several key components of the Medicaid program as it currently exists under the DRA. However, you should still contact your attorney or local office for the aging and ask for the legal assistance department for more information about the Medicaid program and eligibility rules. You can also contact your local department of social services or my office on this or any other concerns you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Braunstein', written over a white background.

Member of Assembly

# What is spousal impoverishment?

It's a heartrending decision to place a spouse in a long-term residential nursing care program. Unfortunately for many, it's a decision that must be made. That's when many couples are forced to turn to Medicaid, which is the state and federal health insurance program for low-income people of all ages. Prior to 1989, couples would have to "spend down" their assets in order to qualify for Medicaid. Nest eggs were rapidly depleted. Most of it was spent on long-term care, leaving the at-home spouse virtually penniless.

# What are your rights?

The rights and guidelines for at-home spouses whose partners enter a long-term nursing care program are specified in the Spousal Impoverishment Law. At the heart of the program are rules about the treatment of a couple's income and resources for determining Medicaid eligibility for the institutionalized spouse.

Under the law, the income allowance for the at-home spouse has risen to \$2,898 a month. Under certain circumstances, this amount can be increased through a court order or fair hearing. The law also builds in a family member allowance of up to \$647 a month, effective January 2013, for each minor child, dependent child, dependent parent or dependent sibling of either spouse living with the at-home spouse.

Finally, the law allows the at-home spouse to retain resources in an amount equal to the greater of the following: \$74,820 or the amount of the spousal share up to \$115,920. This amount may be increased through a court order or fair hearing if the income that the at-home spouse will have is less than the maximum monthly allowance and there are additional resources that generate income. Any resources above these limits are deemed to be available to the institutionalized spouse.

## What you need to know about...

### ■ Resources

Up to an equity value of \$802,000 in your home, household goods, personal property and one car are not considered "countable resources" toward the threshold mentioned previously. A "countable resource" is a checking or savings account or the cash value of a life insurance policy, for example. If your countable resources exceed the at-home spouse resource allowance (from \$74,820 to \$115,920) and the Medicaid resource allowance of \$14,400 for the institutionalized spouse, the excess resources will go toward the cost of care. If the at-home spouse's resources increase (through an inheritance, for example), that increase will not be considered available to the institutionalized spouse. However, the at-home spouse must have received these resources after the end of the calendar month in which the institutionalized spouse was determined eligible for Medicaid.

### ■ Transferring Resources

Persons transferring assets, defined as both income and resources, for less than fair market value within 60 months of applying for Medicaid, are subject to very stringent restrictions. They are ineligible for nursing home services for a period of time. This period of time or "penalty period" begins when the individual applies for Medicaid and is determined by dividing the value of the assets transferred for less than fair market value by the average monthly cost of nursing home care in their area. For example, if you transfer \$20,000 in assets, and care costs normally run \$5,000 a month (\$20,000 divided by \$5,000), it will result in four months ineligibility for Medicaid payment of nursing home care. This four-month period will commence when you apply for Medicaid.

You can avoid becoming ineligible by transferring the resource for the sole benefit of a spouse, or presenting evidence that the individual intended to transfer the resource for fair market value, or that the resource was transferred exclusively for a purpose other than to qualify for Medicaid. Ineligibility can also be avoided by transferring the resource to a certified blind or certified disabled child or to a trust established solely for the benefit of an individual under 65 who is certified disabled or if it is a "homestead" transferred to your spouse or certain siblings or adult children. Remember, you should contact your attorney or a local office for the aging to ensure your rights and qualifications.

*Regulations regarding transfer of resources are very complex. Be sure to pay special attention to these regulations regarding any transfer of property you are considering.*