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Medicaid, Medicare: the differences

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It's easy to confuse the term Medicaid with Medicare, so, let's clarify: Medicare covers certain medical expenses, but Medicare does not provide lengthy custodial or long-term care.

Medicaid was created by law in 1965 to cover the costs of medical care and custodial care for qualified applicants, such as blind, disabled and elderly members of our society. For the most part, Medicaid covers the costs of long-term care in nursing homes.

It is important for you to understand, however, that Medicaid is a program based on one's demonstrated need for such coverage. In other words, you must qualify for Medicaid as opposed to Medicare. With Medicare, we become eligible for benefits after the age of 65 (or 62). To be eligible for Medicaid coverage, however, you must be able to show your need by providing thorough documentation of you income, assets and information about your medical condition.

In the past, Medicaid has been erroneously compared to charity or food stamp programs. Not so. Medicaid is an entitlement program, meaning those who qualify for long-term health care coverage under Medicaid guidelines have a legal right to participate in the program. In essence, though, it is for the poverty stricken members of our society, which illuminates an interesting fact: most seniors currently receiving Medicaid benefits were not impoverished when they entered a nursing home.

For those who do not qualify for long-term care insurance, Medicaid planning and the purchase of certain annuities may be a viable option.

Medicaid benefits: Who qualifies?

Who's eligible for Medicaid coverage? That depends upon the state in which you live. Each state has its own set of Medicaid rules and regulations (although most state Medicaid programs are very similar). Therefore, you must learn all about the Medicaid laws in your own state. With that caveat in mind, most states generally follow these basic guidelines:

• When entering a nursing home, a patient must be at least 65, or blind, or disabled. (As for the latter, each state has its own disability guidelines for Medicaid qualification.)

• Also, you must be a resident of the state that would proved Medicaid benefits.

• And you must have a demonstrated need for the kinds of care provided in nursing homes. To determine such a need, most states have pre-admission screening programs to establish your eligibility for Medicaid benefits.

• Most important are your state's asset and resource eligibility requirements.

Resource and asset eligibility requirements -- or, asset and income limitations -- are the most common reason for denial of Medicaid benefits.

Again, each state sets its own restrictions, so it's important to get the facts.

Medicaid eligibility in "income cap" states When you apply for Medicaid benefits, the local Medicaid office, often a branch of your state's department of Social Services, will closely review your total assets and income to determine your eligibility. More than half of all long-term care costs in the U.S. are paid by Medicaid, which is one of the reasons why the program's funds and resources must be carefully regulated and administered.

Many applicants immediately qualify because they have very few assets or little income. Many others, however, qualify for Medicaid benefits only after they "spend down" their own savings and assets to a level required by state Medicaid regulations. In other words, they become impoverished.

Some states set monthly "Income Caps," meaning monthly income limits are set for qualification purposes. If your total monthly income exceeds the cap, you may not qualify for Medicaid nursing home benefits. More specifically, the nursing home applicant is roughly $1,500 to $1,800, depending on each particular state.

In states that set such an Income Cap, income limitations may not apply to a healthy spouse still living at home, according to Spousal Impoverishment rules of the Medicare Catastrophic Act of 1988. For the Medicaid nursing home applicant, however, if your income exceeds the state Income Cap, you would not qualify for Medicaid benefits.

If you think you may have to apply for Medicaid benefits in order to enter a nursing home, please consult your Elder Law Attorney or your Certified Elder Planning Specialist about Medicaid planning options. These include the possibility of setting up a special type of trust, if such an option is available in your state. Know in advance, however, that a 36 month to five-year period must be considered for transferring assets into exempt annuities and other instruments.

Various State Medicaid programs require nursing home applicants to "spend-down" their assets in order to qualify for benefits. (You become "broke.") Most "Spend-Down" states base your eligibility on the amount of assets you have. For married couples, assets jointly owned by both spouses will be counted, regardless of any prenuptial agreements. Again, however, each state sets its own stringent restrictions on the amount of "countable" assets that may be owned. In general, the Medicaid applicant cannot have more than $2,000 in assets.

In spend-down scenarios, your assets are divided into "countable" or "non-countable" under Medicaid eligibility requirements -- only "countable" assets are targeted for Medicaid spend-down requirements. Yet, because so many of us have countable assets exceeding Medicaid limitations, we must spend-down most of our assets to qualify for Medicaid limitations, we must spend-down most of our assets to qualify for Medicaid benefits. More succinctly, virtually everything other than one car, one home, a wedding ring and burial plot is unprotected (although the at-home, healthy spouse is allowed to keep some cash for living expenses).

