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FREE GUIDE

Florida Medicaid and the Five-Year Look Back

What long-term care Medicaid covers, how a penalty period is actually calculated, and why families who did no planning still have options.

ESTATE & ELDER LAW COUNSEL, P.A. · BOARD CERTIFIED ELDER LAW ATTORNEYS · ORLANDO, FLORIDA

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Figures current as of August 2026, verified against the Florida Department of Children and Families Appendix A-9 edition dated July 2026. Florida resets these standards each January 1, April 1, and July 1, and the penalty divisor changes whenever the state republishes it. Confirm any number with our office before relying on it.

KEY TAKEAWAYS

- Florida reviews 60 months back from your application month, and every gift or below-value transfer in that window gets examined.
- A penalty is not a denial. It is a set number of months without Medicaid payment for long-term care, found by dividing what was given away by the 2026 divisor of $10,645.
- Your home and one vehicle are not counted at all, regardless of value.
- Income over the cap does not disqualify you. A Qualified Income Trust solves it, and it must be funded every single month.
- Crisis planning works. Most families call after the admission, not before, and there is still real work to do.

If you are the one your family calls when something goes wrong, you have probably already run the numbers on a nursing home. Florida's published average for private-pay care is $10,645 a month. Underneath the question of how to pay for it there is usually a quieter one: are we about to lose everything our parents worked for?

Usually, no. But there is one rule to understand before you move a single dollar, because well-meant generosity is the most common way Florida families create a problem for themselves.

What long-term care Medicaid covers in Florida

Most families need the **Institutional Care Program**, or ICP, which pays for skilled nursing facility care. Florida delivers similar help at home or in an assisted living facility through its long-term care waiver, and the financial math is the same for both. Both also require a **CARES level of care determination**, so income and assets in range is not yet a filable application. Approval does not mean the income stays in the family either: nearly all of it goes to the facility as **patient responsibility**, and a nursing home resident keeps $160 a month as a personal needs allowance.

The five-year look back, in plain terms

Florida reviews the 60 months before your application month, and keeps reviewing transfers made after you apply. Anything that left for less than fair market value in that window is presumed to have been transferred in order to qualify. Presumed, not proven: the presumption can be rebutted by showing you meant to sell at fair value, that the transfer had nothing to do with Medicaid, that it falls into one of the allowable categories below, that the assets came back, or that denial would work an undue hardship.

The gift you forgot about is still a gift

A down payment for a grandchild, a car signed over to a nephew, a quit claim deed adding a daughter to the house: these are exactly what caseworkers look for, and they review bank records, property records, annuity purchases, promissory notes, and informal loans. Tell your attorney everything. A transfer your lawyer knows about is a problem to solve. A transfer the state discovers is a credibility problem on top of a penalty.

How the penalty period is calculated

Add up the uncompensated value of everything transferred during the look back and divide it by the **penalty divisor**, Florida's published average monthly private-pay nursing home rate. For 2026 that divisor is **$10,645**, effective April 1, 2025. Divide $60,000 in gifts by $10,645 and you get 5.63. Florida does not round down; the fraction is multiplied by 30 to convert it to days, giving a penalty of five months and about 19 days. A penalty is not a denial of Medicaid, though. It blocks payment for long-term care only, and regular coverage continues if you otherwise qualify.

Then comes the part that surprises almost everyone. **The penalty does not start on the day of the gift.** It starts on the later of three dates: the first day the applicant would otherwise be eligible, meaning the application is filed and every other requirement is met, the first day of the transfer month, or the day after any existing penalty ends. In practice the clock often cannot begin until the money is already spent and the person is already in the facility. Timing of the application, not just the arithmetic of the gift, is what decides cases, and an attorney will know which approach fits your family.

The 2026 Florida figures

These are the standards an application is measured against right now. Every one carries an expiration date.

STANDARD	2026 FIGURE	CHANGES
Gross monthly income cap, one applicant	$2,982	January 1
Gross monthly income cap, couple both applying	$5,964	January 1
Countable asset limit, one applicant	$2,000	Infrequently
Countable asset limit, eligible couple	$3,000	Infrequently
Community Spouse Resource Allowance (CSRA)	$162,660	January 1
Minimum Monthly Maintenance Needs Allowance (MMMNA)	$2,705	July 1
Maximum community spouse income allowance	$4,066.50	January 1
Home equity limit	$752,000	January 1
Transfer penalty divisor	$10,645	When the state republishes it
Personal needs allowance, nursing home	$160	Infrequently

Florida is more protective of the community spouse's countable assets than many states. For 2026, Florida generally permits the spouse who stays at home to retain the full federal maximum Community Spouse Resource Allowance of $162,660, rather than limiting the allowance to one-half of the couple's countable assets subject to a floor and ceiling. If the community spouse's own income is below the applicable Minimum Monthly Maintenance Needs Allowance, $2,705 per month beginning July 1, 2026, part of the applicant spouse's income may be allocated to close the gap. With qualifying shelter costs, the allowance may rise up to the normal 2026 maximum of $4,066.50. For long-term-care Medicaid eligibility, Florida generally tests the income of the spouse applying for care; it does not combine the spouses' incomes against the applicant's income cap.

These numbers expire on a schedule

January 1 changes the income cap, the CSRA, the income allowance ceiling, and the home equity limit. April 1 changes the poverty-level figures. July 1 changes the MMMNA. The divisor changes whenever the state republishes it, without notice. Confirm the current figure before you act on it.

