

Medicaid to Fund Nursing Homes, Assisted Living, & Other Long Term Care

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Until fairly recently, most people in need of long term care had few alternatives to entering a nursing home and wreaking havoc on family finances. Today, long term care can be obtained in various settings and we frequently help clients preserve assets and avoid impoverishing a spouse who remains at home. Yet, most people who need long term care eventually must turn to Medicaid for funding.

When first enacted with Medicare in 1965, Medicaid extended basic health care to poor people, especially children. Over the years, Congress has greatly expanded Medicaid, and it now also funds long term care in nursing homes, assisted living facilities, private homes, and other settings. While all Medicaid applicants must satisfy very restrictive financial criteria, not every Medicaid recipient will qualify for all benefits because each Medicaid program has its own eligibility criteria .

As Medicaid eligibility rules are byzantine and complex, it's nearly impossible to do effective Medicaid planning without expert guidance. Thus, the uninitiated often spend everything on nursing home care, even though elder law attorneys can help most individuals protect part of their hard earned savings and still qualify for Medicaid to fund long term care.

Although federal rules set basic standards, states have substantial leeway to fine tune available Medicaid benefits and qualification requirements. Since Medicaid programs vary by state, Medicaid planning should be based on the law of the state in which an individual will receive long term care, and Medicaid recipients who change states must qualify anew. Therefore, as with wills and powers of attorney, Medicaid planning may require significant change when seniors move from Florida or other states to be closer to their children.

Depending on the kind and extent of impairments, individuals can receive long term care in many different environments. Still, most people either enter a nursing home or assisted living facility or receive care at home. Fortunately, Medicaid can fund each of these arrangements.

Care Options and Medicaid Coverage

Nursing homes have a poor popular image, probably due to their decidedly institutional look and feel. Unfortunately, however, they usually are the only option for people who need substantial assistance with many activities of daily living. Assisted living facilities are an intermediate step more akin to a senior citizen apartment building with dining, activities, and staff on site. Without question, assisted living facilities offer nicer amenities than nursing homes, but because only limited care is available, they usually won't accept people who need substantial aid. As professional round the clock care is extremely expensive but Medicaid coverage is modest, home care usually works only when provided primarily by family with paid home health aides as supplements.

New Jersey Medicaid pays for long term care in nursing homes, assisted living facilities, and private homes, but not all states cover costs in each of these venues. Medicaid is divided into two broad categories: long term care and other care. Other care includes the usual diagnostics, preventive medicine, surgeries, and treatments that we all need from time to time. Long term care Medicaid covers nearly all nursing home costs, most assisted living facility charges, and some home health aide and other expenditures to help an individual remain in a private home. All Medicaid applicants must satisfy financial eligibility criteria, but persons who seek long term care Medicaid benefits also must demonstrate that they can't live independently.

Medicaid Eligibility Requirements

To receive Medicaid, an individual who demonstrates a medical need for long term care must satisfy financial requirements. Medicaid may fund nursing home, assisted living, or at-home care when an applicant's countable resources and income do not exceed modest resource and income limits. Countable income and resources are cash and other assets that are available to pay for food and shelter. Resources are amounts owned at the outset of a month while income is received during the month. Because Medicaid has few exemptions, receipts that wouldn't be taxable income (e.g. gifts, Social Security, and tax exempt interest), security deposits, and jointly owned property generally are countable.

An unmarried person can qualify for Medicaid funded long term care by reducing countable resources to the applicable resource cap of up to a few thousand dollars. However, Medicaid planning is more complicated for married people because their combined countable resources are taken into account. When only one spouse needs care, an allowance of half combined countable resources up to a cap is allowed to the spouse in the community. This

community spouse resource allowance ("CSRA") is intended to protect the spouse at home from being impoverished, but in high cost states like New Jersey, Medicaid planning to protect savings is essential to afford a community spouse a reasonable standard of living. While the CSRA cap is adjusted for inflation, it is \$109,560 as of Spring 2011.

Because couples typically must dissipate nearly all countable resources beyond the CSRA before Medicaid will pay nursing home charges, many people mistakenly believe that they must lose everything else when a loved one needs long term care. However, this merely illustrates the risks in acting on limited knowledge. Since excess countable resources need not be "spent down" only for long term care, we have many tools to help families preserve assets.

Medicaid Planning to Protect Savings

Despite popular misconceptions, Medicaid planning does not involve hiding assets, particularly since making a false Medicaid application is a serious crime. Rather, we help clients preserve savings by maximizing CSRA and spousal income allowances, converting excess countable resources into exempt items, spending down fruitfully, and minimizing penalties when making gifts.

Couples sometimes can increase a CSRA by borrowing (commercially or from loved ones) but the loan must be carefully timed and designed to be effective. Married Medicaid applicants also can preserve other resources as non-countable expenditures that benefit the community spouse. For instance, it can be beneficial to improve or buy a residence or vehicle for the community spouse.

Gifts often are a key element in Medicaid planning. While more can be saved by gifting early, Medicaid gift planning can prove useful even after entering a nursing home despite the sixty month gift look back period. However, the Deficit Reduction Act of 2005 substantially changed the Medicaid planning landscape to impose stiff penalties when gifts aren't properly timed. Giving too much or applying for Medicaid too soon after gifting can needlessly trigger years of Medicaid disqualification. By the same token unduly small gifts may unnecessarily limit savings. No penalty results from qualifying gift to a disabled person or qualifying gift of a home to a caregiver child, but as with so many aspects of Medicaid planning expert advice is essential because technicalities abound.

To facilitate gift planning, a power of attorney that explicitly authorizes Medicaid gifts must be in place before a donor becomes mentally incapacitated. Otherwise a family will have to convince a guardianship court to authorize Medicaid gifts, which may prove difficult. Although a well designed Medicaid plan can preserve considerable amounts, everything can unravel if assets aren't titled properly. Thus, it is crucial to ensure that wills, trusts, and beneficiary designations and default rules don't cause distributions to a Medicaid beneficiary on death of a community spouse or other loved one. Similarly, addressing Medicaid estate recovery early can prevent substantial liens when a Medicaid recipient dies. Avoiding these traps for the unwary may require new deeds, account registrations, beneficiary designations, wills and trusts.

Conclusion

No longer synonymous with nursing home entry, long term care can now be delivered in several other less institutional settings. Despite sky rocketing health care costs, elder law attorneys can help families obtain Medicaid to avoid financial ruin when a loved one needs long term care. However, because eligibility rules are complex and arcane with many traps for the unwary, effective Medicaid planning nearly always requires professional guidance.

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