CENTER FOR
LONG-TERM CARE
REFORM

Dedicated to ensuring quality long-term care for all Americans

Briefing Paper #2:
Medicaid Long-Term Care Eligibility

Theory Vs. Practice

Medicaid is supposed to be a long-term care safety net for people in dire financial need. Instead it has become the dominant payer for most Americans who require extended care at home or in a nursing home, including the middle class and even the affluent. How can this be true if Medicaid is a means-tested, public assistance program? That is the key question this Briefing Paper addresses.

Income Eligibility

Although everyone says Medicaid eligibility requires low income, that is untrue for people over the age of 65 who need long-term care. Federal rules require most states to deduct medical expenses, including the cost of nursing home care, from applicants' incomes before determining eligibility. Some states apply "income caps" but those are easily evaded by means of special "income diversion trusts." Bottom line, income almost never disqualifies anyone for Medicaid long-term care eligibility.

Asset Eligibility

Spend Down

But what about assets? It is true that cash or negotiable securities over $2,000 are disqualifying in most states, but it does not matter how people spend down to that level as long as they don't give their money away. Financial advisors frequently tell clients to purchase exempt assets, take a world cruise, or throw a big party, all non-disqualifying spend down methods.

Exempt Assets

How many exempt assets can applicants retain and still qualify for Medicaid LTC benefits? There really is no meaningful limit. Exempt home equity is capped at $525,000 or $786,000--13 to 20 times the amount protected in England's socialized health care system--but the following resources are exempt *without any limit*:

- One business including the capital and cash flow
- Individual retirement accounts (IRAs)
- One automobile
- Prepaid burial plans for the Medicaid recipient and immediate family members
- Term life insurance, which allows recipients to evade Medicaid's estate recovery mandate
- Household goods and personal belongings

The federal regulations and policies that require these exemptions are documented in our report titled "Medi-Cal Long-Term Care: Safety Net or Hammock?," a copy of which may be found on the Center for Long-Term Care Reform's website here: http://www.centerltc.com/articlesspeechesandreports.htm.

Spousal Impoverishment Protections

Married applicants for Medicaid LTC benefits can retain substantially more income and assets than single people: up to $2,841 per month of income and half the couple's joint assets not to exceed $113,640 as of 2012. If the healthy spouse's personal income and assets are below these levels, the Medicaid spouse's income and assets are transferred to bring her or him up to the limit. These "spousal impoverishment" protections increase annually with inflation.

Most Qualify Easily

Because of these very generous basic eligibility rules, the vast majority of America's elderly qualify easily for Medicaid when they need long-term care. The conventional wisdom that people must spend down into impoverishment before Medicaid will help is demonstrably untrue. Only the most affluent need to consult Medicaid planners and use special legal techniques--such as trusts, transfers, annuities, life estates, life care contracts and promissory notes--to qualify. Briefing Paper #3 in this series explains Medicaid planning. The key point to remember is that egregious Medicaid planning is only the tip of the iceberg. The bigger problem is that Medicaid's basic eligibility rules allow most people to qualify after they need long-term care and without spending down their wealth first.

Friendly Fire in the Class War

Easy access to Medicaid has the effect of desensitizing the public to LTC risk and cost. Medicaid's home equity exemption discourages people from using reverse mortgages to finance home care. With most of their assets protected by Medicaid, few people plan early to save, invest or insure for long-term care. Well-intentioned public policy has turned into a perverse incentive inhibiting responsible LTC planning. Furthermore, consuming scarce public welfare resources to indemnify affluent baby-boomer heirs of well-to-do seniors hurts the poor instead of helping. It is like friendly fire in the class war.

Estate Recovery

The Omnibus Budget Reconciliation Act of 1993 required all state Medicaid programs to recover benefits correctly paid from the estates of deceased recipients. The goal of this mandate was to ensure that resources sheltered from Medicaid LTC income and asset eligibility limits, such as home equity and the other exempt assets listed above, would be used in the end to help pay for the recipient's care and reimburse Medicaid. Unfortunately, few states implemented estate recoveries effectively and the federal government did not enforce the estate recovery mandate aggressively. When Medicaid LTC eligibility is very generous, but estate recovery is not pursued, Medicaid operates essentially as free inheritance insurance for the heirs of Medicaid recipients.

Potential Savings

Medicaid could save up to $30 billion per year if people had to consume their home equity before qualifying for public benefits as is true in England.

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The program's most expensive "dual eligible" recipients could be reduced by 21 percent. Reverse mortgages to fund long-term care would thrive and generate new jobs and tax revenue. The private long-term care insurance market would expand creating even more jobs and revenue. But most importantly, relieving the financial pressure on Medicaid in this way would enable the program to survive as a quality safety net for the truly needy.

Briefing Paper #5 "Dual Eligibles and Long-Term Care" explains how Medicaid can achieve savings of $30 billion per year by encouraging long-term care financing through reverse mortgages and private insurance.