

Public Benefits for Older Adults

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PUBLIC BENEFITS ARE IMPORTANT

MEDICARE

- Pays 74% of medical care for 40.3M over age 65
- Paid 20% of post-acute care in 2010 (KFF)

MEDICAID

- Primary source of health and LTC assistance for over 60M people
 - Paid 41% of post-acute care in 2010 (KFF)
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MEDICARE



MEDICARE

■ Who Gets It?

- Over 65 on SS Retirement or RRR
- Over 65 and pay premium (not on SS/RRR)
- Under 65 on SSDI > 24 months
- End Stage Renal Disease beginning 3d mo. of dialysis
- ALS on SSDI (no 24-month wait)

MEDICARE

■ **What Does It Pay For?**

- Part A – Hospital costs
- Part B – Physicians, home health, DME, out-patient PT/OT, diagnostic tests
- Not Covered:
 - Custodial care, personal comfort items, routine exams, eye exams/glasses/contact lenses, hearing aids/exams, cosmetic surgery

MEDICARE

Special Coverages

- Ambulance – from home to hospital or NH if (i) only safe way and (ii) provided by MC-certified provider and (iii) EMS ambulance (w life support)
- Diabetes Management – out-patient with new-onset diabetes, ER or hospitalization, acute foot, eye or kidney problems; IF under a doctor's plan of care
- Medical Nutrition Therapy – for diabetes, renal disease

MEDICARE

Durable Medical Equipment (DME)

Wheelchairs, hospital beds, etc. if

- Prescribed by physician
- Durable (last 5 years)
- For medical purpose
- Not useful without illness or injury
- Appropriate for home use, and
- Purchased from MC-certified provider

MEDICARE

Out-Patient Therapy

- Physical, Speech, Occupational Therapy if
 - Ordered by physician
 - Medically necessary
 - Requires a qualified therapist
 - NOTE: “Improvement potential” is not required for continuation; have doctor document need to maintain function (*Jimmo v. Sebelius*, 2013 settlement)

MEDICARE

- **Long Term Care (Nursing Home)**
- Will pay first 20 days NH in full if
 - Admitted within 30 days following
 - Three (3) day hospital stay
 - Note: “Observation days” do not count toward 3 day stay
- **Days 21 – 100**
 - Resident must pay daily co-payment (\$164.50 in 2017)
- May start new “spell of illness” after 60 days without Medicare-covered treatment

MEDICARE ADVANTAGE

- **Part C** – through private insurance plans
 - HMOs, PPOs
- Must provide services covered by Medicare
- Parts A & B, plus
- Additional benefits
 - Reduced costs (premiums, co-pays)
 - Additional services (vision, dental, etc.)

PART D PLANS

■ **Must cover:**

- At least 2 drugs in each of 146 categories (“formularies”)
- All anti-cancer, anti-psychotic, anti-convulsant, anti-depressant, immuno-suppressant, HIV/AIDs

■ **Excludes:**

- Over-counter, weight loss, cough/cold, fertility, non-medical ED, cosmetic, hair loss, vitamins, drugs bought from other countries

MEDICARE SUPPLEMENT (MEDIGAP)

- Supplements Medicare coverage
- **Core Benefits** include (all policies):
 - Part A co-pays for hospital days 61-150
 - All charges for additional 365 hospital days
 - Deductible for first 3 pints of blood
 - Part B co-payments (physician visits, out-patient, etc.)
- Guaranteed renewable; cancel only for non-payment

MEDICARE SUPPLEMENT (MEDIGAP)

■ **Policies A – N**

- Policy features are same with any company
 - Prices vary
 - Not all policies available in all states
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- **No denial if apply within 6 mos. of Part B eligibility**
 - Must suspend if insured gets Medicaid and reinstate without further underwriting if later loses Medicaid

MEDICAID



SSI MEDICAID

- Countable Income < \$735/mo. (2017)
- All unearned income (SSDI, rent, trust payments, annuity payments)
- Some earned income (wages, self-employment)
- Determine “countable income”:
 - Total income all sources - \$10 irregular income - \$1,790 (student) - \$20 (unearned first, then earned) - \$65 earned – IRWE (Impairment Related Work Expenses) – 1/2 remaining earned income
 - Equals Countable Income
- Subtract from \$735 to determine payment

SSI MEDICAID (CONT'D)

