

“A Tale of Two Neighbors” The Medicare / Medicaid Inequality

Kemp Scales, CELA*

There is a story I like to share with people which illustrates a fundamental unfairness in our current system of government healthcare benefits for the elderly.

John and Betty are neighbors in an attractive, middle-class neighborhood in a small town in northwest Pennsylvania. They are both in their late seventies and have worked hard most of their lives to save a modest nest-egg for their retirement.

Both John and Betty develop health problems. John suffers a serious heart attack and has to undergo quadruple by-pass surgery. He is in the hospital for two weeks and then spends 10 days in a local nursing home for rehabilitation before returning home. The total cost of his medical treatment is over \$200,000.

Because John is over 65 years of age and receiving Social Security retirement benefits, he is automatically eligible for Medicare. In his situation, Medicare will cover almost the entire cost of his medical expenses. And because Medicare is an “insurance” program, John’s care is covered regardless of how much money he has. (I like to remind people that even Bill Gates will be eligible for Medicare as soon as he reaches the age of 65.)

Betty, on the other hand, develops Alzheimer’s disease. Betty does not go into the hospital, but rather faces a gradual decline in her health until her family is no longer able to care for her and she has to move into a nursing home. The cost of Betty’s care in the nursing home is over \$80,000 a year.

Although Betty is also over the age of 65 and is eligible for Medicare, Medicare will not cover any of her nursing home costs. This is because Medicare is not designed to pay for long-term care.¹ Betty will be required to pay for her nursing home costs out of her own savings. Once she has spent down her resources to \$2,400, Medicaid will cover the costs. However, because Medicaid is a “needs-based” program, Betty’s care is covered only after she has impoverished herself. And even after Betty passes away, the government will have a claim against her estate. If Betty still owned her house (the one major asset people can own and still be eligible for Medicaid), under “estate recovery” her heirs may be required to sell it to pay back the government for any Medicaid payments that Betty received. John, however, will never be required to pay back the government for any Medicare benefits he received.

In a situation such as John and Betty’s, it does not seem appropriate, as Tom Begley, Jr. put it, “that hard-working thrifty people should be penalized for being stricken with the wrong disease.”²

¹ Under certain circumstances, Medicare will pay for nursing home costs for a limited period of time. The nursing home admission must be preceded by a stay in the hospital of at least three days and the patient must require “skilled” care in the nursing home. If these criteria are met, Medicare will pay the full cost of the nursing home, up to a maximum of 20 days, and partial payment up to a maximum of an additional 80 days.

² *Representing the Elderly Client* by Thomas D. Begley, Jr. and Jo-Anne Herina Jeffreys.

With skyrocketing medical costs, Medicaid, which was originally intended to be a healthcare program for the poor, has increasingly become the “safety net” for the middle-class. This is particularly true for those who, because of age or health status, do not qualify for long-term care insurance, as Medicaid is the only government benefit program intended to cover the costs of long-term nursing home care.

What many people do not know, however, is that – at least currently – the Medicaid laws permit people to protect a portion of their assets and still be eligible for benefits. As our healthcare system grows more complex, the Medicaid laws also become more complex and are frequently changing.³ However, with the assistance of a qualified elder law attorney, someone like Betty could protect at least part of her life savings, and often even her home, and still qualify for Medicaid. It seems the least we can do to help those unfortunate enough to develop “the wrong disease”.

Note: *“Time works against you” when planning for long-term care. It is important that families who have a spouse, parent or other loved one needing long-term nursing care contact a knowledgeable and experienced elder law attorney for advice as soon as possible. While ideally this should be done when there is at least five years before such care will be needed, families need to realize that even with the new restrictions in the DRA, there remain opportunities for seniors to protect a significant portion of their life savings when facing an immediate crisis, with no advance planning. But even so, every day of delay represents a potential \$220 of irretrievable loss, so don’t delay in seeking advice.*

Kemp Scales, CELA,* is an Elder Law Attorney who serves clients throughout western Pennsylvania from offices in Erie and Titusville. He can be reached toll-free at (888) 827-2788 or by e-mail at Info@ScalesLawOffices.com. Scales Law Offices, LLC has an Internet presence at www.ScalesLawOffices.com.

* Certified as an Elder Law Attorney by the National Elder Law Foundation as authorized by the Pennsylvania Supreme Court.

³ Indeed, last month’s GOP’s 2012 budget proposal, citing the need to “cut costs,” would turn Medicare from a guaranteed benefit for the elderly and disabled into a system run by private insurance companies, and it would cut \$800 billion from Medicaid and turn it into a state block-grant program. *But both of these government programs are much more cost-effective than medical programs run by private insurance companies.* If the public policy goal is to continue the decades-long trend of the concentration of wealth and power into fewer and fewer hands, while the standard of living for everyone else continues to decline, gutting Medicare and Medicaid will help promote that goal. If, on the other hand, our goal is a fair, equitable and democratic society, this proposal will continue to makes things worse for “the bottom 90%.”