101 Answers about Medicaid and Long Term Care

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There are many urban legends about Medicaid and long term care. Much of the misinformation about this tricky topic is a result of information provided at so-called “Chicken Dinner Seminars” where misinformation if used to push people into buying annuities, irrevocable trusts and other legal and financial products of questionable value. This outline of questions is an attempt to provide some neutral information to people trying to understand the topic. It is far from complete, and only offers a cursory overview of questions that commonly come up. There are many rules and exceptions to rules that are not addressed here.

Further, Medicaid rules are notoriously fluid. They change call the time, and often with little or no notice. Before relying on any of the information in this outline to make a decision, meet with a qualified attorney who is up to date on these rules and procedures.

It is also important for you to understand that the rules discussed below are the rules in Michigan. Each state has its own rules, and they vary in many important respects.

1. **WHAT DOES “LONG TERM CARE” MEAN?**

Long term care (also known as “long term supports and services”) is a phrase that refers to a type of healthcare that provides assistance over a long term with what are sometimes called activities of daily living (or “ADL’s”). Long term care is also defined by what it is not, and specifically, in medical lingo, long term care is not “skilled care.”

2. **WHAT IS THE DIFFERENCE BETWEEN MEDICARE AND MEDICAID?**

These are both government healthcare programs. Medicare is available to all Americans who worked and paid taxes for a required period of time. Medicare is provided regardless of assets or income. Medicaid is available to Americans who have uncovered healthcare expenses, and who qualify by meeting strict financial eligibility requirements. One significant difference is that Medicare covers only a small amount of long term care supports and services, whereas Medicaid provides unlimited coverage of long term care.

3. **DOES MEDICARE PAY FOR LONG TERM CARE?**

Only for a limited rehabilitation period following a hospital stay.

4. **WILL MEDICAID PAY FOR REHABILITATION AFTER THE MEDICARE REHAB BENEFIT ENDS?**

No.

5. **FOR THE PERIOD OF TIME THAT MEDICARE DOES COVER REHABILITATION CARE, IS THERE A CO-PAY?**

Yes for days 21-100. The co-pay may be covered by a supplemental private insurance. There is no co-pay for the first 20 days, and Medicare does not cover rehab beyond 100 days.

6. **DOES MEDICAID PAY FOR LONG TERM CARE?**

Yes. If you qualify.
7. WHAT DOES MEDICAID PAY FOR IN LONG TERM CARE?

Medicaid has many programs. Some Medicaid programs pay for long term care. Essentially, Medicaid can pay for care in a Medicaid nursing home or care in home or at an assisted living facility through the Medicaid Waiver or MI Choice Medicaid program. Medicaid, along with Medicare, also pays for long term care services through the P.A.C.E, Program.

8. WHAT IS THE DIFFERENCE BETWEEN A NURSING HOME AND AN ASSISTED LIVING FACILITY?

A nursing home, or skilled nursing facility, is more regulated, and generally provides a higher level of care than an assisted living facility. There are many more assisted living facilities than there are nursing homes.

9. WHAT IS A CONTINUING CARE COMMUNITY?

The term “continuing care community” refers to a facility or campus on which there are a variety of levels of care, typically from independent living to skilled nursing care.

10. WHAT IS MI CHOICE?

MI Choice is the Michigan version of the program that pays for long term supports and services outside a nursing home, including in-home care and care in assisted living facilities that participate in the program.

11. WHAT IS P.A.C.E.

PACE is the Program for All Inclusive Care for the Elderly. People who receive PACE services typically stay in their homes at night, but receive care services during the day at a PACE Center.

12. ARE THE FINANCIAL ELIGIBILITY RULES THE SAME FOR ALL TYPES OF MEDICAID LONG TERM CARE?

MI Choice and PACE have income caps that do not apply to Medicaid recipients in nursing homes. PACE also does not apply divestment penalties. Otherwise, the financial eligibility rules are essentially the same.

13. ARE THE MEDICAL ELIGIBILITY RULES THE SAME FOR ALL TYPES OF MEDICAID LONG TERM CARE PROGRAMS?

Yes. All people seeking Medicaid assistance for long term supports and services must be sufficiently impaired, physically and/or cognitively. All must qualify by scoring adequately on the Level of Care Screening Tool. For PACE applicants, it is typically also required that at the time they enroll they are not in institutional care and that they are able to remain safely in their homes at night.

