

## *Compendium of Public Benefit and Tax Numbers Adjusted Annually*

There are a great many public benefit numbers and tax numbers that are adjusted on an annual basis. This chapter is designed to make these numbers readily available to Elder Law practitioners. The following are current numbers for 2008.

### §28.01 Chart

#### §28.01.01 Medicaid

\$1,911	Income Cap <sup>1</sup>
\$104,400	Maximum Community Spouse Resource Allowance (CSRA) <sup>2</sup>
\$20,880	Minimum CSRA <sup>3</sup>
\$2,610	Maximum Minimum Monthly Maintenance Needs Allowance <sup>4</sup> (MMMNA)
\$1,750	MMMNA (July 1, 2007 until June 30, 2008) <sup>5</sup>
\$525	Excess Shelter Allowance (July 1, 2007 until June 30, 2008) <sup>6</sup>

#### §28.01.02 Social Security

2.3%	For 2008 there has been a 2.3% increase for Social Security Benefits <sup>7</sup>
\$2,185	The Maximum Social Security benefit for a single individual for 2008 <sup>8</sup>
\$637	Supplemental Security Income (SSI) – Single <sup>9</sup>
\$956	Supplemental Security Income (SSI) – Couple <sup>10</sup>
\$7,644	Maximum Annual SSI benefit <sup>11</sup>
\$11,472	Maximum Annual SSI benefit <sup>12</sup>
\$940	Substantial Gainful Activity (SGA) – Disabled <sup>13</sup>
\$1,570	SGA – Blind <sup>14</sup>

<sup>1</sup> 42 U.S.C. §1396a(a)(10)(A)ii(v); 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>2</sup> 2008 SSI FBR RESOURCE LIMITS, 300% CAP, BREAKEVEN POINTS, SPOUSAL IMPOVERISHMENT STANDARDS [www.CMS.HHS.gov/MedicaidEligibility/09\\_SpousalImpoverishment.asp#topofpage](http://www.CMS.HHS.gov/MedicaidEligibility/09_SpousalImpoverishment.asp#topofpage)

<sup>3</sup> 2008 SSI FBR RESOURCE LIMITS, 300% CAP, BREAKEVEN POINTS, SPOUSAL IMPOVERISHMENT STANDARDS [www.CMS.HHS.gov/MedicaidEligibility/09\\_SpousalImpoverishment.asp#topofpage](http://www.CMS.HHS.gov/MedicaidEligibility/09_SpousalImpoverishment.asp#topofpage)

<sup>4</sup> 2008 SSI FBR RESOURCE LIMITS, 300% CAP, BREAKEVEN POINTS, SPOUSAL IMPOVERISHMENT STANDARDS [www.CMS.HHS.gov/MedicaidEligibility/09\\_SpousalImpoverishment.asp#topofpage](http://www.CMS.HHS.gov/MedicaidEligibility/09_SpousalImpoverishment.asp#topofpage)

<sup>5</sup> 73 Fed. Reg. 3971 (Jan. 23, 2008)

<sup>6</sup> 73 Fed. Reg. 3971 (Jan. 23, 2008)

<sup>7</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>8</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>9</sup> 72 Fed. Reg. 60705 (Oct. 25, 2007)

<sup>10</sup> 72 Fed. Reg. 60705 (Oct. 25, 2007)

<sup>11</sup> 72 Fed. Reg. 60705 (Oct. 25, 2007)

<sup>12</sup> 72 Fed. Reg. 60705 (Oct. 25, 2007)

<sup>13</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

7.65%	Tax Rate Employee
15.30%	Tax Rate Self Employed
\$670	Trial Work Period <sup>15</sup>
\$102,000	Maximum Social Security Wage Base <sup>16</sup>
\$1,050	Quarter of Coverage <sup>17</sup>

