Medicaid Planning

Medicaid is a health program that provides insurance type benefits to individuals who meet certain requirements. Medicaid is administered by the states but is funded with both state and federal funds. While there are many different Medicaid programs, the majority of clients needing long term care are interested in the long-term care Medicaid benefits.

For most individuals, the object of long-term care planning is to protect savings (by avoiding paying them to a nursing home) while simultaneously qualifying for nursing home Medicaid benefits. This can be done within the following rules of Medicaid eligibility.

Eligibility

Before Medicaid will pay for long-term care expenses, a person must meet certain eligibility requirements. Applying for Medicaid prior to meeting the eligibility requirements is not advisable as the application will ultimately be denied.

Non Financial Eligibility

In order to qualify for Medicaid payment of long-term care services, an individual must (i) be a resident of the state in which he or she is applying for benefits; (ii) be a U.S. Citizen; (iii) be over the age of 65, blind or disabled; and (iv) meet certain functional limitations. For nursing home residents, continued residence in a long-term care facility is evidence of the applicant's functional limitations. For applicants living in the community, a health screening must be completed by the local Department of Social Services.

Financial Eligibility

Financial eligibility can be broken into three categories: (i) income eligibility, (ii) resource eligibility, and (iii) asset transfer rules. Applicants must meet the requirements in all three categories in order to be eligible.

1. Income Eligibility

Income is broadly defined for Medicaid purposes as "cash or its equivalent." Unless expressly excluded under Medicaid rules, all funds received in the month are considered income, regardless of tax consequences or characterizations. This means that monies received from most sources will count as income, such as social security, pension, annuity, dividend, and retirement payments. However, "income" does not include assets that are simply sitting in savings, checking, retirement plans, or other investments.

Only the income of an adult institutionalized person is considered when determining income eligibility for long-term care services. If the applicant's monthly income is less than 300% of the monthly SSI benefit amount ($841 in 2022), or $2,523, he or she meets the income test.

If the applicant's monthly income exceeds 300% of the SSI amount, an income "spenddown" process is employed. For most applicants with income in excess of 300% of the SSI amount, their monthly income is still much less than the monthly cost of care at the nursing facility. Generally, almost any applicant with an income that is less than the monthly cost of care will be deemed to be "income eligible" for long-term care Medicaid benefits.

2. Resource Eligibility

For Medicaid purposes, a resource is cash or any property that a person owns or has the right, authority, or power to convert to cash and is not legally restricted from using for his or her support and maintenance. Resources can be considered either **countable** or **non-countable**. All resources are countable unless specifically exempted.

Countable resources: Medicaid permits an adult recipient of long-term care services to maintain countable resources up to a maximum value of $2,000. It is important to note that the resources of a Medicaid applicant's spouse (known as the "community spouse") are considered in determining eligibility.

Non-countable resources: Certain resources are considered non-countable for Medicaid eligibility purposes. Some examples of non-countable assets follow:

1. Personal possessions, such as clothing, furniture, and jewelry.
2. One motor vehicle without regard to value.
3. The applicant's principal residence under certain situations.
4. Property used in a trade or business.
5. Certain prepaid burial plans.
6. Term life insurance policies

This list is not exhaustive and certain rules may make one the above assets a countable resource in certain situations.

3. Asset Transfers

Applicants must be extremely careful not to run afoul of Medicaid's transfer rules. To keep potential Medicaid recipients from giving away his or her assets in order to meet financial eligibility, Medicaid imposes a transfer penalty for gifts or other transfers of assets for less than fair market value. Put another way, The Medicaid transfer of assets rules are intended to disqualify applicants and recipients who intentionally transfer, or whose spouses intentionally transfer, assets for less than fair market value to obtain Medicaid eligibility for long-term care services. For example, there is a common misconception that individuals can give their house to their children in order to "protect" it from Medicaid. Because of the transfer rules, however, this is simply not the case.

In order to determine whether a transfer has been made, Medicaid demands information from all Medicaid applicants and recipients who require long-term care services about transfers of both income and resources that occurred during the five years before the Medicaid application date. This is referred to as the **look-back period.** The look back period is the period of time in which Medicaid may consider gifts and undervalued sales ("uncompensated transfers") to disqualify an applicant from certain Medicaid services.

As with most Medicaid rules, there are exceptions to the asset transfer rules.

Note on Community Spouse

Medicaid rules provide special allowances for the spouse of a nursing home resident, known as the "community spouse." As noted above, the countable assets of both spouses are considered in determining financial eligibility. In most cases, however, the community spouse is permitted to keep one-half of the couple's combined assets up to $137,400 (in 2022). At a minimum, the community spouse can retain $27,480 (in 2022).

In most cases the community spouse will get to keep his or her monthly income (i.e., the income is not paid to the nursing home). Additionally, the community spouse may be entitled to a share of the nursing home spouse's income.

Asset Protection Planning

One aspect of Medicaid planning that is often overlooked is that proper planning can preserve assets while also gaining Medicaid eligibility. While each case is different, it is often possible to protect most, if not all, of a couple's assets when one spouse needs nursing home care. For a single individual, it is generally possible to preserve more than half of his or her assets.

Learn More

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