

Medicare and Medicaid Planning

Including Upcoming Changes to New York's Medicaid Program

Presented by

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What does Medicare Pay For?

- Medicare is Medical Insurance – it pays for Medical Care
- Rehab (**up to** 100 days)
- Supplemental plans cover Copays and Prescription Drugs
- Once you need long-term care, Medicare does not pay

Who Pays for Long-Term Care?

- Private Pay
- Long-Term Care Insurance
- Medicaid

Community Medicaid: What it Covers – And Does Not Cover

- Community Medicaid covers:
 - Home Care
 - Some Assisted Living residences
 - Adult Day Care
 - Some special needs programs
 - Hospital and medical care
 - OT and PT
 - Prescription drugs
- Medicaid does not cover: Financial advisors, daily money managers, geriatric care managers, legal services, or accountants.

Mom's Financial Position

- Home:

Original Cost
\$50,000



FMV / Home Equity
\$650,000

- Savings: \$220,000
- Income: \$2,895 per month

Medicaid Requirements for Home Care

- Eligibility based on “Resources” - no more than \$15,750
- Income - limited to \$895 per month. If greater,
 - a) contribute surplus to cost of care, or
 - b) deposit surplus into a Pooled Income Trust

Qualifying Mom for Medicaid Home Care

- Transfer savings and other assets to an irrevocable trust, or to family members.

Note: In New York there has been no “look back” when applying for Medicaid Home Care. As of October 1, 2020, Medicaid is instituting a 30-month “look back” that will be phased in. Asset transfers after this date may result in a period of ineligibility (“penalty period”).

- The look back will apply to gifts or transfers made on or after October 1.
- Protect home against possible Medicaid lien or estate recovery by transferring it into an irrevocable trust. Obtain tax advantages for heirs, avoid probate, and other benefits.

Protecting Mom's Income if She Needs Home Care

Income =	\$2,895 per month
Medicaid Limit =	<u>895 per month</u>
“Surplus Income” =	\$2,000 per month

Options for Surplus Income

- Contribute it to the cost of care
- Protect it in a Pooled Income Trust

Additional Medicaid Restrictions going into effect on or after October 1, 2020

- Changes in Home Care eligibility and assessment begin on or after January 1, 2021
- 3 ADLs (“Activities of Daily Living”) needed instead of 2 ADLs (except 2 for dementia patients)
- Housekeeping no longer a stand-alone Medicaid service
- Assessment must be made by an “independent” MD, not the patient’s doctor
- “High Need Review Panel” of “high-hour consumers” of care will decide whether patients can “safely” remain in the community or will be required to enter a nursing home

Medicaid Requirements for Nursing Home Care

- Eligibility based on “Resources” (assets) - No more than \$15,750 (same as for Community Medicaid)
- Income –
 - (a) Personal needs allowance of \$50 per month
 - (b) Balance is Net Available Monthly Income (“NAMI”), and goes to the nursing home, except:
 - (c) The “Community Spouse” may be eligible for part of the NH resident’s income, depending on his/her income
 - (d) Community Spouse’s excess income is subject to 25% contribution toward nursing home cost

“Look Back” and “Penalty Period”

- “Look Back” -- 5 years from date of Medicaid application
- “Penalty Period” -- \$ amount of transfers, divided by Medicaid Regional Rate, equals the number of months of ineligibility
- Regional rate varies:
 - NYC = \$12,844
 - Nassau – Suffolk = \$13,407
 - Westchester = \$12,805

Example: Calculating the Penalty Period

- Mom transfers \$205,000 in September 2017.
- Nursing home care is required in September 2020, and applicant is Medicaid eligible “but for [except for] the transfer.”
- Since the transfer was within the 5-year “look back,” it results in a penalty period.
- Penalty period = \$205,000 divided by \$12,844 = 16 months of ineligibility (NYC resident).

NOTE: There are legal steps you can take to reduce the penalty period and save a significant portion of your assets

Spousal Refusal

- Ill spouse transfers assets to “Community Spouse,” who signs “spousal refusal” form. Transfers between spouses do not create any penalty.
- Community Spouse is permitted to keep assets up to the “Community Spouse Resource Allowance” (CSRA): \$128,640 max / \$74,820 min in 2020.
- Community Spouse with resources above the CSRA will be subject to possible Medicaid claim in the future, and any further transfers by the Community Spouse will be subject to the “look back.”

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