14. HOW MUCH MONEY CAN SOMEONE HAVE AND QUALIFY FOR MEDICAID?

The basic rule is that to qualify for long term care Medicaid, a person can have no more than $2,000 of “countable assets.” There are a variety of exempt assets. In addition, if the person applying for Medicaid is married and their spouse is not in long term care, there is an additional amount that is exempted, called the “protected spousal amount” (discussed below).
15. WHAT ASSETS ARE NOT COUNTABLE FOR MEDICAID ELIGIBILITY?

All assets are counted if they are not “exempt.” While there are several types of exempt assets, the primary categories are: (1) a homestead, (2) a car, (3) household items, and (4) funeral and burial costs.

16. ARE ALL HOMES EXEMPT?

All homes are exempt when the person applying for Medicaid is married and their spouse is still living in the home. However, for single people applying for Medicaid, there is a limit to the value of the home. That limit changes annually, but is never below $500,000.

17. DOES THE EXEMPT HOME HAVE TO BE IN MICHIGAN?

No.

18. DOES THE EXEMPT HOME HAVE TO BE THE PLACE THE PERSON LIVED IMMEDIATELY PRIOR TO ENTERING INTO LONG TERM CARE?

No. The person must have formerly lived there. It is not necessary that they lived there immediately prior to applying for Medicaid.

19. IS ALL THE PROPERTY SURROUNDING A HOME EXEMPT?

Subject to the value limit discussed above, all land which is “contiguous” to the exempt homestead is also exempt. Contiguous means physically connected to the homestead property.

20. WHAT IF THERE IS ANOTHER RESIDENCE ON THE HOMESTEAD PROPERTY?

A second (or third) residence on the homestead property is not exempt.

21. WHAT IS SOMEONE OWNS MORE THAN ONE HOUSE?

Only one house is exempt.

22. CAN SOMEONE QUALIFY FOR MEDICAID IF THEY LIVE IN AN APARTMENT OR DON’T OWN A HOME?

Yes. Having a home is not required.

23. IF SOMEONE IS ON MEDICAID, WILL THE STATE TAKE THEIR HOUSE WHEN THEY DIE?

Michigan has an “estate recovery” program that allows the State to recoup the expenses they paid for long term care Medicaid beneficiaries when they die. Because the
only thing long term care Medicaid beneficiaries typically own when they die is their house, this asset is typically the target of Medicaid estate recovery. Currently, with proper planning, a house can pass to beneficiaries outside the reach of the estate recovery program (discussed below).

24. WHAT TYPES OF THINGS ARE EXEMPT AS HOUSEHOLD ITEMS?

Normal belongings, like furniture, appliances and clothing. Not valuable collections.

25. IS ANY TYPE OF CAR EXEMPT?

Technically there is no limit on the value of the exempt vehicle. However, if a vehicle is not practical (a collector’s car) or unusually expensive, and especially if the vehicle is purchased shortly before applying for Medicaid, the department may challenge the exemption.

26. WHAT IS SOMEONE OWNS MORE THAN ONE CAR?

Only one car, the car with the greatest value, is exempt.

27. DOES A PERSON HAVE TO HAVE A VALID DRIVER’S LICENSE TO HAVE AN EXEMPT CAR?

No.

28. WHAT IS THE “PROTECTED SPOUSAL AMOUNT.”

The protected spousal amount is an amount of resources that is excluded when the person applying for Medicaid is married, and their spouse is not in long term care. There is a formula for calculating the protected spousal amount. There is a minimum and a maximum that changes annually. A court order can also alter the protected spousal amount.

29. WHAT IS THE “SNAPSHOT DATE”?

The snapshot date is the date that the State uses to look at the resources of a married couple, in order to calculate the protected spousal amount.

30. WHAT IS AN “ASSETS DECLARATION”?

An assets declaration is an additional form used by the State to calculate the protected spousal amount when a married person applies for Medicaid long term care benefits. It reports the resources of the couple on the snapshot date.

31. FOR A MARRIED PERSON APPLYING FOR MEDICAID LONG TERM CARE BENEFITS, ARE ALL THE ASSETS OF BOTH SPOUSES COUNTED?

Yes.

