

Health Care Reform and Long-Term Care

As Congress debates the health care reform bill, many are wondering what effects reform will have on long-term care. Here's what you need to know.

Whatever your opinion on health care reform, the very public conversation now dominating headlines is momentous. For all citizens, but especially for seniors and individuals with special needs, access to quality medical services is essential. It's important that our national dialogue is giving this central issue the attention it deserves.

As many of us know, we must plan for the possibility that a long life will be accompanied by serious health challenges, including the need for either in-home care or long-term residence in an assisted living facility or a nursing home. Although we overwhelmingly prefer to age in place—at home—a bias still exists in our health care system in favor of institutional solutions. The desire to keep beloved family members at home currently demands tremendous financial sacrifice.

Where We Stand Now

Long-term health care costs are skyrocketing out of control. Nationwide, the average annual nursing home costs are approximately \$90,000. In many metropolitan areas, these annual costs can exceed \$200,000. In-home care and assisted-living care are also very expensive.

Many families are concerned about how they would finance the cost of long-term care if a loved one became ill. Unfortunately, our country has no health insurance system for long-term care. It is uncertain whether the final bill that

emerges from Congress will significantly change this reality. Seniors work hard their entire lives to accumulate a modest nest egg. However, if they become ill they may be forced to spend all their assets, including selling their home, to pay for the cost of their long-term care.

Limitations of Medicare and Medicaid

Long-term care insurance provides a valuable planning alternative and should be considered as part of an overall estate plan. However, many seniors cannot afford long-term care insurance or are not insurable due to various infirmities, such as Alzheimer's disease.

Some are interested in qualifying for Medicaid to pay for their long-term care. Many confuse Medicare and Medicaid since the names are so similar; however, the programs are very different. Medicare is the federal insurance program covering those 65 and older and certain persons with disabilities. Medicare pays for a very limited amount of nursing home care and does so only if the patient is receiving skilled nursing care. Skilled nursing care is a legal term of art which generally means you are receiving certain types of treatment, such as a stroke victim receiving physical or occupational therapy. It does not include help with activities of daily living, such as eating, grooming and getting in and out of bed.

If you are fortunate enough to qualify, Medicare will pay for up to 100 days of skilled nursing care, provided that the

patient was hospitalized for 3 days during the 30-day period preceding the nursing home admission. In addition, Medicare will pay only for the first 20 days in full. After that (days 21–100), a copayment of \$133.50 is required. Thus, a person who has long-term care needs due to Alzheimer's disease or other chronic illnesses will soon discover that Medicare benefits are very limited. Medicare is simply not a viable alternative for those in need of long-term care.

Medicaid is the only government program that pays for long-term nursing home costs for seniors. However, unlike Medicare, Medicaid is a means-tested program. There are strict income and asset guidelines that must be met in order to become eligible for benefits. Medicaid is a state program funded in part by the federal government. Each state has its own Medicaid rules and regulations, so there are 51 Medicaid programs (including the District of Columbia). If you are considering applying for Medicaid to cover the costs of your long-term care, it is critical that you become familiar with these rules and regulations, along with the policies and procedures of your local Medicaid authorities.

Legal Complexities

Long-term care planning has always been a complex area of the law, and it has become even more complex over the past couple of years as new laws and regulations have taken effect across the country. Generally, individuals become eligible for



A clear understanding of what Medicare and Medicaid can and can't do is very important to wise financial planning.

Medicaid assistance once their assets are below a certain level—approximately \$2,000–\$4,000, although some states allow slightly higher levels. There are, however, special protections for married couples, so that the spouse living at home (the community spouse) has sufficient funds to meet his or her needs. Generally speaking, the community spouse is entitled to keep non-exempt assets of up to \$109,560 (in many states this figure is actually much lower). This is called the Community Spouse Resource Allowance (CSRA). In addition, the community spouse is entitled to monthly income of up to \$2,739. This is called the Minimum Monthly Maintenance Needs Allowance (MMMNA). These amounts vary depending on which state we are talking about and may be increased through a fair hearing or court order.

There are rules in place that are designed to limit asset transfers by seniors to children and other persons. Transfers of assets or income made within 5 years of applying for nursing home Medicaid will be assessed a penalty period, which will not start until the Medicaid applicant is out of funds, is otherwise eligible for Medicaid and applies for assistance. These rules could potentially cover gifts to grandchildren to help pay for their education or gifts to children to cover medical expenses. If the grandparent needs to apply for Medicaid within 5 years of paying for a grandchild's education or a child's medical expenses, then the grandparent may not be eligible for Medicaid, and there may be no funds available to pay for the grandparent's care (since they have already been spent on the education or medical expenses).

Although the rules are complex, planning opportunities remain to protect your assets. Certain assets such as the home and retirement accounts receive special treatment in many states. The earlier you plan ahead, the more assets that can be protected for you and your family. Although the process might involve a significant amount of time and effort, and force you to confront some difficult issues, you're worth it. You and your family will be glad you did. ■

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