How to reduce assets to qualify for Medicaid

This can be done in a variety of ways under Medicaid rules. While spend-down rules vary, some states allow us to shrink assets by reducing debts, the payment of outstanding bills, etc. You may be allowed to purchase wheelchairs and walkers, put a new roof on your home, buy clothes, even go on vacation.

Additionally, state Medicaid rules may even allow spend-down through home remodeling, a home mortgage payoff, the purchase of new furniture or a new car. Still other spend-down options may include converting countable assets into non-countable assets. Any of this should be done very carefully, with guidance from a local CEPS and/or a qualified elder law attorney. It's vital to have a complete understanding of Medicaid rules in your state.

That said, some states allow us to spend-down through the purchase of a burial plot, the creation of a burial fund of the purchase of an annuity. As for the annuity, this instrument must be properly annuitized in order for the principal to be considered a "non-countable" asset. The technical term for this proper kind of instrument is an "Actuarially Sound Annuity."

The bottom-line objective, however, is the spend-down or reduction of your assets to Medicaid qualification levels. Without proper planning, many families may be forced to dispose of everything saved and acquired over a lifetime. This can leave a surviving spouse or family member with precious little for living expenses, while robbing your children of their inheritance, let alone your sense of dignity and self-worth.

So, if Medicaid planning is your only option (you should purchase a quality Long-Term Care policy), it is most important to learn about your state's Medicaid eligibility requirements -- particularly as they pertain to asset countability, asset transfer regulations and more.

For many, a wide array of Long-Term Care funding options are available.

Such options not only allow a much broader choice in the health care marketplace, many have been designed to protect your assets. And that's the real bottom line: the preservation of your assets can mean the preservation of the future for your spouse or family.

"Non-countable" assets and Medicaid

Among several, general categories, your principal residence may be considered a non-countable asset. For married couples, the primary residence is excluded from Medicaid spend-down requirements if a healthy spouse still lives at home. For individuals, some states may allow the primary residence to remain an "unavailable," or non-countable, asset if the Medicaid application states an individual's intention to return home after his or her health improves.

However, you must know that even though your home is an exempt asset when qualifying for Medicaid, many states then place a lien on the home and seize the property or force a sale, typically during the probate process, in order to recover the cost of care paid by Medicaid. (This is termed "Estate Recovery," as established by ORB '93.) Other non-countable asset categories may include: personal and household goods, prepaid burial plots, a whole life insurance policy (if the cash value is $1,500 or less), also, a properly annuitized annuity. If done correctly, the annuity can convert formerly countable assets into non-countable assets.

This is done by turning cash from annuity premiums into irrevocable income payments. One word of caution, however: If such income payments are made to the person entering the nursing home, the payments would be considered countable. Thus, they would have to be spent for the cost of care before Medicaid benefits could be obtained. In other words, the annuity income payments must go to a spouse, and the income must be based upon the spouse's life expectancy.

Regardless, this kind of Medicaid planning can pay off. The Wall Street Journal recently cited annuities as a good way for elderly couples to preserve assets while one spouse tried to qualify for Medicaid nursing home benefits. Again, that's only when the healthy spouse buys the annuity, which then would provide an income for the healthy spouse. Meanwhile, however, the purchase of such an annuity could reduce the assets of the Medicaid applicant. All at the same time.

Consult a CEPS or elder law attorney about any asset transfers related to Medicaid planning. Many people erroneously believe asset spend-down can be accomplished by simply giving gifts to others. Like gifting in exchange for Medicaid eligibility.

Don't leave yourself open to dismay by risking this kind of spend-down method. All sorts of asset transfers may be discovered during a Medicaid "look-back" period. And such improper transfers may trigger a corresponding ineligible "penalty period."

In other words, Medicaid asset transfer rules are extremely complex. The improper transfer of assets could greatly delay your Medicaid eligibility according to (in some states) the value of assets transferred as related to local nursing home rates-especially if transfers are made at less than market value. Sound complicated? Yes, indeed. Adding to the complexity, Medicaid penalty rules vary widely from state to state.

As previously mentioned, Medicaid planning is rarely a "simple" matter, although the use of "actuarially sound" annuities can help simplify the process. If properly purchased and administered, such annuities tend to help families avoid having to face a penalty period of ineligibility.