

## PAYING FOR LONG TERM CARE AT HOME

By Joseph A. Bollhofer, Esq.

I expect that any senior (over 65) who needs long term care would rather receive it at home than in a nursing home or assisted living facility. I also expect that having Medicaid pay for that care is preferable. This will explain how that can be done.

### Financial Qualification

As with nursing home care, there are three ways to pay for long term care at home: 1) privately, 2) through a long term care insurance policy or 3) through Medicaid. Also as with nursing home care, to qualify for Medicaid, the applicant must be poor. Other than your house (subject to an equity limitation), you must have no more than \$13,800.00 to your name.

However, unlike nursing home Medicaid, there is no “look-back” period for home care (or “Community”) Medicaid. If you made gifts to anyone or to a properly worded irrevocable trust this month, and were left with only your house and \$13,800.00, next month you would be eligible for Medicaid coverage at home, subject to the amount of your income. Special rules apply if you are married. As well, there are special rules that apply regarding retirement accounts.

Long term care insurance is an option for some people, but the cost is greater than many can afford. Also, the amount of coverage offered by long term care policies varies greatly, so it is important to know what a policy will cover if the need arises.

Many people are not aware that Medicaid might be available to pay for home care. Even if they are aware, they believe that their income is too high to qualify. However, there still might be a way to do it. Currently, a single person who has no more than \$787.00 per month in income (and no more than \$13,800.00 in assets) is eligible for home care Medicaid coverage. But a person with income above that level may “spend down” the excess income each month on medical bills by direct payment or by payment to Medicaid and still qualify.

Another method of qualifying is to join a “pooled income trust” run by a recognized charity in New York. Assuming Medicaid has determined that you are disabled, if you deposit your “excess income” each month into a pooled trust approved by Medicaid, you will be covered for home care services without a “spend down” requirement. The money that is deposited each month can be used to pay certain bills, such as phone, electric, rent, etc., as long as the bills are in your name and are incurred by you or on your behalf. The bills are sent each month to the pooled trust representative for payment. The management fee charged by most pooled trusts is minimal.

### Medical/Physical Need

Just as someone must have a need for care in a nursing home in order to be eligible for admission, an applicant for home care Medicaid must have a recognized need for care. A “home

care assessment” must be done. This includes information to be supplied by your doctor and by you and your family regarding your condition, diagnosis and particularization of your need for assistance with activities of daily living. The Department of Social Services, which administers the Medicaid program, will arrange for a home visit to review all of the circumstances and essentially determine how much time it will take a home care aide to accomplish specific tasks on your behalf. It must be determined that you need assistance with at least two activities of daily living, such as feeding, toileting, grooming, bathing and ambulating. Medicaid will not allot time to simply provide companionship.

Not everyone who has a need for assistance with activities of daily living will be eligible for home care Medicaid. Only those whose medical condition is stable and whose health and safety can be maintained in the home will be eligible for home personal care services. Generally, you must be “self-directing,” that is, able to make choices about your activities of daily living and to understand the impact of those choices. However, if another person or outside agency provides supervision or direction for the Medicaid home care attendant on an interim or part time basis as part of the plan of care, Medicaid approval might still be obtained.

There are other Community Medicaid programs available. They will be discussed in a future article.

Deciding among long-term care alternatives can be complex. If you feel that it is time to obtain some help for your care at home, it is best to consult with experts before hiring someone. The transition to the Medicaid program will be easier if a home care agency that you select also contracts with the Department of Social Services and accepts Medicaid payments than if you start with a home health aide who is not qualified under Medicaid and/or will only accept payment in cash.

Looking at the “big picture,” understanding the ramifications of taking or not taking certain actions and being ready and able to “switch gears” if the need arises are major considerations in long-term planning. However, so are your emotional needs and the comfort that you are doing what is best for yourself. Since each person has unique financial, family and support group circumstances, and unique long-term care needs, the solution for each person’s circumstances will be different.

Copyright 2011 Joseph A. Bollhofer, Esq.

***Editor’s Note:***

*Joseph A. Bollhofer, Esq., is an attorney who practices law in the areas of elder law, Medicaid, estate and business planning and administration, real estate and personal injury. He is a member of the National Academy of Elder Law Attorneys (NAELA) and of the Elder Law, Real Property, and Surrogate’s Court Committees of the Suffolk County Bar Association and the Elder Law, Real Property Law and Torts, Insurance and Negligence Sections of the New York State Bar Association. He has been serving area residents since 1985 and is admitted to practice law in New York and New Jersey. His office is located at 291 Lake Ave., St. James, NY. (631-584-0100). For reprints of this article and others send a request to [info@bollhoferlaw.com](mailto:info@bollhoferlaw.com) or visit [www.bollhoferlaw.com](http://www.bollhoferlaw.com).*