

HOW DOES MEDICAID
COUNT RETIREMENT
ACCOUNTS WHEN
APPLYING FOR
BENEFITS?

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RETIREMENT ACCOUNTS AND MEDICAID ELIGIBILITY

The Medicaid rules generally require that if an asset is available and can be reduced to cash, it must be counted in determining whether an applicant was eligible for Medicaid.

A few years ago, a Medicaid applicant and his spouse challenged that rule with respect to retirement accounts, such as, IRAs, 401-ks, 403-bs, etc. In that case, the applicant and spouse were above 70 and ½ and were therefor receiving required minimum distributions.

Surprisingly, and contrary to basic Medicaid budget principles, the New York State Department of Health upheld the challenge stating that where required minimum distributions have begun, the value of the retirement account is **not** treated as a resource for Medicaid purposes. The minimum required distributions, however, are budgeted as income. If a person is receiving care in the community, that income may be contributed to a pooled supplemental needs trust and thereby have it protected. It could then be used for daily living expenses.

There was an issue about how a community spouse's retirement plan would be counted. The New York State Office of Medicaid Management issued a release dated January 1, 2006. It is clear that if required minimum distributions have not begun, the full valuation is counted as a resource. This is worse than the previous policy which counted the retirement plan assets up to the amount of the Community Spouse Resource Allowance. Since the full retirement plan is counted, depending on the value of the retirement could determine whether the community spouse has more than the CSRA.

If, on the other hand, the community spouse's retirement plan is "in pay status" meaning that required minimum distributions have begun, then only the income will count as income to the community spouse. In view of this, we will advise in most cases that the community spouse begin taking distributions immediately even if that spouse has not yet reach 70 and ½.

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