

## Virginia Medicaid And Public Entitlement Tables Current as of March, 2006

Copyright, 2006. R. Shawn Majette.  
All Rights Reserved.

R. Shawn Majette  
VSB 19372  
Thompson and McMullan P.C.  
100 Shockoe Slip  
Richmond, Virginia 23219  
804/698-6233 (V) 804/780-1813 (F)  
[shawn.majette@verizon.net](mailto:shawn.majette@verizon.net)  
<http://majette.net>  
Medtab06.Doc

### A. SSI (and Categorically Needy Medicaid) Resource and Income Limitations

	Married	Single
Resources <sup>1</sup>	\$3,000	\$2,000
Income (Monthly) <sup>2</sup>	\$904 <sup>3</sup>	\$603
Income: 300% SSI <sup>4</sup>	N/A	\$1,809
Income: 80% FPL <sup>5</sup>	\$856	“\$638” <sup>6</sup> (\$653) <sup>7</sup>
Auxiliary Grant Supplement <sup>8</sup>	N/A	\$982

<sup>1</sup> There are different resource limits for “partial” Medicaid programs that pay for limited benefits. See [Virginia Medicaid Manual § M 1110.003](#).

<sup>2</sup> [Virginia Medicaid Manual § M 0810.002](#).

<sup>3</sup> **Highlighted data is date sensitive and should be confirmed before reliance.**

<sup>4</sup> Several categories of Medicaid eligibility (e.g., DMHRSAS patients receiving care in a state mental facility), there is an income cap of three hundred percent (300%) of the SSI monthly income payment.

<sup>5</sup> “FPL” means federal poverty level, for purposes of qualification without spend-down and with enhanced protection for home property ([Virginia Medicaid Manual § M 1130.100 A 2](#)). Limit derived from Virginia Medicaid Manual § M 0810.002 A 5. Guidelines for this category of eligibility are found at Virginia Medicaid Manual § M 0320.210. Poverty limits and levels published in the Federal Register, Volume 71, Number 15, January 24, 2006, pages 3848-3849; online, <http://aspe.hhs.gov/poverty/06fedreg.htm>.

<sup>6</sup> *Sic* in the Medicaid Manual transmittal effective for this date (1/06). The actual figure should be \$653, according to the writer’s calculation of the 2006 FPL published in the Federal Register, *id.*

<sup>7</sup> *Id.*

<sup>8</sup> An auxiliary grant is a supplement for payment of assisted living facility care for the resident whose total income does not exceed the limit amount, and whose countable resources do not exceed \$2,000. House and Senate budget amendment proposals in the 2006 General Assembly would raise the limit to between \$1,200 (House; 2006 budget bill Item 337 #3h) and \$1,278 (Senate; 2006 budget bill Item 337 #2s). See <http://www.novaregion.org/legis2006/issue05.htm#bills>.

B. Medicaid Resource and Income Limitations - Both Spouses in Community<sup>9</sup>

	Married	Single
Resources	\$3,000	\$2,000
Income (Monthly) Group I	\$307.22	\$241.25
Income (Monthly) Group II	\$342.83	\$278.37
Income (Monthly) Group III	\$436.33	\$361.88

C. Community Spouse Resource And Income Allowance

Community Spouse Resource Allowance <sup>10</sup>	Minimum Spousal Resource Standard \$19,908	Maximum Spousal Resource Standard <sup>11</sup> \$99,540
MMNA <sup>12</sup>	Minimum: \$1,603.75	Maximum: \$2,488.50
Dependent Allowance <sup>13</sup>		\$ 534.58 <sup>14</sup>
Utility Allowance <sup>15</sup>	\$227 (1-3 person household)	\$282 (4 + person household)

D. Exempt Transfers Of Assets For Less Than Value<sup>16</sup>

<u>Asset Description</u>	Medicaid Ineligibility Not Imposed When <u>Transferred To:</u>
--------------------------	--

<sup>9</sup> [Virginia Medicaid Manual § M 0810.002.](#)

<sup>10</sup> Virginia Medicaid Manual § M1480.210.

<sup>11</sup> [Virginia Medicaid Manual § M 1480.231.](#)

<sup>12</sup> [Virginia Medicaid Manual § M 1480.410.](#) The minimum amount is the minimum or “standard” amount. The maximum amount is the sum of the minimum amount and the maximum allowance for excess shelter expenses.

<sup>13</sup> [Virginia Medicaid Manual § M 1480.420 C \(policy\); 430 E \(example\).](#) The dependent allowance is one third of the monthly maintenance needs allowance minus the income of the dependent. **Dependents are defined at [Virginia Medicaid Manual § M 1480.010 B 6](#) and include a parent, child under 21, sibling or half sibling of either spouse who may be claimed as a dependent under the IRC.**

<sup>14</sup> [Virginia Medicaid Manual § M 1480.430 E 5](#) (example, with revisions effective July 1, 2001).

<sup>15</sup> [Virginia Medicaid Manual § M 1480.410 E.](#)

<sup>16</sup> These exemptions are continued under the Deficit Reduction Act of 2005.

