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Be Healthy!

[Be Healthy! Wednesdays: Proposed Medicaid Savings Could Mean Financial Hardships](#)

March 21, 2012 at 1:31 PM

By Jeanmarie Evelly

Editor's Note: Every Wednesday, Breaking Bronx features a health-related story, event or tidbit as part of an online expansion of our Be Healthy! column.

Can a couple live in New York City on \$1,159 a month?

That's the maximum combined income allowed for spouses to qualify for home healthcare coverage under the state's Medicaid law. For years, those caring for an ill, disabled or elderly spouse at home through the public insurance program have been able to protect their savings through a provision known as spousal refusal — which allows someone to separate their income and assets from their partner who needs care in order to meet the strict income limits required by Medicaid.

As part of a cost-savings measure proposed in his budget for the upcoming fiscal year, Gov. Cuomo wants to eliminate spousal refusal, a move that advocates and elder care lawyers say would deal a financial and emotional blow to many couples and families.

“It will be devastating for people. It would force people to get divorced in order to pay for health care,” said Bernard A. Krooks, an elder care expert with the law firm Littman Krooks LLP, and former president of the National Academy of Elder Law Attorneys. **“It's bad public policy.”**

Under current law, couples who live in the same household can make no more than \$1,159 a month between them and their collective assets must be less than \$20,850, to qualify for Medicaid coverage for nursing care at home.

Without the option of spousal refusal, couples who are over this threshold have few appealing options if they can't afford care without Medicaid benefits. They can divorce or move into separate households, so that the income of the spouse in need of care is considered individually by the state. They could "spend down" their savings, forced to put any money that exceeds the maximum income towards the cost of care until Medicaid kicks back in. Some would be forced to turn to a nursing home or long-term care facility, since income rules for that kind of care are less strict under Medicaid than those for homecare coverage.

"When the spouses resources are looked at by Medicaid it puts the whole family in danger of poverty, of possible eviction, if they have to spend down their bank account," said Sharon Shapiro-Lacks, executive director of Yad HaChazakah-JDEC, which advocates for people with disabilities.

Gov. Cuomo and others say eliminating spousal refusal is one tactic to combat Medicaid fraud, though elder law experts argue that almost everyone who applies for it is investigated by the state, and if they are found to have excessive assets, taken to court to pay for a reasonable share of the costs of care.

"There's not much scamming of the system," said attorney David Goldfarb, a member of the Executive Committee of the Elder Law Section of the New York State Bar Association.

Spousal refusal has been on the budget chopping block before, though it has consistently restored in the final budget deal by the State Legislature. The budget deadline is April 1.

"It's scary this year this year — there's an understandable clamoring for fiscal responsibility," Shapiro-Lacks said.

Proponents of cutting the measure estimate it would save the state millions of dollars a year, but advocates say that projection doesn't consider the costs that the state would spend on Medicaid coverage of nursing home care for people who had previously been at home, or in other public benefits that families might need if they were forced to relinquish their savings.

"By protecting spousal refusal, they are being fiscally responsible because they're protecting families from becoming impoverished, possibly separating and then drawing more from the public assistance system," Shapiro-Lacks said.

CAP: On Thursday, March 15, Bronx Borough President Ruben Diaz Jr. and the Borough President's Disability Advisory Council held the borough's first ever "Medicaid Rights Forum and Disability Resource Fair."

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