

The ABC's of Medicaid

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Medicaid is a government health insurance program. Unlike **Medicare** (the other big government health insurance program) to qualify for Medicaid a person must be elderly or disabled and also must meet strict financial eligibility requirements.

The Medicaid program is a cooperative program through the federal and state government. The federal government establishes broad guidelines, which are implemented by the various states differently. In Michigan, the agency that administers the Medicaid program is the **Department of Human Services** (or “DHS”). Each county has its own DHS office.

There are many programs that fall within the umbrella of Medicaid. The rules for eligibility vary with each of these programs. In this article, the term Medicaid will refer to only two of those programs: the program for Medicaid in a nursing home, and the **MI Choice Waiver** program.

While there is no **income test** for people seeking Medicaid benefits in a nursing home, people applying for MI Choice Waiver services will not be eligible if they have monthly income in excess of \$1,911 (2008 figure).

Finally, to be eligible, an applicant must not be subject to a penalty period of ineligibility caused by a divestment. (The **divestment** rules are discussed later in this article.)

What Medicaid Pays For

In Michigan today, the average nursing home costs about \$6,000 per month. If a person is in a Medicaid certified nursing home and qualifies for Medicaid, the state will pay the cost of their care, reduced by a contribution from the Medicaid beneficiary which amount (the “**patient-pay amount**”) is based on a formula. That formula starts with the Medicaid beneficiary’s monthly income from Social Security and any pension(s) and allows the beneficiary to keep \$60 for his/her personal needs. It also allows them to keep the money necessary to continue to pay for private health insurance. For a married person, there may also be a deduction to provide the non-institutionalized spouse with an amount determined necessary to support the spouse in the community.

For a Medicaid beneficiary receiving MI Choice Waiver services, the amount of assistance provided to someone who is

eligible and is granted coverage is determined on a case-by-case basis.

It is important to understand that Medicaid will not pay for care in an assisted living facility, home for the aged or adult foster care home.

Medical Need

To be eligible for Medicaid benefits in either the nursing home or through the MI Choice Waiver Program, a person must need assistance to the extent that s/he requires nursing home level care (even if s/he wants to stay in his/her home). This is determined by a test, called a “level of care screen” that is given to a person seeking Medicaid benefits. A person can qualify as needing nursing home level care in several ways, including eligibility based on cognitive limitations such as dementia.

Financial Eligibility

In addition to needing nursing home level care, to qualify for Medicaid benefits, a person must meet strict financial eligibility guidelines.

Exempt and Countable Assets

The **asset test** for Medicaid eligibility requires that a person have no more than \$2,000 of what are called “countable assets.” Countable assets are all assets that a person could liquidate to pay for their care. These include assets that they own jointly with their spouse, and may include assets owned jointly with others (depending on how those assets are titled).

Some assets are not considered countable assets. These are the so-called “**exempt assets**”. They include:

Homestead. The personal residence of the individual applying for Medicaid or of their spouse. If the individual applying for Medicaid is single, the home cannot have an equity value in excess of \$500,000. The homestead exclusion includes the house and all land that is “contiguous” (touches) the land on which the house is setting. Where a road or river cuts across

property, the property is still treated as “contiguous”. The exempt homestead does not need to be in Michigan. Note however, that a house that is titled in a revocable or “living” trust is not exempt.

Car. One vehicle of any value is also exempt.

Funeral arrangements. As discussed in more detail in the excellent column by MFDA executive director, Philip K. Douma, in the January 2008 edition of this magazine, properly established prepaid funeral arrangements are exempt.

Personal belongings. The personal belongings people commonly own are exempt.

Business Assets. Certain other types of business and employment assets may also be exempt.

When people apply for Medicaid, they are required to report whether they have given away assets within five years prior to applying. This five-year period is sometimes referred to as the “**look-back period**”.

Spousal Protections

Although an individual applicant can only keep \$2,000 of countable assets, if they are married and their spouse is not in a nursing home, the so-called “**community spouse**” is allowed to keep an additional amount of countable assets as their “**protected spousal amount**”.

The protected spousal amount is a figure of no less than \$20,880 and no more than \$104,400 (2008 figures). The protected spousal amount is determined by taking the amount of countable assets owned by the couple on the so-called “**snapshot date**” and dividing that figure in half. The snapshot date is usually the date that the nursing home spouse entered the hospital or nursing home, whichever occurred first, but may be an earlier date depending on the health history of the nursing home spouse. A court can also establish a protected spousal amount.

The countable assets owned by the couple that exceed the combined value of the protected spousal amount and the \$2,000 that the nursing home

resident is allowed to keep, is the amount that would need to be “**spent down**”.

Although it is not necessary that assets be re-titled into the name of community spouse at the time a Medicaid application is filed, most assets must be transferred out of the name of the nursing home spouse within 12 months of becoming eligible for Medicaid.

In addition to the asset protections provided to a community spouse, Medicaid rules also allow for the community spouse to continue to have use of the income of the institutionalized spouse in some cases. Whether a community spouse is able to keep some of the nursing home spouse’s income for his/her needs is based on a formula that takes into consideration the income of both spouses, and the living expenses of the community spouse.

The Divestment Rules

When people apply for Medicaid, they are required to disclose whether they have given away assets within five years prior to applying (three years for transfers prior to February 8, 2006). This five-year period is sometimes referred to as the “**look-back period**”. If assets were given away (or sold for less than they are worth) during that period of time, these transfers may be considered “**divestments**”.

Divestment is the term Medicaid uses to refer to transfers that result in penalty periods — periods of time during which the applicant will not be eligible for Medicaid benefits because of the divestment.

It is important to understand what types of transfers are not considered divestments. The following activities are among the types of activities that are not divestments:

- ▶ Paying off debt.
- ▶ Improving a homestead.
- ▶ Paying for exempt funeral expenses.
- ▶ Buying furnishings or other personal belongings that are needed by the Medicaid applicant or their community spouse.
- ▶ Transferring assets to a blind or disabled child.
- ▶ Transferring assets to a spouse

If an activity is considered a divestment, a penalty period may be applied. The penalty period is calculated by dividing the value of the property given away by \$6,191 (for 2008) and the resulting figure will be the number of months (and partial months) that the person will be ineligible to receive Medicaid benefits, with the penalty period beginning on the date the person would otherwise be eligible to receive Medicaid benefits, except for the divestment penalty (i.e., after they are in the nursing home or have applied for MI Choice Waiver, and after they have “spent down” their assets.) Note that the running of the penalty period is different if the divestment occurred before February 8, 2006.

Coming Up

In the next edition of this magazine, I will discuss the confusing and sometimes controversial subject of “Medicaid Planning”.

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