<p>Transfer of any asset (including the home of the applicant or recipient) to any of the following persons will not cause period of ineligibility at any time; there is no “waiting” or “look-back” period for these transfers<sup>17</sup></p>	<ul style="list-style-type: none"> <li>• Spouse;</li> <li>• Child under age of 21,</li> <li>• Trust for sole benefit of spouse,</li> <li>• Trust for sole benefit of disabled child,</li> <li>• Trust for sole benefit of any person under age of 65 and disabled</li> </ul>
--	--

**Home of Applicant / Recipient (or Spouse)**

The home may be transferred without penalty to:

1. Child residing with Transferor and providing care which maintained the Transferor in the home for the 2 years immediately preceding date of institutionalization,<sup>18</sup> or to
2. Sibling of Transferor when the sibling (a) has an equity interest in the home, and (b) resided in the home for the one year period before the applicant (usually the Transferor) became an institutionalized individual.

**Various Special Assets (household furnishings, business equipment, special use motor vehicles, any motor vehicle, up to \$4,500, etc.)<sup>19</sup>**

Any person. Note that certain restrictions may apply (e.g., handicapped use motor vehicle).

**E. Transfer Penalty Period Monthly Calculator For Transfers Before February 8, 2006 (PRE-D.R.A. 2005)<sup>20</sup>**

Disclosure Period	Sixty months preceding date of application
Look-back – Transferee other than trust	36 months preceding date of application
Look-back – Transferee to trust (or similar legal instrument)	60 months preceding date of application

<sup>17</sup> 42 U.S.C. § 1396p; 12 V.A.C. 30-40-300 (E); [Virginia Medicaid Manual § M 1450.502](#).

<sup>18</sup> [Virginia Medicaid Manual § M 1450.502](#)

<sup>19</sup> A complete listing of property interests which Virginia excludes from the transfer of assets rule is maintained at Virginia Medicaid Manual § M 1450.501. *Caveat*: the effect of the Deficit Reduction Act of 2005 on these property interests is uncertain as of this publication.

<sup>20</sup> 42 U.S.C. § 1396p, as amended by Deficit Reduction Act of 2005, effective February 8, 2006; 12 VAC 30-40-300 (E); Virginia Medicaid Manual § M 1450.700 *et seq.*

# Pre 2/8/06

## Transfers Within Look-back<sup>21</sup>

Calculation Equation: Value / Average Monthly Cost of Nursing Facility Cost =  
Number Months Ineligibility, Rounded Down

Transfer Value	Disqualification Period <sup>22</sup>
Less than (“<”) \$4,060(or \$5,403 NOVA) <sup>23</sup>	No period of ineligibility
> \$4,060/\$5,403 but < \$8,120/\$10,806	One month ineligibility
<p>More than \$8,119.99, <b>single</b> transfer within applicable look-back period, use equation:</p> <ul style="list-style-type: none"> <li>• Value of gift(s) made in month divided by average monthly cost of nursing home care</li> <li>• Round down quotient</li> <li>• Commence ineligibility from month in which transfer is made for applicant, or month following transfer for recipient<sup>24</sup></li> </ul>	<p>Example: Gift of \$10,000 in January, 2006<sup>25</sup> in <b>Richmond</b>.</p> <p>10,000/4,060= 2.xx 2 months ineligibility Applicant: ineligible from January through February, 2006. Recipient: ineligible from February through March, 2006. <b>Caveat: in NOVA the monthly private nursing home rate is \$5,403; please adjust example accordingly.</b></p>

<sup>21</sup> Made within 36 / 60 months (see above).

<sup>22</sup> The disqualification period commences from the date of transfer month for Medicaid applicant, and month following transfer for Medicaid recipient. Virginia Medicaid Manual § M 1450.702 B.

<sup>23</sup> The monthly nursing home costs in Virginia (divisor for the calculation of a penalty period) are found at Va. Medicaid Manual § M 1450.702 (D).

<sup>24</sup> *Op cit.*

<sup>25</sup> **Caveat:** Transfers after February 7, 2006, are subject to different treatments.

<p>More than \$8,119.99, multiple transfers within applicable look-back period, <b>all occurring before February 8, 2006</b>, when subsequent transfer is made during extant period of ineligibility:</p> <ul style="list-style-type: none"> <li>• Add the value of all transferred assets</li> <li>• Divide as above</li> <li>• A single period of ineligibility is established, commencing with month in which transfer is made for applicant, or month following transfer for recipient<sup>26</sup></li> </ul>	<p>Example: Applicant makes gift in Richmond of \$10,000 in December, 2005, and gift of \$10,000 in January, 2006.<sup>27</sup> Because the penalties would overlap, <b>add</b> the gift values together (\$20,000) then divide by \$4,060, and impose disqualification (5 months) from date of transfer (December), to end in April, 2006.<sup>28</sup> <b>Caveat: in NOVA the monthly private nursing home rate is \$5,403; please adjust example accordingly.</b></p>
--	--

