

SPECIAL REPORT

2009 Long-term Care Guide

LONG-TERM CARE SOURCES OF PAYMENT

Private Pay

- \$5,388 average per month in skilled care statewide

Medicare

- Covers only medically necessary skilled nursing facility or home health care for a limited time per spell of illness
- Part A Hospital Insurance; no premium if more than 40 quarters worked; \$233 premium per month if 30-39 quarters worked; \$423 premium per month if less than 30 quarters
- Part B Medical Insurance; \$96.40 premium per month (may be higher if income exceeds \$82,000 for singles and \$164,000 for married couples)
- Doesn't pay for custodial care
- 100% cost coverage for Skilled Nursing Facility (SNF) care for first 20 days

- Co-pay of \$128 per day for days 21 through 100 of SNF care for each benefit period (spell of illness)
- Provides in home care if home bound and skilled services required.

Veterans Benefits

- Long-term benefits generally provided only if you have a service connected disability
- VA facilities (or contracted facilities) and must be receiving VA benefits
- May provide some home health care
- Co-payments may apply

Long-term Care Insurance

- Coverage and cost depends upon policy terms
- Helps pay the cost of custodial care such as housing, bathing, eating and dressing
- Doesn't pay rehab costs

Medicaid

- State and Federal government program that generally pays for certain health services and nursing home care for older people with low incomes and limited assets
- Provides financial assistance in varied amounts for care in skilled nursing, private home and alternate care facilities
- Five Criteria for eligibility
 - Health - must be assessed by a state screening team using a Universal Assessment Instrument, to demonstrate need for care
 - Residency - must be a Virginia Resident
 - Income - applicant's income must be below \$2,739 per month, however, an individual with income in excess of \$2,739 may receive some benefits if their medical expenses reach certain limits
 - Personal Assets - program allows the applicant to keep assets that are exempt, such as an interest in a residence (with a value below \$500,000), certain funeral and burial arrangements, an automobile, and personal effects. Most other assets are deemed to be "countable" and could cause the applicant to be ineligible for Medicaid benefits if the total value of the countable assets exceeds \$2,000
 - Transfers prohibited - giving away assets will frequently cause

a period of ineligibility to exist during which Medicaid benefits will not be paid; most asset transfers within 5 years preceding the filing of an application will be counted, and the application should only be filed when the applicant is otherwise eligible for benefits

PROTECTION FOR THE COMMUNITY SPOUSE (CS) – RULES FOR MARRIED MEDICAID APPLICANTS

Resources

- CS may keep a resource allowance (CSRA) of up to \$109,560 of countable assets
- CS may also own the family residence with value below \$500,000 and other exempt assets
- Post-eligibility CS assets are treated separately from applicant

Income

- CS may keep up to \$1,750 of the couples income, which can be increased.

PLANNING FOR THE CS

- CS likely to need a new estate plan to protect his or her assets in the event he or she predeceases the institutionalized spouse (IS)
- CS should assess his or her own planning for long-term care
- Post-eligibility gifting by CS

MEDICAID PLANNING OPPORTUNITIES

- Disability (d4a)Trust - shelter assets of those disabled and under 65: disabled

beneficiary is sole beneficiary during life, the Commonwealth of Virginia must be beneficiary on death of disabled applicant to extent of benefits paid

- Pooled Trust - Trusts for a group of beneficiaries who are disabled
- Conversion of Countable assets to exempt assets; buying residence, burial plans, paying down a mortgage, etc.
- Conversion of Countable assets to Income – purchase of Medicaid qualified annuity
- Gifting of assets can be effective provided they are properly structured and timed
- Trusts created by a third party for a disabled individual are not deemed countable if created within Medicaid guidelines
- Personal Service Contract can remove Countable assets and provide for care by caregiver

ESTATE RECOVERY PROGRAM

- Assets owned by applicant on death are subject to recovery in the applicant's estate to the extent of benefits received
- Avoiding estate recovery requires careful planning but may be done through use of joint tenancy and payable on death accounts if properly structured

MENTAL CAPACITY

- Critical to do planning while individuals have mental capacity
- Only court can determine capacity
- Without capacity it may be necessary to

involve a court in appointing a conservator or guardian

ADVANCE DIRECTIVES

- Financial power of attorney
- Medical power of attorney (health care proxy)
- Living will
- Do-not-resuscitate order
- Extremely important to have in place to be able to assist in planning

WHEN NOT TO CONSIDER MEDICAID

- If you have sufficient assets to private pay
- If you have long-term care insurance that will cover the expenses
- If you don't like relying on public assistance

CAUTIONARY NOTES ABOUT LONG-TERM CARE PLANNING

- Rules are constantly changing and the rules today may not be the same as when you actually apply
- There may be tax implications to different planning techniques which you should consider
- The Department of Medical Assistance Services looks upon planning for public benefits under the Medicaid program with very critical eyes and will deny eligibility where at all possible. Because of this there is risk to undertaking long-term care planning as there can be no guarantee you

will be approved and thus your planning may be unsuccessful

NURSING HOME RESIDENT RIGHTS

The US Department of Health and Human Services says it best on their website. Your rights include:

- **Respect:** You have the right to be treated with dignity and respect
- **Services and Fees:** You must be informed in writing about services and fees before you enter the nursing home
- **Money:** You have the right to manage your own money or to choose someone else you trust to do this for you
- **Privacy:** You have the right to privacy, and to keep and use your personal belongings and property as long as it doesn't interfere with the rights, health, or safety of others
- **Medical Care:** You have the right to be informed about your medical condition, medications, and to see your doctor. You also have the right to refuse medications and treatments

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USE OF THIS SPECIAL REPORT

Note: The information contained herein is not intended to be a substitute for legal advice. Please contact an attorney or other professional advisor to receive the most recent application of the law.

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