32. WHAT IF THE PERSON IS MARRIED AND BUT THEY HAVE ALWAYS KEPT THEIR ASSETS SEPARATED FROM THEIR SPOUSE’S ASSETS?

It doesn’t matter. The assets of a married couple are all considered regardless of how they are titled.

33. WHAT IF THE PERSON IS MARRIED BUT THEY HAVE A PRENUPTIAL AGREEMENT?

It doesn’t matter.
34. **CAN FUNERALS FOR OTHER FAMILY MEMBERS BE EXEMPT?**

Some types of burial costs for some family members can also be exempt.

35. **IS LIFE INSURANCE COUNTED?**

If the life insurance policy has a cash surrender value, it will normally be counted. Very small amounts of life insurance may be exempt even with a cash value.

36. **DO RETIREMENT ACCOUNTS COUNT?**

Yes. IRAs, 401k accounts and other retirement assets are counted, unless the person who owns the account is still working and cannot make any withdrawals while they remain employed.

37. **WHAT IF THE PERSON APPLYING FOR MEDICAID HAS ADDED THE NAME OF SOMEONE (NOT THEIR SPOUSE) AS A JOINT OWNER ON THEIR HOUSE?**

The house is still exempt. Depending on when the other name was added, adding the name of someone else may trigger a divestment issue (discussed below).

38. **WHAT IF THE PERSON APPLYING FOR MEDICAID HAS ADDED THE NAME OF SOMEONE (NOT THEIR SPOUSE) AS A JOINT OWNER ON REAL ESTATE THAT IS NOT THEIR HOUSE?**

The Medicaid applicant’s fractional share of that property will be counted. Depending on when the other name was added, adding the name of someone else may trigger a divestment issue (discussed below).

39. **WHAT IF THE PERSON APPLYING FOR MEDICAID HAS ADDED THE NAME OF SOMEONE (NOT THEIR SPOUSE) AS A JOINT OWNER ON THEIR BANK ACCOUNTS?**

All of the money in the account is counted, unless the joint owner can prove that they contributed some or all of the money to the account.

40. **WHAT IF SOMEONE KEEPS CASH IN THEIR HOUSE OR IN A SAFETY DEPOSIT BOX?**

It must be reported and will be considered part of that person’s resources in determining eligibility.

41. **WHAT IF THE PERSON APPLYING FOR MEDICAID HAS ADDED THE NAME OF SOMEONE (NOT THEIR SPOUSE) IN THEIR INVESTMENTS?**

The Medicaid applicant’s fractional share of those investments will be counted. Depending on when the other name was added, adding the name of someone else may trigger a divestment issue (discussed below).

42. **WHAT IF ASSETS ARE HELD IN A LIVING REVOCABLE TRUST?**

All assets held in a living revocable trust are counted.
43. WHAT IS ASSETS ARE HELD IN AN IRREVOCABLE TRUST?

Assets in an irrevocable trust are generally counted to the extent they can be used for the benefit of the person applying for Medicaid. If the person seeking Medicaid put those assets in the irrevocable trust, depending on when the transfer occurred, funding the trust may trigger a divestment issue (discussed below).

44. WHAT IS A SPECIAL NEEDS TRUST?

Special needs trusts are discretionary trusts that are drafted in such a way as to not be considered as resources in determining a person’s eligibility for Medicaid or other needs-based government programs. There are only limited circumstances in which special needs trusts can be created and used.

45. CAN PEOPLE ON MEDICAID IN A NURSING HOME HAVE A PRIVATE ROOM?

Generally no, unless medical conditions indicate a private room is necessary. However, some Medicaid facilities offer only private rooms, in which case Medicaid will pay the cost.

46. HOW IS A LAND CONTRACT TREATED?

If someone sold property on a land contract, and applies for Medicaid, the marketable value of the seller’s interest in the contract is counted.

47. HOW ARE PROMISSORY NOTES TREATED?

Promissory notes may be assets, may be income or may be divestment. The terms of the note will determine how they are treated.

48. WHAT ABOUT FARM EQUIPMENT, LIVESTOCK AND CROPS?

If a farm is still being operated by the spouse of the person applying for Medicaid, some of these assets may be exempt. Otherwise these are countable assets.

