Planning for Medicaid Qualification
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Background

Many people who require care in a nursing home cannot afford to pay the cost. In Michigan the average annual cost of nursing home care was $52,000 in 2000. Because of this high cost, over 65 percent of residents in nursing homes rely on Medicaid to pay for their care. Today, one out of every eight Americans is over age 65 and approximately four percent of this group lives in a nursing home. As the proportion of older persons in the population continues to increase due to declining birthrates and longer life expectancies, it is likely more and more people will need nursing home care.

While this pamphlet focuses on Medicaid qualification for nursing home care, the same financial eligibility rules apply for the Medicaid Home and Community-Based Waiver, which provides services and supports to enable people who need extensive care to remain in their own homes.

Some people have sufficient income to cover nursing home expenses without depleting their assets. In addition, changes in the law have made long-term care insurance, which pays nursing home costs, more available. Many people, however, can’t afford to pay for nursing home costs and therefore must do planning to qualify for Medicaid and avoid financial devastation.

1. What is Medicaid?

Medicaid is a federal-state program that pays for medical treatment including nursing home care for low-income individuals who are 65 or older, blind, or disabled. In Michigan, Medicaid is administered by the Michigan Family Independence Agency (FIA), which has published a pamphlet Nursing Home Eligibility (MSA #726). You can apply for Medicaid through your local FIA office.

The rules on qualifying for Medicaid change often. For example, federal law mandates that each state implement an estate recovery program to recoup the cost of care from the estates of deceased Medicaid recipients; Michigan has not yet established such a program but may do so in the future. This pamphlet is designed to answer some basic questions based on the law as of the date of its publication. Before applying for or taking any action to qualify for Medicaid, you should contact an attorney who can advise you on the current rules.

2. Do Medicare And Secondary Health Insurance Cover Nursing Home Care?

Nursing home care is generally divided into two types of care: skilled care and custodial care. Skilled care is rehabilitation or other treatment by a skilled professional. Custodial care is basic care including room and board. While Medicaid will pay for both custodial and skilled care, Medicare and most private medical insurance companies provide very limited coverage for nursing home
care. Medicare, for example, fully covers only the first 20 days, and partially covers the next 80 days, of skilled care in a nursing home.

3. **What Are The Basic Requirements to Qualify For Medicaid?**
   - You reside in a Medicaid qualified nursing home under a doctor’s order.
   - Your medical and nursing home expenses exceed your income.
   - Your countable assets do not exceed $2,000.

4. **What Assets Can I Keep And Still Qualify For Medicaid?**
   You can keep up to $2,000 in countable assets. In addition, you can keep certain assets that are considered excluded and not counted in determining Medicaid eligibility. All assets that are not specifically excluded are considered countable. The following is a partial list of excluded assets:
   - A Michigan home or a life estate in a Michigan home.
   - Personal belongings and household goods, including clothing and jewelry.
   - One car.
   - Up to $2,000 in a prepaid irrevocable funeral contract.
   - Up to $1,500 designated as a burial fund to cover funeral costs.
   - Burial spaces costs and related items for you and your immediate family.
   - Life insurance, if the total face value of all policies for the same insured is $1,500 or less, and certain types of term insurance.
   - The value of income-producing real property if the annual income after expenses yields a six percent return.
   - Certain annuities.
   In addition, assets that you do not have the legal right to use or sell without the consent of anyone else are considered excluded. Similarly, assets that you have been unable to sell are considered excluded as long as you follow the Medicaid rules on offering these items for sale.

   Assets in an irrevocable trust, in some instances, may be excluded. However, the portion of the principal of the trust from which payment can be made to or for your benefit is considered a countable asset. Furthermore, payments of trust income must be used to pay for your care.

   Remember that countable assets can be used to purchase excluded assets, pay bills, or pay down debts on excluded assets.