§28.01.03 Medicare

A) Part A

\$128.00	Medicare Co-Payment – Skilled Nursing Facility (SNF) <sup>18</sup>
\$1,024	Hospital Deductible <sup>19</sup>
\$256	Per day/Co-Insurance Day 61 -90 <sup>20</sup>
\$512	Per day/Co Insurance Day 91-150 <sup>21</sup>

Part A Premium (for voluntary enrollees only)

\$233/mth	With 30-39 quarters of Social Security coverage <sup>22</sup>
\$423/mth	With 29 or fewer quarters of Social Security coverage <sup>23</sup>

B) Part B

\$135.00	Medicare Part B Deductible <sup>24</sup>
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**Medicare Part B – Single or Married and Filing Separate Return**

**Part B Income-Related Premium<sup>25</sup>**

<b>Beneficiaries who file an individual tax return with income:</b>	<b>Beneficiaries who file a joint tax return with income:</b>	<b>Income-related monthly adjustment amount</b>	<b>Total monthly premium amount</b>
Less than or equal to \$82,000	Less than or equal to \$164,000	\$0.00	\$96.40

<sup>14</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>15</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>16</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>17</sup> 72 Fed. Reg. 60703 (Oct. 25, 2007)

<sup>18</sup> 72 Fed Reg. 57035 (Oct. 5, 2007)

<sup>19</sup> 72 Fed Reg. 57035 (Oct. 25, 2007)

<sup>20</sup> 72 Fed Reg. 57035 (Oct. 25, 2007)

<sup>21</sup> 72 Fed Reg. 57035 (Oct. 25, 2007)

<sup>22</sup> 72 Fed. Reg. 57038 (Oct. 5, 2007).

<sup>23</sup> 72 Fed. Reg. 57038 (Oct. 5, 2007).

<sup>24</sup> 72 Fed. Reg. 57042 (Oct. 5, 2007)

<sup>25</sup> 72 Fed. Reg. 57046 (Oct. 5, 2007).

Greater than \$82,000 and less than or equal to \$102,000	Greater than \$164,000 and less than or equal to \$204,000	\$25.80	\$122.20
Greater than \$102,000 and less than or equal to \$153,000	Greater than \$204,000 and less than or equal to \$306,000	\$64.50	\$160.90
Greater than \$153,000 and less than or equal to \$205,000	Greater than \$305,000 and less than or equal to \$410,000	\$103.30	\$160.90
Greater than \$205,000	Greater than \$410,000	\$142.90	\$238.40

In addition, the monthly premium rates to be paid by beneficiaries who are married, but file a separate return from their spouse and lived with their spouse at some time during the taxable year are:

<b>Beneficiaries who are married but file a separate tax return from their spouse:</b>	<b>Income-related monthly adjustment amount</b>	<b>Total monthly premium amount</b>
Less than or equal to \$82,000	\$0.00	\$96.40
Greater than \$82,000 and less than or equal to \$120,000	\$103.30	\$199.70
Greater than \$130,000	\$142.00	\$238.40

### **Standard Part D Cost-Sharing for 2008**

On April 2, 2007 CMS issued information about Part D cost-sharing for 2008<sup>26</sup>:

\$27.93	Base Beneficiary Premium
\$275.00	Deductible
\$2,510.00	Initial Coverage Limit
\$4,050.00	Out-of-pocket Threshold
\$5,726.25	Total Covered Part D Drugs to Get to Catastrophic Limit
\$2.25	Catastrophic cost-sharing: Generic/ Preferred Drug

### **Low-Income Subsidy Co-Payments (LIS)**

Full Benefit Dual Eligibles w/incomes

≤ 100% Federal Poverty Level

\$1.05	Generic/Preferred Drugs
\$0.00	Above Catastrophic Limit

### **Full Benefit Duals with Incomes**

<sup>26</sup> Press Release, Centers for Medicare and Medicaid Services, Apr. 2, 2007, [http://www.medicareadvocacy.org/faQ\\_MedicareSummary.htm#RateNumbers](http://www.medicareadvocacy.org/faQ_MedicareSummary.htm#RateNumbers)

