

WHAT IS MEDICAID?

BY BEN KINIRY, ESQ.

Last month you read about Guardianships and Conservatorships, which may become necessary if a loved one's health begins to decline and they are unable to take care of their daily needs. Under a Guardianship you are able to aid your loved one with managing their money and making decisions regarding their healthcare.

Now we look forward to that same loved one's health declining to the point of needed care either in the home or the community. As you are no doubt aware, paying for nursing care is a rather expensive undertaking. What happens when your loved one does not have the income or principal to pay for their needed nursing care?

The Medicaid program is the answer for many families. What is Medicaid? The following paragraphs explain what you should know about the Medicaid program as a starting point. The following paragraphs were taken from a writing by the **National Academy of Elder Law Attorneys, Inc. (NAELA)**.

"The Issue"

Medicaid is a joint federal and state program that provides payment for medical care for persons unable to afford to pay. Medicaid covers physicians' services, hospital care, supplies and other necessary services once a person has been made eligible for the program. It also pays for the expenses of longterm care in a nursing home.

The Medicaid program is administered independently in each state. While the basic eligibility standards are the same throughout the United States, there are significant differences between the state Medicaid programs. Despite these differences, eligibility is generally based upon the amount of assets a person has along with the income that the person receives. Eligibility is determined at state Medicaid offices and, in the case of married individuals; the assets and income of both spouses are considered in the determination process.

It is important to distinguish between Medicare and Medicaid. Medicare is an insurance program providing payment for medical needs for persons 65 and over and for certain people with disabilities. All persons 65 and over, regardless of financial resources or income, are eligible for Medicare. Medicare and Medicare supplemental insurance, however, provide very limited coverage with regard to the cost of long-term care in nursing homes. These non-covered services must be paid privately by the individual, unless the individual has coverage under a long-term care insurance policy. Medicaid, on the other hand, pays for medical needs for those of any age that have been determined to be eligible. In fact, a person with limited income and resources who



has Medicare coverage may also qualify for Medicaid benefits.

What You Need to Know

Medicaid is considered to be one of the most complex laws of the United States and, further complicating matters, each state has a different version of Medicaid. Many Elder Law attorneys have carefully studied the Medicaid statutes and regulations and are able to assist clients.

Medicaid is often of importance to middle-income Americans because Medicare does not cover the costs of long-term care for illnesses such as Alzheimer's disease or paralysis caused by a stroke. Most people who need such care for extended periods will eventually deplete their assets and become unable to pay the costs of their care.

At such a time Medicaid is available to pay the difference between their income and the actual costs of care provided in a nursing home, including room and board, as well as physicians' care, hospital care and all other reasonable necessary medical expenses. Medicaid covers the costs of such care in nursing homes, adult care homes, hospices, and, in appropriate cases, in the individual's own home.

If faced with the possibility of such long-term care expenses, there are certain rules that you should be aware of:

- In determining eligibility for Medicaid payment for long-term care expenses, the eligibility team will review the individual's actual need for care, the person's available resources (including life insurance and retirement plans) and income received from any source. In some states, if monthly income exceeds a certain amount, then the individual is ineligible for Medicaid, even though the individual's long-term care expenses exceed his or her income.

- In determining eligibility, a person will be disqualified from Medicaid for gifts made within the previous few years.

- In determining eligibility for one spouse, the assets and income for both spouses are considered, regardless of premarital agreements,

community property laws or the nature of the ownership of the asset.

- Assets of married couples, however, receive special treatment so that the spouse who remains living at home will not be unduly impoverished. Such a community spouse is permitted to keep one-half of all of the available assets (up to a federally-established maximum) and is allowed to keep a minimal amount of income of the couple in order to provide for support expenses at home.

- In addition, there are certain resources that are considered non-countable for eligibility purposes; these include the family residence, household contents, a vehicle, a prepaid burial fund and other necessary items.

- It is important to be aware of the state specific eligibility provisions and exemptions so that assets will not be unnecessarily spent down before applying for Medicaid.

- Finally, it is important to know that there are appeals processes built into the Medicaid system. If you are unhappy with eligibility determinations, care decisions or placements made under Medicaid, there is a process for an administrative hearing and even court proceedings to enforce your rights.

Where to Go For Help

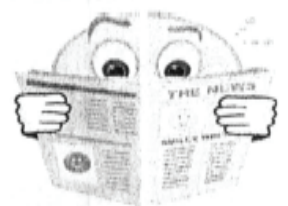
There are books published concerning the Medicaid program and its rules and you should check your library or bookstore for current titles. The internet can be another source of Medicaid information. Keep in mind that the Medicaid laws and rules vary between states and are constantly changing so make certain that whatever you read is state specific and up to date. There have been major changes in the Medicaid program during the last few years. Family support groups and organizations such as the Alzheimer's Association and AARP provide assistance and often have literature available. Local Area Agencies on Aging (pursuant to the Older Americans Act) also have comprehensive advice and literature available concerning Medicaid. The state Medicaid Eligibility Office may be a good source of basic information about the program, its services and the requirements for eligibility."

National Academy of Elder Law Attorneys, Inc.: *Guardianship & Conservatorship* (2008) (NAELA). The information provided in this article does not constitute legal advice.



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