- Countable Resources < \$2,000
- Resources = anything that can be liquidated to buy food or shelter
- Not counted: home; household goods; personal effects; DME; one vehicle; assets for self-support; burial spaces; \$1,500 burial funds; \$1,500 cash value life insurance
- “Deeming” Rules
 - Assets or Income from spouse to spouse (POMS SI 01330.180), parent to child (POMS SI 01320.730)

MEDICAID-ONLY MEDICAID

- Countable income = anything that can be used to buy food, clothing, shelter, medical care
- “Income-cap” State
 - Income limit for LTC program, HCBS Waivers
 - \$2,205 (\$735 SSI x 3)
- Federal Poverty Level Programs
 - CHIP, Pregnant Women, Children under 19, TANF
 - FPL = \$1,055 individual (\$1,404 couple)
 - includes additional \$50 “income disregard”

MEDICAID COVERAGE GROUPS

- **Qualified Medicare Beneficiary (QMB)**
 - **Medicare Part A**, plus
 - **Income < \$1,055** per month (or \$1,404 for couple)
 - No resource limit
 - Pays Medicare Part B premium (\$134.00 in 2017), deductibles and co-payments

- **Specified Low-Income Medicare Beneficiary (SLMB)**
 - Same as above, but \$1,256 income limit (\$1,674 couple)
 - Only pays Part B premium

MEDICAID HCBS WAIVER GROUPS

- Elderly and Disabled (respite, adult day care, meals, homemaker)
- Independent Living (personal care attendant)
- Intellectual /Developmental Disability (IDD)(respite, attendant care, day-habilitation, speech/PT/OT)
- Assisted Living (homemaker, attendant care, Rx supervision, transportation)
- TBI/SCI (attendant care, nursing care, respite)
 - Same financial eligibility as LTC group
- Healthier MS: no Medicare, income <135% FPL, assets <\$4,000 single/\$6,000 couple (limit 5,500)

MEDICAID FOR LONG-TERM CARE

- COUNTABLE RESOURCES < \$4,000
- Ownership interest + Legal right to access + ability to use for personal support
- Not counted:
 - Home (up to \$560K value);
 - vehicles;
 - household contents;
 - \$5,000 personal property;
 - income-producing property (if 6% rate of return);
 - pre-paid burial plans, spaces;
 - term life insurance, \$10,000 cash value insurance;
 - IRAs, retirement accounts in regular payout

LONG-TERM CARE MEDICAID

- Single Person eligible if:
 - Countable income < \$2,205 (more if use income trust)
 - Countable resources < \$4,000
- Married Person eligible if:
 - Applicant spouse eligible as single person
 - Community spouse countable resources < \$120,900
 - CS keeps IS income to reach \$3,022.50 income

MEDICAID TRANSFER PENALTY

- “Look-back” period: 5 years from application month
- Transfer penalty = Total of gifts during look-back period \div monthly divisor
- Example: \$57,000 gift 8/1/13 – apply for Mcaid 8/1/2017 = 10 months not eligible for Mcaid payment to NH
- No Transfer Penalty for Disabled Child at Home, Poverty-level programs, DHS programs

MEDICAID TRANSFER EXCEPTIONS

No Penalty if transfer **residence** to:

- Spouse;
- Child under 21;
- Blind or disabled child;
- Sibling with equity interest who lived there 1 year prior to NH entry;
- Child who lived there and provided care at least 2 years prior to NH entry

No Penalty if transfer **other assets** to:

- Spouse;
- Child under 21;
- Blind or disabled child;
- Third party for “sole benefit” of spouse or self;
- Trust for sole benefit of a minor, blind or disabled child;
- Trust for benefit of a disabled person under 65;
- Payback “special needs trust” for self (if under 65)

MEDICAID PLANNING

- Transfer countable resources to exempt trust
 - “Sole benefit” trust for spouse, disabled child or disabled “person” under age 65
 - Self-settled “special needs trust” for Medicaid applicant under age 65
- Transfer resources to exempt person
 - Spouse, disabled/blind child, caregiver child (2 years)
- Purchase “Medicaid-qualified” annuity
 - Creates income from resources

MEDICAID ESTATE RECOVERY

- MCA § 43-13-317 - Medicaid recovery from “estate” for LTC or HCBS services after age 55
- “Estate” = **probate** estate
- Medicaid must be noticed as **creditor** of estate
- Claim waived if surviving spouse, minor, blind or disabled child
- MS Medicaid waives if caregiver family member lived in home 1 year, or family income source