>100% Federal Poverty Level &  
 Other *Full-Subsidy* Eligible Beneficiaries  
 \$2.25 Generic/preferred drugs  
 \$0.00 Above Catastrophic Limit

***Partial Subsidy Eligible Beneficiaries***

**\$56.00** Deductible  
 15% Co-insurance to ICL  
 \$2.25 Generics above catastrophic limit  
 \$5.60 Others above catastrophic limit

§28.01.04 Tax

A) \$12,000 Annual Gift Tax Exclusion<sup>27</sup>  
 \$128,000 Gifts to Non-Citizen Spouse<sup>28</sup>  
 \$10,700 Income Level/Maximum Tax Estates and Trust<sup>29</sup>  
 \$357,700 Income Level/Maximum Single Individual Income Tax<sup>30</sup>  
 \$2,000,000 Federal Estate Tax Exemption<sup>31</sup>  
 \$3,500 Personal Exemption<sup>32</sup>  
 \$1,600 FICA Wage Threshold<sup>33</sup>  
 \$7,000 FUTA Wage Base<sup>34</sup>  
 \$5,000 Maximum IRA Contribution<sup>35</sup>  
 \$1,000 “Catchup” IRA Contribution<sup>36</sup>  
 \$101,000 Applicable Allowable Limit Roth IRA Single Taxpayer<sup>37</sup>  
 \$159,000 Applicable Allowable Limit Roth IRA Married Taxpayer Filing  
 Jointly<sup>38</sup>

§28.01.05 Long-Term Care Insurance

\$270 Exclusion from income taxation of daily LTC insurance benefits<sup>39</sup>

Tax Deduction of LTC Premium<sup>40</sup>

<sup>27</sup> Rev. Proc. 2007-66(3)(.32)(1)

<sup>28</sup> Rev. Proc. 2007-66(3)(.32)(2)

<sup>29</sup> Rev. Proc. 2007-66(3)(.32)(3)(.02) Table 5

<sup>30</sup> Rev. Proc. 2007-66(3)(.32)(1)(.02) Table 3

<sup>31</sup> IRC §2010(c)

<sup>32</sup> Rev. Proc. 2007-66(3)(.19)

<sup>33</sup> 72 Fed. Reg. 60708 (Oct. 25, 2007)

<sup>34</sup> IRC §3306(b)(1)

<sup>35</sup> IRC §219(b)(5)(A)

<sup>36</sup> IRC §219(b)(5)(B)

<sup>37</sup> Rev. Proc. 2007-66(3)(.25)(2)

<sup>38</sup> Rev. Proc. 2007-66(3)(.25)(1)

<sup>39</sup> Rev. Proc. 2007-66(3)(.40)

<sup>40</sup> Rev. Proc. 2007-66(3)(.21)

\$310	40 years old or less
\$580	41 to 50 years old
\$1,150	51 to 60 years old
\$3,080	61 to 70 years old
\$3,850	more than 70 years old

#### §28.01.06 Standard and Poor's 500 Index

1.9% average S&P dividend yield January 1, 2008.<sup>41</sup>

#### §28.02 Explanation of Terms

##### §28.02.01 Medicaid

- A) *Income Cap*. Many states use an income cap to determine eligibility for some or all Medicaid Programs. These are known as income cap states. Generally the income cap is calculated at 300% of the maximum federal SSI benefit rate for a single individual.<sup>42</sup>
- B) *CSRA*. The Medicaid Catastrophic Recovery Act<sup>43</sup> was designed to avoid impoverishing a community spouse where one spouse is institutionalized. Some states permit the community spouse to retain all countable resources up to the maximum CSRA. Other states permit the community spouse to retain one half of the countable resources not to exceed to maximum CSRA and to retain all countable resources up to the minimum CSRA.<sup>44</sup>
- C) *MMMNA*. Under MCCA the Community Spouse is entitled to a Minimum Monthly Maintenance Needs Allowance.<sup>45</sup> If the income of the Community Spouse falls below the MMMNA, the Community Spouse can retain income from the Institutionalized Spouse to bring the Community spouse up to the MMMNA. Some states permit the Community Spouse to keep all of the income up to the Maximum MMMNA. In other states, the MMMNA is made up to two components, the basic allowance and the excess shelter allowance. Excess Shelter Allowance is calculated by totaling the Shelter Expenses of the Community Spouse. These expenses are limited to rent, a mortgage (including principal and interest), taxes and insurance, utility expenses, and maintenance charges for condominium or co-op. Some states use a flat amount or amounts for the utility allowance.

