

## *Arizona Long Term Care System (ALTCS): Frequently Asked Questions*

**What is ALTCS?** Arizona Long Term Care System (“ALTCS”) is part of the Arizona Health Care Cost Containment System (“AHCCCS”). AHCCCS is the state program that implements the Federal Medicaid program which is a health care program for the poor. ALTCS provides acute and long term care services for persons who are elderly (over age 65), physically disabled or developmentally disabled. Nationwide, the Medicaid program pays for over half of all nursing home costs.

**What does ALTCS pay for?** ALTCS offers a complete array of acute medical, skilled nursing, assisted living, home health, behavioral health services, home and community based services, and case management services to all eligible persons.

Services are coordinated and provided by an ALTCS program contractor selected by the applicant.

**Who qualifies for ALTCS benefits?** Unlike Medicare, eligibility for ALTCS (Medicaid) is needs based. Applicants must be medically and financially needy to qualify for benefits. In addition to meeting the medical and financial criteria, an applicant must also meet the following conditions to receive benefits:

1. Age (65 or older or under 18), blindness, or disabled;
2. Be a U.S. Citizen or lawful resident alien;
3. Be an Arizona resident (physical presence and intent to stay);
4. Must apply for all other potential benefits, such as pensions or VA benefits, and;
5. Be in an ALTCS approved type of living arrangement.

**What is the medical criteria?** Elderly or disabled applicants must be at risk of institutionalization, and require substantial assistance with activities of daily living. Medical eligibility is determined by a pre-admission screening (PAS) conducted by an AHCCCS nurse and/or social worker. The pre-admission screening consists of both a functional and medical assessment. The primary consideration is the applicant’s ability to perform his/her activities of daily living (ADL’s). These include mobility, transferring, toileting, dressing, feeding, bathing and grooming. The applicant’s diagnosis, sensory function, orientation, emotional/cognitive behavior and needed medical services and treatments are also scored. Typically, individuals who meet ALTCS medical criteria frequently present with a combination of the following needs or impairments: require skilled nursing care; require regular medical monitoring, require prompting, supervision, or hands-on assistance for ADL’s due to cognitive impairment (e.g., Alzheimer’s disease and/or dementia) or physical disability, incontinence, and/or psychosocial deficits.

**What is the 2015 financial criteria?** ALTCS applicants must meet BOTH the income and resource criteria, dependent on marital status.

### **2015 Income Criteria**

Single persons will qualify if gross monthly income is less than \$2,199.00. Married persons will qualify if the applicant spouse's gross monthly income is less than \$2,199.00, or if both spouses' gross monthly income is less than \$4,398.00.

*What if the income is greater than above?* The applicant may still qualify by establishing and properly using an Income Only Trust (also known as a Miller Trust). If you require an Income Only Trust, be certain to seek advice of legal counsel.

### **2015 Resource Criteria**

*Countable Assets:* Countable assets generally consist of bank, investment, and retirement accounts, life insurance (cash value), stocks, bonds, cash on hand, and real property and/or land that is not also the applicant's primary residence. A single applicant cannot have more than \$2,000.00 in countable resources to qualify for ALTCS. The rules are more complex for a married couple where one spouse will be institutionalized. For a married couple, all countable assets are added together (regardless of which spouse is the owner) as of the first month the applicant spouse met medical criteria, and that total is divided in one-half. This is the allowable Community Spouse Resource Assessment ("CSRA"). Note, however, that the CSRA may not exceed the maximum of \$119,220.00, or be below the minimum of \$23,844.00. In addition to the half that the spouse may retain, the applicant may also retain \$2,000.00 in resources. Under most circumstances, if both spouses in a marriage are applicants, then each is limited to \$2,000.00 in resources.

*Non-countable Assets:* Certain resources are considered excluded and therefore may be retained in addition to the allowable countable resources described above. In general, these resources include the primary residence (applicant's interest may not exceed \$552,000.00), one automobile, certain burial funds or irrevocable burial plans, burial plots, household goods and personal effects, and a few other items.

**When do I need an attorney?** If you or your loved one is currently receiving skilled care, assisted living, adult care home or home health care or may be in the future and you are concerned about affording such care you should seek the legal advice of an attorney with knowledge and experience in Medicaid planning. Despite popular myth, Medicare has very limited long term care benefit (100 days max in skilled nursing facility) and no benefit paid for memory care, assisted living, or on-going non-medical home health care. Medicaid (ALTCS) benefits can be vital to affording qualify long term care services whether at home or in a facility setting. Proper legal advice can make the difference between impoverishment and financial stability in the face of long term care expense.

***More specifically, you should seek advice of counsel in the following circumstances:***

1. You need an Income Only Trust (also known as a Miller Trust);
2. You own real property;
3. You have any amount of "excess" countable resources;
4. You are considering making any gift/transfer of assets, or the ALTCS applicant has made a gift/transfer in the last 5 years;
5. You have already submitted an ALTCS application, and were denied; or,

6. The ALTCS applicant is married and preservation of assets is desirable to provide for the “well-spouse”.
7. You would like to avoid AHCCCS Tefra lien and/or estate recovery rights.
8. You want to ensure your ALTCS application is not denied, as most are.

