Paying for a Nursing Home: Medicaid (Part 1)
Frequently Asked Questions about Medicaid

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The prospect of paying for long-term care in a nursing home is a major concern for elders and their families, and for good reason. Currently, the average cost of nursing home care in Pennsylvania is over $107,000 per year, and in northwest Pennsylvania can reach $130,000 and more. For most people, such an expense could quickly wipe out much or all of an entire lifetime of savings.

There are only four ways to pay for long-term care in a nursing home: Medicare; long-term care insurance; private pay; and Medicaid.[1] Assuming that one does not have long-term care insurance, and that the Medicare benefit period (if any) has expired, the current system in the United States – "uncoordinated hodgepodge of programs" would be a more accurate description – requires that seniors pay privately for their long-term care until they have exhausted their savings and then, once "impoverished," apply for Medicaid.

Following are some frequently asked questions about Medicaid.

What is the difference between Medi<u>care</u> and Medi<u>caid</u>?

- **Medi<u>care</u>** is a federal *health insurance program* for which you qualify by being elderly or disabled, without regard to your wealth. Anyone age 65 or older who is eligible to receive Social Security retirement benefits (or who has been eligible for Social Security <u>Disability</u> Insurance for two years) automatically qualifies for Medicare.

- ***Medi<u>caid</u>*** (also known in Pennsylvania as "Medical Assistance") is a joint federal-state program that also provides health care to the elderly and disabled (as well as some other categories). However, unlike Medicare, it is not enough that you are "categorically" eligible (that is, elderly, blind or disabled) and in ill health -- you also have to be "impoverished," that is, spent down to the Medicaid asset level (just a few thousand dollars for a single person).

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[1] Seniors who are wartime veterans or the spouses of wartime veterans are frequently eligible for a pension from the Veterans Administration that currently pays up to $21,466 to a single veteran, $25,448 a year for a married veteran, and $13,794 a year for a surviving spouse. It is not unusual for us to have clients tell us the called the local VA office to inquire about this pension but were told they were not eligible because of their income or assets. However, as with the Medicaid rules, the VA rules permit veterans to take certain steps to become eligible; but, just as it is not the role of the IRS to advise folks about "tax planning," or the County Assistance Office to advise folks about "Medicaid planning," one cannot reasonably expect to get "VA planning" advise from the VA office. Rather, this is a role for attorneys accredited with the VA.

Why is Medicaid important for seniors who have Medicare? The main gap for seniors with Medi<u>care</u> is that it was not designed to pay for long-term nursing care (that is, care in a nursing home for more than 100 days at most). Medi<u>caid</u> is important for seniors primarily because it <u>will</u> cover the cost of long-term nursing care, and for as long as it is needed.

Does Medicaid pay for all of the costs of long-term nursing home care? Medicaid will pay for all of the costs of nursing home care not covered by your private health insurance or another government program (such as Medicare or VA benefits) or your income.

If I'm in a nursing home on Medicaid, does all of my income have to go to the nursing-home? No, but if you're single all but $45 a month plus what's needed to pay your <u>health</u> insurance premiums. If you're married and your spouse has limited income, some or even all of your income can go to your spouse.

Who is eligible to receive long-term care Medicaid? You are eligible for Medicaid to pay for your long term care in Pennsylvania if you are age 65 or (or blind or disabled), a U.S. citizen, a resident of Pennsylvania, and you meet both the <u>medical</u> and <u>financial</u> requirements.

What is the <u>Medical</u> Requirement for Medicaid? This simply means you must need a nursing-home level of care – that is, be unable to complete several "activities of daily living," such as eating, bathing, dressing, or toileting, without assistance. The local Area Agency on Aging is responsible for making this medical determination. In my experience this is occasionally an issue when we are helping someone qualify for Medicaid-covered care at home, but it has never been an issue for us when someone is in a nursing home, I think simply because people who are healthy enough to live at home do not voluntarily choose to move to a nursing home or to stay there if they are able to return home.)