<sup>41</sup> <http://www.wsj.com> (accessed February 4, 2008)

<sup>42</sup> 42 U.S.C. §1396a(a)(10)(A)(ii)(v); §1396b(f)(4)(c)

<sup>43</sup> Pub. L. No. 100-360 *Codified at* 42 U.S.C. §1396p(c) *as amended by* 42 U.S.C. §1396r-5

<sup>44</sup> 42 U.S.C. §1396r-5(f)(2)

<sup>45</sup> 20 CFR §435.725(c)

## §28.02.02 Social Security

- A) *Cost of Living*. Social Security benefits are indexed to inflation and are adjusted annually to reflect increases in the cost of living.
- B) *Maximum Social Security Benefit*. Social Security Benefits fall into three categories: Social Security Retirement, Social Security Disability Income (SSDI) and Supplemental Security Income (SSI). Social Security Retirement and Social Security Disability Income (SSDI) are based on payments made into the Social Security System by wage earners during their working careers. SSI is a welfare program. There is a maximum Social Security Benefit for any single individual. This is also adjusted annually.
- C) *SSI Benefit*. There is a maximum federal benefit for SSI for single persons and a separate maximum for married couples. Some states provide a state supplement to the federal benefit. There is also a maximum annual SSI benefit.
- D) *Substantial Gainful Activity*. To be eligible for either SSDI or SSI, the applicant must be disabled as defined in the Social Security Act.<sup>46</sup> The statute references the applicant's inability to perform "substantial gainful activity." Substantial gainful activity is the ability to earn more than a certain amount published by the Social Security Administration (SSA) on an annual basis. There are two income levels to determine substantial gainful activity. One is for the general population and one is for blind.
- E) *Trial Work Period*. During a trial work period, a Social Security beneficiary receiving disability benefits may test his or her ability to work and still be considered disabled. Social Security does not consider services performed during the trial work period as showing that the disability has ended until services have been performed in at least 9 months (not necessary consecutive months) in a rolling 60 month period. Any month in which earnings exceed the trial work period amount is considered a month of service for the individuals trial work period. The trial work period amount is adjusted annually.
- F) *Social Security Wage Base*. There is a Social Security tax imposed on income up to the maximum Social Security Wage Base. Income in excess of the wage base is not subject to the Social Security tax.<sup>47</sup>
- G) *Insured Status*. To be eligible for Social Security Retirement Benefits or Disability Benefits, a worker must have insured status. This means the wage earner must accumulate a certain number of quarters of coverage. The wage earner is "fully insured" for life if he or she has 40 quarters of coverage. The

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<sup>46</sup> 42 U.S.C. §1382c(a)(3)(A) and (B)

<sup>47</sup> IRC §§3101(a) & 3121(a)(1)

wage earner is currently insured if he or she has 6 quarters of coverage during a 13 quarter period ending with the quarter in which the person became entitled to benefits. The amount of earnings required for a quarter of coverage is adjusted annually.

