

# Loans & Medicaid Eligibility: Key Considerations & Traps to Avoid

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*Learn how Medicaid evaluates private loans for eligibility, the importance of actuarial life expectancy, and why not all loans are treated equally.*

**By Harry S. Margolis**

**Question:**

How would Medicaid look at a loan given to a relative with a monthly payment schedule and a forgiveness of the debt upon death? I would assume the monthly installments would be paid toward LTC, but what about the forgiving balance of the loan?

**Response:**

A lot has to do with the timing of the loan. If it was made several years in the past, it will probably not raise a problem with Medicaid eligibility. As you suggest, the monthly payments will be treated as income and will have to be contributed to the recipient's cost of care.

However, the issue with a newer loan is whether it would be considered a transfer of assets, triggering a period of ineligibility for Medicaid. The standard is whether the loan is considered to be "actuarially sound." To start, the loan interest should be based on the "Applicable Federal Rates," or "AFRs," set by the IRS every month. You can find them here: <https://www.irs.gov/applicable-federal-rates>

They have somewhat different rates depending on the length of the loan, with longer-term loans generally having higher rates than shorter-term loans. (We won't discuss the "inverted yield curve" that supposedly predicts a recession.) For the loan to be accepted by the Medicaid agency, you will likely have to show several months of consistent payments, the more, the better.

In terms of the length of the note, some Medicaid agencies will require that it be no longer than the actuarial life expectancy of the lender. So, for instance, an 85-year-old lender, at

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least one table puts the life expectancy for a woman at 6.42 years and for a man at 5.24 years. So, the note should anticipate full payment within six or five years, depending on the lender's gender.

But the issue of making the loan forgivable at death raises other issues. These are referred to as "Self-Cancelling Installment Notes" or "SCINs." The IRS evaluates whether their creation might be considered a taxable gift, which would be similar to the Medicaid agency's determination as to whether the lender is receiving full value for the loan. The IRS requires that a premium be paid for SCINs in the form of a higher interest rate.

Unfortunately, I cannot find a clear statement of how much this premium should be, in part because it varies depending on the length of the loan and the lender's life expectancy. Also, since this is a pretty sophisticated tax-planning technique, lawyers and accountants might keep the calculations close to their vests.

On the Medicaid side, it will also be difficult to determine the appropriate premium because SCINs are rarely used. As a result, different state agencies will evaluate them differently, and none are likely to have any written policy on the technique. You can consult a local elder law attorney to see if they have had any experience with SCINs and Medicaid applications, but you might be better off doing a straight loan without the loan forgiveness element.

### **About the author: Harry S. Margolis**

Harry S. Margolis practices elder law, estate and special needs planning at [Margolis Bloom & D'Agostino](#) in Wellesley, Massachusetts, and is the founder of [ElderLawAnswers.com](#) and co-founder of the Academy of Special Needs Planners as well as a fellow of [FreeWill.com](#). He is author of "[The Baby Boomers Guide to Trusts: Your All-Purpose Estate Planning Tool](#)" and answers consumer questions about estate planning issues at [www.AskHarry.info](#). Please post your estate planning questions there.

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