



LAW OFFICES OF

JOANNE SCHLENK MCAVEY, PLLC

MEMBER OF NYS AND SUFFOLK COUNTY BAR ASSOCIATIONS  
PAST CO-CHAIR OF THE ELDER LAW COMMITTEE OF THE SCBA

1641 DEER PARK AVENUE  
DEER PARK, NEW YORK 11729  
(631) 243-4516  
FACSIMILE: (631) 243-2501  
ELDERCAREATTY.COM  
E-MAIL: MCAVEYPLLC@GMAIL.COM

## ELDER LAW NEWS UPDATE

Spring 2022

TO: Clients, Friends and Colleagues

\*\*Check out [www.eldercareatty.com](http://www.eldercareatty.com).

### **BECOMING ELIGIBLE FOR MEDICAID ASSISTANCE**

It has been awhile since I last communicated with you about the pending changes to New York Medicaid law. We are still awaiting the implementation of the 30 month community medicaid look back period to 10/1/2020, and the elimination of the designated Health Care Emergency permitting automatic Medicaid renewals. Clients may still utilize the Attestation of Income and Resources in their submission for Medicaid assistance, whether it be community (home care assistance) or chronic care (nursing home care). There are, however, noteworthy changes forthcoming.

There are ongoing efforts to eliminate and repeal the 2020 budget change that instituted a 30 month look back for community medicaid. What the implementation of the law means is that applicants who transfer non exempt assets during such period would have to privately pay for their own care for a period of time. If efforts are successful, clients will again be able to plan for home care assistance a month or two prior to applying for Medicaid.

The current NYS Budget Article VII seeks to eliminate the asset test for the non-Magi Medicaid population (generally 65 and over applicants). This rule would apply to community as well as chronic care cases. A Spousal Refusal would no longer be needed or relevant. However, the budget *does not remove or eliminate the look back period and transfer penalty period*, which would continue to adversely affect those applicants who made transfers or gifts within the look back period. They would be required to pay for their own care for period of time. Nursing home care is currently ranging between \$15,000.00 and \$19,000.00 per month on Long Island.

Over these many years, I have learned that most clients undertake planning when there is an emergency. Short of that, there is a consistently firm held belief that illness and emergencies happen to the other guy. Unfortunately, my most recent Medicaid applications involve individuals whose emergencies were life changing after a fall that involved head injuries, bone displacements and strokes caused by the trauma. Families are left scrambling to undertake last minute planning with the hope of protecting what they own, or a portion of it. **My advice remains steadfast: plan early and well to protect all that you own. It is the truest and best form of long term care insurance; its cheap, its easy and it may just save your estate.**

***Becoming eligible for Medicaid assistance in 2022 requires meeting three thresholds:*** a Disability threshold, an income threshold and a resource threshold. The Disability threshold for community Medicaid will soon require assistance with more than two activities of daily living (3+) along with maneuvering assistance, and if there is dementia, with more than one activity of daily living (2+). The income threshold has been increased to \$954.00 per month for community assistance while chronic care remains the same at \$50.00 per month. If you have health insurance you will be allowed to keep additional income to pay the premiums. In 2022, the resource threshold for an individual applicant is \$16,800.00. *Be assured, these challenging thresholds are consistently achieved with insightful and targeted planning ensuring Medicaid approval.*

*I hope this has been helpful.*

*Stay safe and be well!*

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*JOANNE SCHLENK MCAVEY, PLLC.*  
1641 Deer Park Avenue  
Deer Park, New York 11729