### §28.02.03 Medicare

- A) *Medicare Part A.* Medicare is a medical insurance program that pays for a broad range of medical services. Generally, Medicare Part A covers hospitalization and certain limited coverage in skilled nursing facilities as well as the first 100 days of home care and hospice benefits for the terminally ill. There are premiums, co-payments, deductibles and maximums per spell of illness.<sup>48</sup>
- B) *Medicare Co-Payment – Skilled Nursing Facility.* If a person is eligible for Medicare in a skilled nursing facility, Medicare pays the first 20 days in full but days 21 to 100, the Medicare recipient pays a co-payment and Medicare pays the balance.<sup>49</sup>
- C) *Deductible.* Under Medicare Part A, Hospital coverage is limited to 90 days per spell of illness.<sup>50</sup> For 60 days there is a deductible which is adjusted annually.
- D) *Co Insurance.* For the next 30 days of hospitalization, the patient pays co-insurance of 25% of the deductible.<sup>51</sup> For days 91 to 150 for spell of illness, utilizing “lifetime reserve days”, there is a co-payment of one half of the deductible.<sup>52</sup>
- E) *Medicare Part B.* Medicare Part B covers physicians, diagnostic tests, medical equipment, ambulance services, outpatient physical and speech therapist, certain home care and prostheses.<sup>53</sup> Medicare Part B is available to persons over 65 years of age or eligible for Part A and who are receiving SSDI after two years.
- F) *Medicare Part B Deductions.* There is a deduction for services covered by Medicare Part B. The amount of the deduction is adjusted annually.

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<sup>48</sup> 42 USC §1395; 20CFR §405-421

<sup>49</sup> 42 CFR §409.30b

<sup>50</sup> 42 U.S.C. §1395(d); 42CFR §409.61(a)(1)

<sup>51</sup> 42 U.S.C. §1395(a)(a)(1)(A); 42 CFR §409.83(a)(2)

<sup>52</sup> 42 U.S.C. 1395e(e)(1)(B); 42 CFR §409.83(a)(3)

<sup>53</sup> 42 U.S.C. §1395k(a); 42 CFR §410.10

G) *Premiums.* Under Medicare Prescription Drug Improvement and Modernization Act, beneficiaries pay premiums depending on their income. Premiums are adjusted annually.<sup>54</sup>

H) *Medicare Part D.* The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Medicare Act of 2003)<sup>55</sup> provides a prescription drug benefit known as Medicare Part D. To be eligible, individuals must be eligible for either Part A or Part B of Medicare. Individuals may obtain the prescription coverage either through a standalone prescription drug plan (PDP) or through a Medicare Advantage Plan (MA-PD).

#### §28.02.04 Tax

A) *Annual Gift Tax Exclusion.* Tax payers are permitted to make gifts up to a certain amount each year without any gift tax consequences. This is known as the annual gift tax exclusion. The exclusion is indexed to inflation.<sup>56</sup>

B) *Gifts to Non-Citizen Spouse.* The estate and gift tax marital deduction is not allowed for transfers to a spouse or a surviving spouse who is not a U.S. Citizen.<sup>57</sup> The concern is that the non-citizen spouse will leave the country and avoid federal estate tax. For federal gift tax purposes, the maximum that a spouse can give to a non-citizen spouse is adjusted annually.

C) *Income Level/Maximum Tax, Estates and Trust/Single Individual Income Tax.* Generally, it is advantageous to distribute income from estates and trusts to individuals rather than pay the tax at the estate or trust tax level. Under the federal Internal Revenue Code, income is taxed on a graduated basis. The maximum income tax rate is 35%. The maximum income tax rate for an estate or trust is achieved at a much lower level of income than the maximum tax rate for an individual.<sup>58</sup>

D) *Federal Estate Tax Exemption.* There is an exemption from the federal estate tax for each taxpayer's estate. This is sometimes known as the unified credit. Under current law the amount of the exemption is scheduled to change from \$2,000,000 in 2008 to \$3,500,000 in 2009. The tax is scheduled to be repealed in 2010 but the tax is scheduled to be reinstated at the \$1,000,000 in 2011.<sup>59</sup>

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<sup>54</sup> Medicare Prescription Drug Improvement and Modernization Act of 2003 (Medicare Act 2003), Pub. L. No. 108-173.