What counts against the limit, and what does not

Countable assets are measured against the $2,000 limit: checking and savings, certificates of deposit, stocks and brokerage accounts, a second property, and the cash value in most life insurance. These are not counted:

- **The homestead**, excluded regardless of value. The home equity limit is a separate eligibility bar, not an asset test, and it does not apply at all if a spouse, a child under 21, or a blind or disabled child of any age lives in the home.
- **One vehicle**, regardless of value.
- **Burial funds** up to $2,500 per person, plus burial spaces and plots and an irrevocable burial contract.
- **Life insurance** where the combined face value is $2,500 or less.
- **Property essential to self-support** producing a reasonable rate of return.
- **Assets protected for the community spouse** up to the CSRA.

Transfers that do not create a penalty

Federal law and Florida policy both carve out categories that are simply allowed:

- Assets transferred to your spouse, or to someone else for your spouse's sole benefit. Transfers between spouses are unlimited and never penalized.
- Assets transferred to a child who is blind or permanently and totally disabled, or to a trust for that child's sole benefit.
- Assets placed in a properly drafted trust for the sole benefit of a disabled person under age 65.
- The home, transferred to a child under 21, or to a blind or disabled child of any age.
- The home, transferred to a sibling who holds an equity interest in it and lived there at least one year before the move to a facility.
- The home, transferred to a son or daughter who lived there at least two years immediately before the move and provided care that let the parent stay home longer. This is the **caregiver child exception**, one of the most valuable and most frequently mishandled provisions in the statute.

Some transfers are not gifts at all because real value came back: paying market price for something, or a carefully priced and documented personal services contract with a family caregiver. Each carries strict proof requirements and fails in predictable ways, so none should be attempted from a template, and an attorney will know which fits your family.

When income is over the cap

Florida is an income-cap state, which produces one of the hardest sentences in elder law: you can be far too poor to pay the nursing home and still earn too much for Medicaid. One dollar over $2,982 in gross monthly income and the application fails on income alone. The fix is a **Qualified Income Trust**, often called a Miller trust. It is a funnel, not a shelter. Enough income is deposited into a dedicated trust account each month that what remains outside it falls under the cap. The money still goes to the nursing home. It must be irrevocable, established for the applicant, hold only the applicant's own income, and name the state to receive whatever remains at death up to what Medicaid paid.

Drafting it is the easy part. Funding it is where cases fail. Income must go into the trust in the same month it is received, every month you want coverage, starting before the state's legal counsel has even approved the document. It cannot be funded retroactively, and a missed month is a lost month of coverage that no one can repair afterward.

It is not too late

Most families we help did no advance planning. The call comes after the hospital says rehabilitation is ending, or after the facility asks for the first private-pay check. That is normal, and it is workable. Crisis planning is an established body of Florida practice: converting countable assets into exempt ones, shifting resources to the community spouse, a personal services contract, an annuity meeting Florida's four conditions, an assignment of spousal support rights, or simply choosing the right month to file. What it can never be is generic, and an attorney will know which fits your family.

Gather these before your consultation

You do not need all of this to call us, but the more you bring, the more specific we can be in the first meeting instead of the third.

- [ ] A written list of every gift, loan, or property transfer in the last five years, with dates and amounts, including the small ones and the ones that feel embarrassing
- [ ] Three months of statements for every bank, credit union, and brokerage account, including closed ones
- [ ] Deeds for all real property, plus the most recent tax assessment
- [ ] Titles for all vehicles
- [ ] Life insurance policies, with face value and cash surrender value
- [ ] Annuity contracts, promissory notes, and any loan documents, formal or informal
- [ ] Award letters for Social Security, pensions, VA benefits, and any other income
- [ ] Long-term care insurance, burial contracts, prepaid funeral agreements, and cemetery deeds
- [ ] Any signed trust, plus the durable power of attorney and health care surrogate designation
- [ ] The CARES level of care determination or facility admission paperwork, if a placement has happened
- [ ] Marriage certificate, and the death certificate of a prior spouse if that applies

Questions families ask

Does the five-year look back mean I have to wait five years to qualify?

No. It is a review window, not a waiting period. If nothing was given away, you can qualify in the month you meet the financial and medical tests. If something was, the consequence is a penalty measured in months, often far shorter than five years.

Will Medicaid take my house?

Not during your lifetime, and often not afterward. The homestead is excluded from countable assets regardless of value. Florida's Medicaid Estate Recovery Act reaches assistance paid after age 55, but it does not reach constitutionally protected homestead, and no claim is enforced at all if you are survived by a spouse, a child under 21, or a child of any age who is blind or permanently and totally disabled.

Can I just give everything to my children five years before I need care?

You can, and some families plan that far ahead. But an outright gift is permanent. It exposes the money to your children's divorces and creditors, it can create a capital gains bill your family would not otherwise face, and it leaves you dependent on goodwill. There are usually structures that protect the same assets without surrendering control, and an attorney will know which fits your family.

My spouse is still at home. How much can we keep?

As of 2026, the community spouse keeps the home, one vehicle, and countable assets up to $162,660. That spouse's own income is not counted against the applicant's cap, and if it falls below $2,705 a month, income can be redirected from the applicant to close the gap, up to $4,066.50.

Can a penalty be undone once it is imposed?

Sometimes. Returning all of the transferred assets eliminates the penalty. A partial return reduces the uncompensated value and the penalty is recalculated. Undue hardship is a recognized ground as well, though it is applied narrowly. Speed matters, so raise it at the first meeting.

Talk with a Board Certified elder law attorney, at no cost

At Estate & Elder Law Counsel, the 30-minute phone consultation is free. Jeanette Mora and Beth Roland are both Board Certified in Elder Law by The Florida Bar, and we work in English and Spanish. Bring the checklist above, or bring nothing at all and just bring your questions. Call (407) 610-5595. This guide is general information about Florida law, not legal advice, and reading it does not create an attorney-client relationship.

BOOK YOUR FREE CONSULTATION

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This guide is general legal information for Florida families, not legal advice. Every situation is different; talk with an attorney before you act.

SOURCES

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