5. **How Are Assets of a Husband and Wife Counted?**
   The assets of both husband and wife are considered together. All of the countable assets owned by either spouse are totaled as of the first day one spouse enters a hospital or nursing home for long-term care. The total assets are then divided equally between them. The spouse at home (“community spouse”)
is permitted to retain the greater of $17,856 or one-half the value of the total countable assets, not exceeding $89,288 in the year 2001. These amounts change every year. It may be possible for the community spouse to obtain additional assets through a court order or an administrative hearing decision. In addition, assets received by the community spouse after Medicaid qualification have no effect on the nursing home spouse’s continued eligibility for Medicaid.

6. Am I Required to Use All of My Income to Cover the Cost of My Nursing Home Care?

You bear primary responsibility for the cost of your nursing home care. Income received from Social Security, pensions, interest, dividends, and rents must be used to pay for care. You are entitled to keep a very modest personal needs allowance ($60 per month in 2002) and an amount equal to your premium for Medicare supplemental insurance. If you are married, your spouse is not required to use his or her separate income to pay for your nursing home care.

7. How Much Income is My Community Spouse Permitted to Keep?

If your community spouse does not have sufficient income of his or her own to pay for living expenses, he or she is entitled to a monthly income allowance ($1,499 beginning July 2002) plus an excess shelter allowance from your total combined income. The total of these allowances may increase if the community spouse’s monthly shelter expenses (mortgage or rent, homeowner’s insurance, property taxes, and utilities) exceed a standard amount set by the FIA known as the excess shelter allowance. Both the monthly income allowance and excess shelter allowance amounts change every year. The community spouse’s own monthly income is deducted from the total of these allowances. The amount of income that the community spouse is allowed to retain may be increased by court order or an administrative hearing decision.

8. Can I Give Away Assets to Qualify for Medicaid?

Giving away assets to qualify for Medicaid is considered divestment and results in Medicaid ineligibility for a period of time. The rules provide for a 36-month look-back period. If you transfer your home or any countable assets for less than fair market value during this period, you will be ineligible for Medicaid assistance for nursing home care or community-based care. Transfers to or from certain trusts are subject to a 60-month look-back period.

The period of ineligibility begins when you make the transfer. The number of months of ineligibility is determined by dividing the fair market value of the property you transferred by the average monthly skilled care cost of nursing home care published by the FIA each year. Transfers between you and your spouse are allowed if your spouse does not re-transfer the asset to a third party for less than fair market value.
The Medicaid rules regarding transfer of assets are complex. Before transferring any assets, you should consult an attorney familiar with Medicaid eligibility and asset transfer rules.

9. What Planning Can Be Done to Allow Medicaid Qualification?

Durable Power of Attorney

A Durable Power of Attorney is a document in which you give an agent authority to handle your affairs in the event you become incapacitated. It can be an extremely effective Medicaid planning tool if it contains a provision that allows the agent to make divestment transfers (including gifts to your spouse) that will enable you to qualify for Medicaid.

Transfer of Assets

Transferring assets to qualify for Medicaid may be appropriate for some individuals as long as you retain sufficient assets to pay for nursing home costs until the ineligibility period caused by divestment ends.

In the case of a husband and wife, transferring the home and other excluded assets to the community spouse is permitted under the Medicaid rules. Such a transfer may protect the community spouse from the reach of an estate recovery program, which could be implemented in the future.

Purchase of Excluded Assets

Purchasing needed excluded assets such as home improvements, a car, personal items, household goods, a prepaid irrevocable funeral contract, or funeral insurance can be considered. Similarly, mortgages, land contracts, loans, and property taxes can be prepaid.

Estate Planning

Reviewing or updating the community spouse’s estate planning documents including a new will and/or trust is advisable. The community spouse should avoid giving assets directly to the spouse receiving Medicaid. Assets can be given by the community spouse during lifetime to a trust to avoid probate and cut off the inheritance rights of the spouse living in a nursing home.

Conclusion

Saving enough money to pay for nursing home care is a practical impossibility for many older people and may make reliance on Medicaid necessary. Planning for Medicaid qualification involves difficult decisions that have complex property and tax law implications. In addition, the rules change often. However, planning opportunities do exist and early planning is essential to maximize the options available to you.