<sup>55</sup> Pub. L. No. 108-173.

<sup>56</sup> IRC §2503(b)

<sup>57</sup> IRC §2056(d)

<sup>58</sup> IRC §1

<sup>59</sup> IRC §2010(c)

- E) *Personal Exemption.* Each taxpayer is entitled to a personal exemption which is adjusted annually. If a person pays more than 50% of support of a relative and a relative had gross income for the year less than the personal exemption amount and has not filed a joint return with his or her spouse and the person paying the support may claim the relative as a dependant on the person's federal income tax return.<sup>60</sup>
- F) *Federal Insurance Contributions Act (FICA) Wage Base.* Social Security and Medicare Part A taxes are imposed on all employers and employees on cash wages in excess of the threshold in any calendar year.<sup>61</sup> Social Security Old Age, Survivors, and Disability Insurance (OASDI) taxes are limited to the Social Security wage base.<sup>62</sup> There is no limit for the imposition of the tax for Medicare Part A.
- G) *Federal Unemployment Tax Act ( FUTA) Wage Base.* If an employee receives total cash wages in excess of the FUTA Wage Base in any calendar quarter, Federal Unemployment Taxes must be withheld.<sup>63</sup>
- H) *Deductible Contribution Traditional IRA.* Taxpayers are permitted to take a tax deduction for contributions to a traditional IRA. The deductible amount is \$5,000 for 2008. In addition taxpayers 50 years and over are entitled to a "catchup" contribution of \$1,000 per year.<sup>64</sup> In calendar year 2008, a maximum deductible contribution is indexed to inflation in increases in multiples of \$500.<sup>65</sup>
- I) *Applicable Dollar Limit Roth IRA.* Generally a Roth IRA is treated in the same manner as a Traditional IRA. However, no deduction is allowed for contributions. Contribution limits are the same as for Traditional IRA's. The bonified adjusted gross income of a single taxpayer to be eligible to contribute to a Roth IRA, the taxpayers adjusted gross income cannot exceed the applicable dollar amount. The applicable dollar amount for married taxpayer filing a joint return is \$159,000. The applicable dollar amount for a single taxpayer is \$101,000.<sup>66</sup>

#### §28.02.05 Eligible Long-Term Care Insurance

- A) *Exclusion from Taxable Income.* A person who is insured under a qualified long-term care insurance policy is entitled to an exclusion from taxable

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<sup>60</sup> IRC §§3101(a)(b); & 3111(a)(b)

<sup>61</sup> IRC §3211

<sup>62</sup> See §280202(F)

<sup>63</sup> IRC §3301

<sup>64</sup> IRC §219(b)(5)(A)&(B)

<sup>65</sup> IRC §219(b)(5)(C)

<sup>66</sup> IRC §408(c)

income a daily amount of long term care insurance benefit. This is adjusted annually for inflation.<sup>67</sup>

B) *Premium Deduction.* A portion of the premium for long-term care insurance is deductible as a medical expense. The amount of the allowable deduction depends on the age of the policy holder and is adjusted annually.<sup>68</sup>

#### §28.02.06 Standard and Poor's 500 Index

The Standard and Poor's 500 Index (S&P 500) is an index consisting of 500 stocks chosen for market size, liquidity and industry grouping, among other factors. The S&P 500 is designed to be a leading indicator of U.S. equities and is meant to reflect the risk/return characteristics of the large-cap universe. Companies are selected by a team of analysts and economists at Standard and Poor's. The S&P 500 is a market-value weighted index – each stock's weight in the index is proportionate to its market value. The front-end yield is the average dividend yield for the entire group of stocks.<sup>69</sup>

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<sup>67</sup> IRC §7702B(D)(2)

<sup>68</sup> IRC §213(d)(1)(D)

<sup>69</sup> <http://www.wsj.com> (accessed February 4, 2008)