49. ARE ANNUITIES COUNTED?

Yes as either income or assets, depending on whether the funds have been placed in pay status (ie annuitized). And if they are annuitized, depending on the terms of the payment, a divestment penalty may be imposed.
50. HOW MUCH DOES IT COST TO STAY IN A NURSING HOME?
Without Medicaid, the average nursing home in Michigan costs about $8,000 per month.

51. HOW MUCH DOES IT COST TO STAY IN AN ASSISTED LIVING FACILITY?
Without Medicaid, and depending on the care needs of the resident, assisted living facilities typically cost between $3,000 - $6,000 a month.

52. HOW MUCH DOES IN HOME CARE COST?
Private in-home care through an agency typically costs around $20 an hour.

53. CAN I PAY MY FAMILY TO TAKE CARE OF ME?
Medicaid will treat payments to family members as divestment (discussed below) unless a detailed care contract, signed by a doctor, is in place before the care begins. Further, paying a family member, or anyone else, does not obviate the need to withhold taxes, or pay unemployment insurance and worker’s compensation insurance.

54. WHAT IS A DIVESTMENT?
Divestment is the term the State uses to mean giving property away, or selling it for less than it is worth, before applying for Medicaid. Divestment rules apply to Medicaid provided in the nursing home or through MI Choice Waiver, but not for PACE.

55. ARE THERE EXCEPTIONS TO THE DIVESTMENT RULES?
Yes, several. But the exceptions only apply in very limited circumstances.

56. WHAT IS THE PENALTY FOR A DIVESTMENT?
The penalty for divestment is a period of time that the State will not pay for long term care. The length of that penalty period is a function of the total value of assets divested. There is a formula to determine the penalty period, which changes annually.

57. WHAT IS THE LOOKBACK PERIOD?
The lookback period is the period of time that the State looks at transfers, sales and the purchase of annuities to
determine if divestment has occurred. The lookback period is 5 years.

**58. IS IT DIVESTMENT TO BUY THINGS?**

It is not divestment for someone to buy something for themselves or their spouse.

**59. IS IT DIVESTMENT TO PAY OFF DEBT?**

It is not divestment to pay debt that the Medicaid applicant or their spouse is legally obligated to pay.

**60. CAN’T I GIVE AWAY $14,000 PER YEAR WITHOUT BEING PENALIZED?**

No. The annual exclusion amount for gifting is related to the Federal Gift and Estate Tax, and is not a Medicaid rule at all. Medicaid divestment rules can penalize applicants for gifts of any amount.

**61. WHAT HAPPENS IF SOMEONE GAVE AWAY THEIR MONEY AND DOESN’T HAVE MONEY TO PAY FOR THEIR CARE?**

There probably is no good answer to this question. Essentially the State would say, that’s not our problem – we aren’t going to pay for it. Depending on the circumstances under which an older adult “gave away” their money, adult protective services or some other entity might pursue legal action against the person(s) who received those gifts.

**62. WHAT ABOUT RENTAL PROPERTY?**

Rental properties are countable assets. Income from rental properties are treated as income.

**63. WHAT IF SOMEONE GAVE MONEY TO THEIR CHURCH, MOSQUE, SYNAGOGUE OR A CHARITY?**

Technically, such gifts are divestment although in practice it is uncommon for charitable giving of this type, which is consistent with a long-standing pattern of giving, to be penalized.

**64. WHAT IF SOMEONE OWES MONEY TO THE PERSON APPLYING FOR MEDICAID?**

Notes and legal obligations are assets.

**65. WHAT IF A PERSON IS MARRIED AND THEY BOTH NEED NURSING HOME CARE?**

When both married persons need long term care, they are each treated as individuals, and there is no protected spousal amount or spousal income diversion.

**66. WHAT IS “ESTATE RECOVERY”?**

Estate recovery is the law that says that after a person has received Medicaid long term care benefits, the State can seek recovery for the payments they made from the estate of that person when they die.

**67. CAN SOMEONE AVOID ESTATE RECOVERY?**

Generally, estate recovery can be avoided under current laws through careful planning.
68. WHAT IS A LADYBIRD DEED?