F. **Transfer Penalty Period Monthly Calculator For Transfers After February 7, 2006 (Governed by D.R.A. 2005)**<sup>29</sup>

Transfers Within 60 Month Look-back Other Than To Exempt Transferees<sup>30</sup> or of Exempt Property<sup>31</sup>

**Calculation Of Ineligibility Period:**

Sum Of Value Of All Gifts In Look-Back  
 Divided by  
 Average Monthly Cost of Nursing Facility Cost =  
 Number Months Ineligibility (including fractional interest)

**Start Date Of Ineligibility:**

Application Date Or  
 Date Of Eligibility But For Transfer,  
**Whichever Is Later In Time**

**A Likely Example:**

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> Medicaid Manual §M 1450.702 G 2 (example).

<sup>29</sup> 42 U.S.C. § 1396p, as amended by Deficit Reduction Act of 2005, effective February 8, 2006; 12 VAC 30-40-300 (E); Virginia Medicaid Manual § M 1450.700 *et seq.*

<sup>30</sup> 42 U.S.C. 1396p (c) (2); Va. Medicaid Manual § M 1450.502.

<sup>31</sup> Va. Medicaid Manual § M 1450.501.

1. Wanda, 60, pays \$10,000 graduate school tuition for her son Sam, age 29, on March 1, 2006.
2. Wanda pays Sam's final \$10,000 tuition on September 1, 2007.
3. Wanda's second husband Harry, 68, an insulin dependent diabetic who had been employed until then, fractures his hip in December, 2009.
4. Harry remains at home with help from Wanda, together with part time (paid) help from a neighbor, and unpaid assistance from Harry's daughter Diane until June 20, 2010, when Harry breaks his other hip.
5. Harry is finally admitted to a nursing home in July, 2010.
6. Harry and Wanda pay the nursing home privately until their resources do not exceed Wanda's Community Spouse Protected Resource Amount, only \$19,908.<sup>32</sup>
7. Harry applies for Medicaid in October, 2010, in Richmond.

#### Penalty calculation:

1. Total<sup>33</sup> of all gifts (tuition) within the look-back equals \$20,000.
2.  $\$20,000 / 4,060^{34} = 3.448$  months.
3. Each month equals 30.4167 days.
4.  $3.448 \times 30.4167 = 149$  days of care.<sup>35</sup>
5. Harry is ineligible from October 1, 2010, through February 27, 2011.

#### Effect:

Assuming Harry's daily private rate of \$133,<sup>36</sup> Medicaid will not pay \$19,817 starting in October, 2010, because Wanda paid Sam's tuition payments in 2006 and 2007.

If Wanda does not (or cannot)<sup>37</sup> pay \$19,817 for Harry's care, the nursing home can (a) discharge Harry (but to where, one cannot predict, as Wanda cannot care for him), (b) absorb the unreimbursed costs, (c) sue Wanda, and (d) request the Commonwealth to commence criminal proceedings against Diane under the Virginia filial responsibility statute to compel their joint and several obligation to pay.<sup>38</sup>

---

<sup>32</sup> Va. Medicaid Manual § M 1480.210 (CSRA limits) . Wanda's gifts are attributable to Harry, Va. Medicaid Manual § M 1450.500 A.

<sup>33</sup> Gifts within the look-back are totaled. 42 U.S.C. 1396p (c) (1) (E).

<sup>34</sup> Va. Medicaid Manual § M 1450.702 D.

<sup>35</sup> "A State shall not round down, or otherwise disregard any fractional period of ineligibility determined under clause (i) or (ii) with respect to the disposal of assets." 42 U.S.C. 1396p (c) (1) (E) (iv).

<sup>36</sup>  $\$4,060 \times 12 = 48,720 / 365 = \$133$ .

<sup>37</sup> In the example, Wanda is not receiving Social Security benefits (she's under 65) and she has no work history – she has stayed at home to attend to Harry.

<sup>38</sup> [Va. Code § 20-88](#) allows the Commonwealth to prosecute his daughter Diane because Harry is ineligible for Medicaid, not because payments of Sam's tuition caused the ineligibility. Sam is not liable as he is not the child of Harry. Ironically, while the Commonwealth cannot compel reimbursement of the tuition payments from Sam under the companion statute, [Va. Code § 20-88.02](#), there is no restriction upon the Commonwealth's cause of criminal action against Diane, who was a stranger to the tuition payment, and begged her half-brother not to pursue the master's degree in conservative political ethics in the first place.

(N.B.: if Wanda pays, she will have about \$200.00 in resources left with which to support herself for the rest of her life.)

Copyright, 2006. R. Shawn Majette.  
All Rights Reserved.

R. Shawn Majette  
VSB 19372  
Thompson and McMullan P.C.  
100 Shockoe Slip  
Richmond, Virginia 23219  
804/698-6233 (V) 804/780-1813 (F)  
[shawn.majette@verizon.net](mailto:shawn.majette@verizon.net)  
<http://majette.net>  
Medtab06.Doc