EVERYTHING YOU NEED TO KNOW ABOUT

MEDICAID PLANNING

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“WHAT YOU DO TODAY CAN IMPROVE ALL YOUR TOMORROWS”

—Ralph Marston

MEDICAID PLANNING

The guidance you need today, for the care you need tomorrow

Navigating the complexities of Medicaid law can be a difficult —and sometimes daunting—task, but it is important to understand that Medicaid is there to help families just like yours. Through Medicaid planning, you can rest assured that your hard-earned assets will be protected, and that you'll receive the care that you need, when you need it.

When you start the process of Medicaid planning, the best way to untangle the rules associated is through education. Provided within is an overview of some aspects of Medicaid law that hopefully will help dispel any confusion around Medicaid qualification.

The more you know about how Medicaid works, the better equipped you will be to look out for the best interests of your family. If more detailed information about Medicaid is needed, it is best to consult with a qualified legal advisor.

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WHAT IS MEDICAID?

The country's largest source of funding for health-related services

In 1965, Medicaid was established as a federal program designed to provide medical assistance for people with limited income and resources. In the United States, it is the largest source of funding for health-related services for low income people. Medicaid funding comes from a combination of state and federal dollars, and there are both state and federal regulations that apply to the operation of the Medicaid program.

Recipients must be legal permanent residents or citizens of the United States, and may include low-income adults, their dependents, and people with specified disabilities. Medicaid will help pay for doctor visits, hospital stays, long-term medical, custodial care costs, nursing homes and more.

A common misconception about Medicaid is that you have to impoverish yourself and your family completely before you can qualify for nursing home coverage. Medicaid guidelines allow you to keep certain assets, and they allow your spouse who does not need nursing home care to retain his or her income. Also built into the Medicaid guidelines are "safe harbor" provisions that allow you to plan ahead so that you can protect at least a portion of your assets and still qualify for long-term care coverage through Medicaid.

THINGS TO REMEMBER

IT'S NEVER TOO LATE

Medicaid planning can begin anytime but the sooner you start planning the more options you will have to protect what's most important to you.

YOU CAN KEEP YOUR HOME

If you are married and you or your spouse need to go into a nursing home, your home is exempt from Medicaid's calculation of allowable resources. If you are unmarried or widowed and you go into a nursing home, your home is not exempt. Whether you are married, unmarried or widowed, planning is key to keeping your home safe.

DON'T GIVE AWAY ASSETS

Major changes were made to laws in 2006 where "gifting" your assets can create unforeseen consequences for years. You may encounter major delays in receiving Medicaid benefits or be ineligible for benefits up to five years or more.

SAFE HARBORS

Congress has created a number of "safe harbor" provisions for protecting your assets. These exempt certain assets and allow transfers to children or siblings who meet certain eligibility requirements. The provisions also allow for putting assets in certain kinds of trusts.

CHOOSE WHEN TO APPLY

When you apply for Medicaid, make sure you have a plan to ensure you qualify. Applying too early can mean a longer wait for Medicaid qualification. If you apply too late, you may have to pay for months of care that could have been avoided.

ASK FOR HELP

Keeping your assets protected is important. Be sure to seek out legal counsel who can help navigate the complexities of Medicaid planning.

RULES FOR MEDICAID QUALIFICATION

Get familiar with general guidelines for Medicaid qualification

Your Medicaid advisor will be the best resource in determining how the rules apply to your circumstances. It is a good idea, however, to familiarize yourself with the general guidelines for Medicaid qualifications.

ASSETS

The Medicaid asset limit is also called the asset test. Generally speaking, assets fall in to two categories: "Countable (Non-Exempt) Assets" and "Non-Countable (Exempt) Assets." Countable assets are usually considered liquid assets, which are assets that can easily be converted to cash and be used to pay for long-term care. In order to be eligible for Medicaid benefits, the applicant must have no more than $2,000 in countable assets (varies by state). However, the spouse of a nursing home resident, also called the "community spouse," can have up to $126,420 (2019) in countable assets. The minimum that a state may allow a community spouse to retain is $25,284. These figures are subject to change each year to reflect inflation.