A ladybird deed passes property at the death of the owner pursuant to the terms of the deed. Because the named beneficiaries on the deed have no current ownership interest when the deed is created, executing a ladybird deed does not trigger divestment penalties. Because a ladybird deed passes property without the necessity or probate administration, property passed by use of a ladybird deed does not subject that property to estate recovery.

69. WHAT IS LONG TERM CARE INSURANCE

Long term care insurance is insurance that covers long term care costs. Depending on the terms of the policy, having such a policy may negate the need for Medicaid. Most policies would include some amount that is paid for care in the home or assisted living facilities, as well as in nursing homes.

70. WHAT IS A LONG TERM CARE PARTNERSHIP POLICY?

A long term care partnership policy is a special type of long term care policy that provides that once the owner has used the benefits available through the policy, they will have an increase in the amount of countable assets protected if they subsequently apply for Medicaid.

71. WHAT HAPPENS TO A PERSON’S INCOME WHEN THEY GO ON MEDICAID IN LONG TERM CARE?

If they go on Medicaid in a nursing home, their income is paid to the nursing home as their so-called “patient pay amount.” However, if they are married, there is a formula to determine what portion, if any, of their income can be diverted to support their spouse. If they go on Medicaid through MI Choice, their income will be contributed toward their care costs. If they go on PACE, they will retain their income for the costs associated with maintaining their home.

72. WHAT INCOME IS INCLUDED IN DECIDING IF SOMEONE IS ELIGIBLE FOR MI CHOICE OR PACE, OR FOR CALCULATING A PATIENT PAY AMOUNT?

All sources of income, including Social Security and pensions.

73. ARE THERE ANY AMOUNTS OF INCOME SOMEONE IN THE NURSING HOME GETS TO KEEP?

Yes, there is a personal needs allowance of $60 per month, and also any amount necessary to continue to pay premiums on their private health care insurance.
74. DO ALL ASSISTED LIVING FACILITIES TAKE MEDICAID MI CHOICE PAYMENTS?

No. And those that do, are not required to take everyone who becomes eligible for Medicaid.

75. DO ALL NURSING HOMES TAKE MEDICAID?

No. But most do.

76. CAN PERSON ON MEDICAID GO ON HOSPICE?

Yes. Hospice is a Medicare benefit. People on Medicaid do not forfeit their Medicare benefits.

77. WHERE DO YOU APPLY FOR MEDICAID BENEFITS?

At the Department of Health and Human Services office. There are DHHS offices in every county.

78. WHERE DO YOU GO FOR MI CHOICE SERVICES?

To the MI Choice provider in your community. Every County is covered by an area agency on aging. Many of this AAA offices are MI Choice service providers, and those that are not, will know where to go to apply for these benefits.

79. ARE THERE WAYS TO PROTECT ASSETS AND STILL QUALIFY FOR MEDICAID?

Yes. Medicaid planning is a specialized are of the law. Lawyers who practice in this area of the law should be able to offer advice on legal ways to qualify for Medicaid while preserving some assets that would otherwise need to be spent down.

80. WHAT IS AN ELDER LAW ATTORNEY?

Elder law generally denotes the practice area of the law that involves aging issues, including eligibility for Medicaid and long term care benefits. Any lawyer can label themselves an elder law attorney. A Certified Elder Law Attorney (CELA) is an lawyer who is certified in elder law by the National Elder Law Foundation, has been tested for their competency in this practice area, and has been reviewed by other elder law experts as having the requisite skills.

81. DOES BEING A VETERAN HELP WITH LONG TERM CARE COSTS?

It can. Some Veterans may qualify for additional pension income through the Veterans Administration if they meet certain requirements in terms of their level of care needs, their dates of service, their care costs and their resources. The VA rules for income and assets are different than Medicaid rules. Also, Veterans with significant service-related disabilities may qualify for care in nursing homes, including one of the two veteran’s homes in Michigan.

82. WHERE SHOULD SOMEONE GO FOR INFORMATION ABOUT VA BENEFITS?

The Veterans Administration office in their county.

83. WHAT HAPPENS IF SOMEONE QUALIFIES FOR VA BENEFITS AND THEN APPLIES FOR MEDICAID?

Most VA benefits will end when Medicaid benefits begin.

