William & Mary Elder Law Clinic Newsletter

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Looking ahead to being Medicaid-ready

For many folks in America, understanding the rules of qualifying and applying for Medicaid assistance seems nearly impossible. But the expense of nursing homes can be so great over time that it pays to know some Medicaid basics. Even those who have never needed Medicaid before may want to consider it later in life. The rules can change over the years and from state-to-state, but this overview will help you start thinking about what to do if you or somebody you love needs long-term care.

Who can qualify for Medicaid?

Medicaid is a program to pay for services for Americans whose income and other assets are otherwise inadequate to pay for themselves. Unlike Medicare, eligibility is not based purely on reaching a certain age, and families and children sometimes receive Medicaid benefits. For people 65 or over in need of long-term nursing care, Medicaid benefits are determined based on income and resources.

What counts as income and resources?

Virginia's Medicaid program has a lot of rules, and it is impossible to list them all in this newsletter. Anybody applying for Medicaid should work carefully with their local department of social services and consider consulting the Elder Law Clinic or another attorney for assistance. But for those planning ahead for the future, there are some general rules to keep in mind.

Income for Medicaid purposes is generally anything that an individual receives that can be used to meet their basic needs. Most often, that will be cash – social security payments, retirement pensions, or wages from a part-time job. But some other things can count as income, too. If a Medicaid applicant lives with a family member rent-free, the value of that rent can be considered income.

For planning purposes, though, understanding income is less critical than understanding resources. In most cases, so long as an individual's income is inadequate to pay the cost of their nursing care, some Medicaid benefits will be available. In general, Virginia expects applicants to dedicate all but a small living exemption (currently $40 per month) of their income to contributing to nursing home care, but will then cover any remaining bill. For a married applicant whose spouse does not live in a nursing home, there are some special rules that can permit some of the applicant's income to be used to support the spouse back home. Regardless of whether somebody is single or married, income will generally be more important when calculating the actual quantity of benefits provided rather than when planning ahead to ensure eligibility.

By contrast, understanding the Medicaid rules for resources can be important for those planning ahead. In order to be eligible for Medicaid payment for long-term care, individuals must have resources below a certain threshold (the magical number is currently $2,000, or $3,000 for a married couple applying together). This is important because the Medicaid program is designed to pay for care for Americans who really lack the ability to do so themselves. If an individual has bank accounts, stocks, or other valuable resources that they could use for that purpose, those resources must first be "spent down" to below the threshold before Medicaid assistance can be accessed.

Still, in Virginia, some potential resources are exempt from Medicaid calculations. In many circumstances, a person's home will not be a "resource" for Medicaid purposes. So long as the applicant's equity in the home does not exceed a certain level (currently set at $525,000), their home will be exempt for at least six months. If a spouse or dependent child lives in the home, the house can remain exempt beyond the six-month period. Personal property in the home is also exempt, as well as one car, some value of life insurance policies, and the value of some pre-paid burial expenses.

If an applicant has a spouse who will continue to live outside a nursing facility, the spouse is entitled to claim half of the non-exempt resources owned by the couple (up to about $113,500 as of 2012) before spending down is required. That spouse can claim more than half of the couple's resources if the half calculated would fall below a certain threshold (set at $22,728 for this year).

What can I do to reduce excess resources?

It might seem appealing to give resources away in anticipation of applying for Medicaid, but that approach can backfire. Any transfer of money or other resources for less than fair market value within 60 months prior to an application can result in the imposition of a penalty. Medicaid will refuse to cover an otherwise eligible applicant for a time equivalent to what the gifts could have paid for.

A better idea is to invest in yourself, your home, and your personal property. Some options could be investing in medical supplies (Medicaid will generally not cover glasses, dentures, prosthetics, or other devices), home renovations, or contributing to a disability trust. Some trusts can provide benefits without reducing Medicaid eligibility, though transfers to trusts may still incur some penalty period. Though it takes some care and pre-planning, understanding Medicaid can pay off in the long run.