What is the <u>Financial</u> Requirement for Medicaid? This requirement has two parts: <u>income</u> and <u>assets</u>. Pennsylvania is a "medically-needy" state, which means you are income eligible for long-term care Medicaid in a nursing home if your "countable" monthly income is less than your monthly medical costs.[2] You are asset eligible when your "countable" assets are no more than $8,000 (if your gross

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[2] Medicaid also has a program in Pennsylvania to provide limited care to seniors *living at home*, known as the PDA Waiver program. Its eligibility requirements are the same as for nursing-home Medicaid with one important difference. There is an income <u>cap</u> for care at home of $2,199 a month, which means that if the person applying for the Medicaid Waiver program has monthly income of $2,200 or more, he or she cannot "spend down" income on medical expenses to the $2,199 level and become eligible. (It is possible for such folks to spend down income for Waiver eligibility, but since it must be down to just a few hundred dollars a month, very few seniors – if any – can cover their monthly food, shelter, clothing and other non-medical expenses at that rate without financial assistance from others.

monthly income is less than $2,199), otherwise your assets must be down to $2,400.

What is "countable" income? If you are single, virtually all of your income, whether earned or unearned, is countable. Exceptions include food stamps and other types of need-based assistance. If you are married, Pennsylvania follows the "name-on-the-check" rule, which means that income belongs to the person whose name is on the check. So, for example, the Social Security or pension you receive each month is your income, but any income received in the name of a non-applicant spouse is not counted. (Income in a check in the name of both spouses is counted as half to each.)

What are "countable" assets? Virtually whatever assets you have that are either cash or which can be converted into cash are considered "countable," with a number of exceptions, the most important of which are:

- your personal residence;
- your household goods and personal effects;
- one automobile;
- an irrevocable burial account;
- the cash value of your life insurance *if the total face value of all or your life insurance is not more than $1,500*; and
- if you are married, your spouse's IRA, 401(k) or other retirement account.

Pretty much everything else you own is countable: your bank accounts, CD's, annuities, stocks or bonds, mutual funds, the cash value of life insurance in excess of $1,000 (except as noted above), other motor vehicles, non-residential real estate, assets in a revocable trust, your own retirement accounts, etc.

If you are married and are the one going into the nursing home, all of the assets of both you and your spouse that you own at that time must be disclosed. Except for the retirement account of the "community spouse" (that is, the spouse not in the nursing home), it makes no difference whether the assets are titled in your name, your spouse's name, or in both names. However, your spouse is entitled to keep half of the countable assets, with a current minimum (2015) of $23,844 and a current maximum of $119,220.

Important Note: With expert guidance, it is almost always possible to increase the amount the community spouse is allowed to keep while getting the nursing-home spouse eligible for Medicaid in one to three months. But you will need to seek the advice of a qualified elder law attorney as soon as possible.

Once all of your remaining countable assets are determined, you must spend down to $2,400 (or $8,000 if your monthly income is less than $2,199) before you can be eligible for Medicaid.

Will I lose my home if I have to go into a nursing home? Not necessarily. If you are married, with proper planning your house can usually be fully protected. If you are single, the situation is more complicated. While the house is not “counted” for purposes of Medicaid eligibility, and therefore you can receive Medicaid in the nursing home and still keep your house (regardless of its value), this protection is an illusion. When you die the Department of Human Services (formerly known as the Department of Public Welfare) will have a claim against your house for all the Medicaid assistance paid on your behalf. In that case the DHS could force the sale of your house and the sales proceeds used to pay off this claim. And even during your lifetime, you are only permitted to retain $45 of income each month, which is far too little to maintain your house and pay your real estate taxes and insurance.

Important note: with proper planning, it is often possible to fully protect your home, *even if you are single and already in a nursing home*. But, again, you will need to seek the advice of a qualified elder law attorney as soon as possible.

Upcoming articles of this series will focus on legal options available to seniors and their families for planning to meet the catastrophic cost of long-term nursing home care without putting their entire lifetime of savings at risk.

The content herein is for general informational purposes only and does not constitute legal advice. For specific questions you should consult a qualified elder law attorney.

Note*: With the restrictions in the Deficit Reduction Act that came into effect in 2006, it is more true than ever that “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 every day of delay represents a potential $220 of irretrievable loss, so seek advice sooner rather than later.*

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