



## How To Navigate Medicare, Medicaid and Long-Term Care

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## Long-Term Care Options

- Home Health Care
- Adult Day Health Care
- Assisted Living Facility
- Nursing Home Care
- What About Continuing Care Retirement Communities (CCRCs)?

## Quick Statistics

- Medicare covers only limited post-acute care, and very few nursing home residents can afford private coverage. Thus, **Medicaid is the primary payer source for most certified nursing facility residents nationwide**, with more than six in ten residents (sixty-three percent) having Medicaid as their primary payer in 2014. Id.; H. Stephen Kaye et al., *Long-Term Care: Who Gets It, Who Pays Provides It, Who Pays, And How Much*, 29:1 Health Affairs 16 (2010).
- The **majority of nursing home residents are Medicaid beneficiaries**. Kaiser Family Found., *Nursing Facilities, Staffing, Residents and Facility Deficiencies 1* (Aug. 2015).
- In Maryland specifically, **Medicaid residents make up about 61 percent of all nursing home residents**. Kaiser Family Found., *Medicaid's Role in Nursing Home Care* (June 20, 2017).

## Paying for Long-Term Care

- Medicare
- Long-Term Care Insurance
- Self-Pay
- Medical Assistance ("Medicaid")

## Long-Term Care Timeline

1. Pre-Crisis Phase
  - Identify Assets
  - Obtain/Update Estate Planning, if possible
    - Will
    - Financial Power of Attorney
    - Advance Directive for Health Care
  - Consolidate/Simplify Assets
  - Assess Housing/Care Needs

## Long-Term Care Timeline

2. Admission to a Facility: Medicare Days?
  - Medicare only pays for entry after an inpatient hospital stay that lasted **at least three days**
    - Beware "observation" or outpatient status
    - Medicare benefit period begins on day admitted as inpatient
    - Qualifying hospital stay starts on day admitted as inpatient, doesn't count discharge day
  - Need for nursing facility must be for "acute skilled care"
  - Days 1-20: Patient has zero co-pay for each benefit period (Medicare pays 100%)
  - Days 21-100: Patient pays \$176.00 coinsurance per day (2020)
  - Days 101 and beyond: Patient pays 100% of cost

## Long-Term Care Timeline

3. Permanent Stay at the Facility: Now What?
  - Assess financial status and payment options
  - Assess planning opportunities:
    - Is there a POA in place?
    - Will a guardianship proceeding be necessary?
  - Consider a cost benefit analysis of Medicaid planning

## Qualifying for Medicaid (on the FIRST attempt)

### Single Applicant

- All assets must be spent down **below \$2,500** prior to the first day of the month in which the Applicant is seeking Medicaid benefits.

### Married Applicant

- Applicant's assets must not **exceed \$2,500** as of the first day of the month in which Applicant is seeking Medicaid benefits.
- Applicant's spouse is entitled to the **lesser of \$128,640 (2020) or one-half (1/2) of the total combined assets** owned by them, measured as of the first day of the month the Applicant is admitted to the nursing facility.
- Any amount above this figure must be spent down or protected in some other way prior to the first day of the month in which an Application seeking Medicaid benefits is submitted.

## Qualifying for Medicaid (on the FIRST attempt)

To accelerate Medicaid eligibility, there are three approaches to reduce assets:

1. **Spend them** (pay debts, mortgage, purchase car, fix up house).
2. **Gift them away** – *caution* – applications are subject to five (5) year audit by the State of Maryland when applying for Medicaid, to determine if assets were given away for the purpose of qualifying for Medicaid. If so, then that person is disqualified from receiving Medicaid benefits for a period of one month for each \$9,673 gifted (as of 2020).
3. If married and one spouse is confined to the nursing home, then the community spouse can shelter the funds that are in excess of the Medicaid limit by purchasing a “**single premium immediate annuity**.”

## What About the Dreaded 5-year Lookback?

- It's a **penalty** for giving away assets to qualify for Medicaid
  - Penalty is one (1) month of nursing home care for each \$9,673 gifted or transferred during the five year look back
  - Some transfers may be excepted, but BE CAREFUL
- Doesn't begin until Medicaid application is submitted – cannot start until applicant is in facility!

## How to Protect the Family Home

As a general rule, a home is exempt (that is, it does not count toward Medicaid's resource limit and Medicaid does not require it to be sold to pay for long term care) if all of the following conditions are met:

- It is occupied by the Applicant and/or the Applicant's spouse;
- The total home equity in the residence is less than \$595,000 (2020); and
- Title must usually be held in the name of the Applicant and/or the Applicant's spouse.
- BUT – beware of the Medicaid lien!

## Protecting Assets for a Spouse

- Spousal Maintenance Allowance
- Use of a Medicaid Annuity
- Pre-Crisis Planning once Medicaid Approved for Spouse in the Facility



## Take-aways to REMEMBER:

1. It's NEVER TOO EARLY to start planning  
and
2. With proper planning, it's NEVER TOO LATE to protect at least some assets



## Contact Information

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