Several assets are considered exempt and are not factored when adding up the countable assets. These include the couple's primary home, given the non-applicant spouse lives in the home, household furniture and appliances, clothing, one motor vehicle, irrevocable funeral and burial trusts, and life insurance policies up to a certain amount.

ASSET TRANSFER

Anyone thinking about transferring assets to qualify for Medicaid should know that these transfers could affect your eligibility. Any transfer of property within five years of applying for Medicaid will be reviewed. This is called the "look-back" period. Transferring or giving away assets during this time frame will not render you ineligible, but may result in a penalty period.

During this penalty period, any transfers made for less than fair market value or fair consideration will be reviewed. There are also certain exceptions that will not negatively impact your eligibility. These include transfers to:

- a spouse
- a child under 21 who is blind or permanently disabled
- trusts that solely benefit the applicant or applicant's spouse
- trusts that benefit a blind or disabled child
- trusts that solely benefit a disabled person under the age of 65

ALLOWABLE INCOME

As far as allowable income is concerned, there are several different situations, each with their own unique set of rules. Understanding which category you fit in will help you determine how much income you are allowed under Medicaid law.

Nursing Home Residents

If you reside in a nursing home, you can only keep up to $50.00 (2019) per month as personal needs allowance. Anything that exceeds this amount must go to help cover your cost of care.

Community Spouse

In this situation, if you are married to an individual receiving Medicaid who resides in a nursing home, you can keep up to $3,161.00 (2019) a month. This includes income from your spouse.

Dependent Child

If there is a dependent child who lives at home with the community spouse, Medicaid may permit additional allowance.

Remember that each state has slightly different rules, so make sure to check with your Medicaid advisor to determine exactly what is applicable to your situation.

MEDICAID REIMBURSEMENT

Federal law encourages states to seek reimbursement from Medicaid recipients for Medicaid payments made on their behalf. There are two ways that the state can go about this cost recovery. The first is by a property lien and the second is through recovery from the decedent's estate.

Property Liens

A Medicaid lien is a form of attachment against your property that signifies the state has certain rights or interest in your property. A lien makes it impossible for you to sell or refinance your property without the state's knowledge and opportunity to collect. There are exceptions to this rule. Satisfaction of the lien is not required if the recipient returns home prior to their death or one or more of the following individuals reside at the property:

- the recipient's spouse
- a child under 21
- a child who is blind or disabled
- a sibling withg an equity interest in the home
- a child who cared for the recipient for the two year preceding his or her application for Medicaid coverage

Estate Recovery

Under Medicaid law, upon the death of a Medicaid recipient, the state must attempt to recover from their estate the benefits paid for the long term care of that individual. States may not recover from the estate of a deceased Medicaid enrollee who is survived by a spouse, child under aged 21, blind or disabled child of any age. States are also required to establish procedures to waive recovery when it would cause undue hardship.

In some states, the scope of assets from which recovery can occur to pay for the cost of the Medicaid recipient's care has expanded. Trusts are a good option to protect your assets both during your life and after your death. If you speak with a qualified attorney during your Medicaid planning process, they can advise you on the different types of trusts that may be available.

> "THE FUTURE STARTS **TODAY** NOT TOMORROW"
>
> *–Pope John Paul II*

SPECIAL CONSIDERATIONS

Certain protections exist under Medicaid law

SPOUSAL PROTECTIONS

For those spouses of nursing home residents, certain protections exist under Medicaid law.

- *Snapshot of couple's assets:* When a married Medicaid recipient enters a hospital or long -term care facility for a stay of 30 days or more, Medicaid takes a "snapshot" of the couple's assets.
- *Community spouse resource allowance*: This rule allows the community spouse to keep up to $126,420 (2019) of additional assets above and beyond the non-countable assets.
- *Minimum monthly maintenance needs allowance*: In instances where the community spouse does not have enough income to live on, they may be able to keep some or all of the nursing home spouses's monthly income.

SUPPLEMENTAL NEEDS TRUST

Supplemental needs trusts are an important part of planning for a disabled child. These trusts entitle disabled individuals to get the same estate planning benefits as non-disabled individuals without affecting their eligibility for state or federal benefits.

CONTACT US

The best advice that we can give you is to start planning early. No one knows what the future may bring, so the sooner you start planning, the fewer surprises there are likely to be. Contact us today for a consultation. We are glad to help.

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