**What happens if my parents give away or transfer excess assets to qualify for ALTCS?** A person who gives or transfers an asset for less than fair market value 5 years prior to applying for AZ ALTCS must disclose the gift/transfer at time of application; this is known as the “look back period”. The actual penalty, or number of months the applicant will be ineligible for services depends on the value of the gift/transfer. AHCCCS then calculates a period of ineligibility by dividing the total amount transferred by the average monthly cost of care in the county as determined by ALTCS, which is currently \$6,648.77 in Maricopa, Pima, or Pinal Counties, and \$5,595.31 in all other Arizona counties. The resulting figure is the number of months of ineligibility, beginning the month of application.

There are limited instances in which gifts/transfers do not result in a period of ineligibility, such as transfers to/from a spouse, transfers to a disabled child or to a trust for a disabled child’s benefit, transfers to a Special Needs Trust pursuant to 42 U.S.C. 1396p(d)(4)(A) or (C) for disabled persons under age 65, transfer of an excluded resource other than a home, and gifts/transfers not made with the intent to qualify for Medicaid/ALTCS benefits. In addition, any gift made prior to 60 months before applying for ALTCS benefits will not result in the imposition of a period of ineligibility.

*If there have been or you contemplate making gifts/transfers prior to applying for ALTCS benefits it is imperative you seek advice of experienced legal counsel.*

**Will ALTCS take my house?** Not necessarily. ALTCS has certain limited rights to recover against the applicant’s home property: (1) TEFRA lien, and (2) estate recovery program.

## **Liens**

Arizona may impose liens for ALTCS recipients who are age 55 or older, and who are permanently institutionalized (i.e., residing in a skilled nursing facility) for at least 90 days. AHCCCS may place a lien on the recipient’s interest in real property during their lifetime, including property owned by a life estate deed and/or subject to a beneficiary deed. AHCCCS shall seek to recover the lien upon the sale or transfer of the real property subject to the lien. However, a lien may not be imposed or a claim recovered on a member’s home if any of the following individuals are lawfully residing in the home: spouse, individual’s child under the age of 21, or blind or disabled child, or an individual’s sibling (who had an equity interest in the home), and who was residing in such individual’s home for a period of at least one year immediately before the date the individual was admitted to a medical institution. In addition, AHCCCS shall not seek to recover the lien or attempt recovery against any real property subject to the lien so long as the member is survived by the member’s spouse, child under the age of 21, or disabled child. AHCCCS shall also not seek to recover a lien on an individual’s home if the member is survived by a sibling who resided in the deceased member’s home and who was residing in the home for at least one year before the member’s institutionalization, or a child resides in the home who lived there for at least two years immediately before the admission to a nursing home and provided care to the parent, which allowed the parent to reside at home rather than in an institution.

## **Estate Recovery**

If a person has received services through the ALTCS program after the age of 55, then AHCCCS will have a claim to recover the cost of services rendered to that individual during his or her lifetime against assets subject to probate. ALTCS will only recover against the probate estate as defined by Arizona law and will not recover against joint tenancy property, life insurance proceeds or designated beneficiaries on pension plans or IRA's. ALTCS will not implement any estate recovery if applicant is survived by a spouse or disabled child of any age.

May I purchase non-countable assets to "spend down" the excess assets?

Yes, you may pay off debts and purchase non-countable assets in order to spend down to your allowed countable resource limit.

**Will ALTCS decide where I will live?** No, the applicant or his legal representative will determine where the applicant resides and receives services. Note, however, that if the applicant resides outside the home, the placement selected must be an ALTCS certified living arrangement.

**If I receive ALTCS, will the state take over my social security and pension?** No, the state does not literally take over your monthly income or accounts. The ALTCS program rules will, however, prescribe how much is required to be paid in share of cost, room and board, out of pocket medical expenses, spousal allowance (if applicable), and/or spending allowance.

**How much will I have to pay for my care while on ALTCS?** Persons receiving ALTCS paid services may be obligated to pay a portion of their income towards their care. The state recognizes that the ALTCS recipient will need their income when they reside at home. Therefore, the state allows the recipient to keep their income to help pay for the costs to live at home and receive ALTCS paid services, unless an Income Only Trust is required and then perhaps a share of cost would be charged. However, when the recipient is in a residential setting like a skilled nursing center, or an assisted living facility, the recipient must pay a portion of their monthly income for services. If the recipient is in a skilled nursing center this amount is called "Share of Cost" and it is determined by ALTCS. If the recipient resides in an alternative setting (e.g. adult care home, assisted living, or adult care home), this amount is called the "Room and Board", and is determined by the program contractor.

The share of cost/room and board amount will vary from person to person, depending on the amount of the recipient's monthly income, out of pocket-medical expenses, marital status, and living arrangement. Generally speaking, single recipients pay the facility the amount of their monthly income, less medical insurance costs, out-of-pocket medical expenses, and Personal Needs Allowance (PNA) of \$109.95. With married persons, the recipient's spouse may also be entitled to keep a portion of the recipient's income, known as the community spouse monthly income allowance (CSMIA). A community spouse is entitled to a monthly income of at least \$1,966.25 and no more than \$2,980.50, depending on certain facts and so long as the income is actually made available to the community spouse. If the spouse does not earn enough on his/her own to cover this amount, then the spouse is entitled to draw enough money from the recipient's income to make up the difference. All of the recipient's remaining monthly income, after payment of the PNA, CSMIA, medical insurance costs, and out-of-pocket medical expenses shall be paid to the recipient's placement. Note, Share of Cost/Room and Board is never assessed against the spouse's income.

**At Bivens & Associates, P.L.L.C., we have helped hundreds of clients qualify for ALTCS benefits to protect and preserve their hard-earned assets while ensuring they receive quality care. Experience and compassion matters!**

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