84. DOES VA HAVE DIVESTMENT RULES?

No. Not yet.
85. WHO CAN SIGN AN APPLICATION FOR MEDICAID BENEFITS?

Anyone related to the Medicaid applicant who has knowledge of the information provided.

86. IF SOMEONE SIGNS THE MEDICAID APPLICATION, ARE THEY RESPONSIBLE FOR ANYTHING?

Yes. They are responsible for the accuracy and completeness of the information provided in the application. Failing to disclose information, or providing misleading or inaccurate information on a Medicaid application is a crime.

87. WHO CAN SIGN THE ADMISSIONS PAPERS AT A NURSING HOME OR ASSISTED LIVING FACILITY.

A person can sign their own admission forms if they are competent. Where the person moving into the nursing home or assisted living facility is not competent, a financial power of attorney can sign documents related to financial responsibility, and a patient advocate (if the document has been activated) can sign documents related to care.

88. IF THE PERSON NEEDING CARE IS INCOMPETENT, WHO CAN DECIDE WHERE THEY WILL LIVE?

If the person has a patient advocate designation, and that document has been activated by having two doctors certify the person as unable to make their own decisions, the patient advocate can make placement decisions. If there is no patient advocate designation, a court appointed guardian can make placement decisions.

89. WHAT IS A PERSON ON MEDICAID HAS TO LEAVE THE NURSING HOME AND GO TO THE HOSPITAL?

Medicaid will not pay for the “bed hold” costs in a nursing home during hospital stays.
90. WHAT IS AN OBRA SCREEN?
An OBRA screen is completed when a person enters a nursing home to assure that the reasons that the person needs care in an institution is not primarily a function of a mental illness or a developmental disability.

91. WHAT IS THE LONG TERM CARE OMBUDSMAN?
The long term care ombudsman’s office is available to check into complaints about care in long term care facilities.

92. WHAT IS ADULT PROTECTIVE SERVICES?
Adult protective services is a branch of DHHS that provides investigators who can look into and report financial and physical abuse and neglect of vulnerable older adults.

93. ARE CHILDREN RESPONSIBLE FOR THEIR PARENTS’ CARE COSTS?
No. Not in Michigan.

94. DOES MEDICAID PAY FOR MEDICATIONS?
When a person enrolls in long term care Medicaid, they are typically signed up for Medicare Part D benefits (if they have not already done so) and any uncovered prescription costs are covered by Medicaid.

95. IF SOMEONE IS ON MEDICAID, DO THEY STILL KEEP THEIR PRIVATE HEALTH INSURANCE?
Yes. The patient pay-amount is reduced to allow the person to continue to pay their health insurance premiums.

96. WHEN SHOULD SOMEONE APPLY FOR MEDICAID?
When they are in a situation where Medicaid will pay for their care, and they meet the income and asset tests for eligibility.

97. WHAT IS A REPRESENTATIVE PAYEE?
A representative payee is a person appointed by the Social Security Administration to receive the Social Security check of someone who cannot manage their own finances. The representative payee is responsible for assuring those funds are used for that person, and is required to account to the Social Security Administration.
annually. Sometimes, when people go on Medicaid in a nursing home, the nursing home will become the representative payee.

98. WHAT IS A RESIDENT TRUST ACCOUNT?

People in nursing homes can have spending money on account at the nursing home. These are sometimes called a resident trust account.

99. CAN NURSING HOMES REFUSE TO TAKE SOMEONE ON MEDICAID?

Yes. But once someone is in a nursing home, if they become qualified for Medicaid, provided it is a Medicaid nursing home, they cannot be discharged because they converted to Medicaid.

100. CAN NURSING HOMES DISCHARGE SOMEONE ONCE THEY ARE ON MEDICAID?

Yes, for very limited reasons, including that the nursing home cannot provide adequate care or because the family has not paid the patient pay amount.

101. WHO PAYS TAXES AND INSURANCE ON THE HOUSE AFTER THE OWNERS IS IN THE NURSING HOME AND ON MEDICAID?

Because there is no ability to use the nursing home resident’s income to pay costs of maintaining their exempt homestead, these costs would have to be paid by other family members, or the house would have to be sold.
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When faced with the high cost of nursing home care, you need qualified advice regarding Medicaid eligibility.

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