MEDICAID ESTATE RECOVERY

- **Estate of Darby v. Stinson (2011):**
 - MCA 91-1-21 continues HS exemption in probate estate
 - No creditor claim against homestead, will pass to surviving spouse, child or grandchild

- **AGO 2015-304 (Dec. 2015)**
 - Exempt HS not part of probate estate
 - Medicaid cannot require waiver of protection

SCENARIO – DISABLED SPOUSE

- Harry's wife, Martha, has progressive dementia
- Harry uncertain whether he can continue to care for his wife at home
- Worried about having enough money to pay her nursing home costs, his living expenses, and pass some inheritance to the children
- They own their 150 acre farm-homestead and their savings and CD accounts as "joint tenants with rights of survivorship"

SCENARIO – OPTIONS

Option 1: Leave the home in joint ownership. If Harry dies first:

- **Pros:** Home not a “countable resource” for Martha’s Medicaid. Home can be sold to pay for Martha’s care if necessary.
- **Cons:** Medicaid’s claim against the home and farm at her death for repayment of all nursing home costs paid by Medicaid, and could cause the sale of the residence.

Option 2: Harry’s will leaves everything to Martha at his death

- **Pros:** Financial assets can be sold to pay for Martha’s care
- **Cons:** Martha disqualified for nursing home Medicaid until all spent; Court-supervised conservatorship may be required if she lacks capacity to manage those assets (Medicaid counts assets in a conservatorship)

SCENARIO – SOLUTION

Option 3: Get home ownership in Harry's name only; Harry does new will with Special Needs Trust for Martha:

- **Pros:** Home is not a “countable resource” for Martha's Medicaid. Home can be sold or mortgaged by Harry if he needs to move or get money.
- **Pros:** Harry can name capable trustee in his Will to manage home and other assets for Martha's needs, avoiding need for conservator for her.
- **Pros:** The testamentary special needs trust will not be a countable Medicaid asset for Martha, so she can get nursing home benefits paid.
- **Pros:** The trust will not be an asset of Martha's estate at her death, so Medicaid will not have any claim against the home and farm at her death for repayment of nursing home costs paid by Medicaid. The trust remainder can be distributed to the kids or named remainder beneficiaries.

RETROACTIVE BENEFITS

Medicaid benefits will be paid for up to 3 months prior to month of application if the applicant was eligible in those months

- In a nursing home or disabled at home
- Income within limit
- Countable resources within limits

Medicaid will allow up to 90 days to re-allocate resources between spouses

VETERANS' BENEFITS



U.S. Department
of Veterans Affairs

DISABILITY COMPENSATION

Tax-free benefits for service-connected or VA-caused disability

- Must show:
 - Current disability
 - Linked to
 - Event or incident during service
- Disability rated from 0 – 100% in 10% increments
- Attorney cannot charge fee to help “prepare, file or prosecute” application for benefits

PENSION

Requirements:

- Veteran 65 or over, or <65 and disabled
- Discharged other than dishonorably
- Served 90 days active duty & 1 day during wartime
- Countable income <\$1,072 single/\$1,404 w/depndt
- Gross income – UMEs = Countable income
- Countable Assets < \$80,000 (depends on life expectancy)

AID & ATTENDANCE

Addition to base Pension for help with ADLs or blind

Aid & Attendance:

- Requires aid & attendance with ADLs, in NH or blind
- Maximum A&A = \$1,788 single/\$2,120 w dependent

■ Housebound:

- Housebound or disabilities of 100% + 60%
- Maximum HB = \$1,310 single/\$1,642 w dependent

DEATH PENSION

Available to Unremarried Widow(er) or unmarried dependent child of deceased Veteran

- Child <18, or in school <23, or unable to self-support
- Deduct UMEs, SSI to determine Income
- Maximum Amount = \$719 single/\$941 w dependent
- Max A&A Amount = \$1,149 single/\$1,413 w depndt
- Max HB Amount = \$879 single/\$1,101 w dependent

VA BENEFITS & MEDICAID

- Medicaid requires applicant to apply for VA benefits (“utilization of benefits”)
- Portion of VA payment for Aid & Attendance is NOT countable income for Medicaid = need not be spent on NH
- Transfers allowed by VA to reduce countable assets, BUT such transfers will cause Medicaid ineligibility (“transfer penalty”) if apply within 5 years

THANK YOU



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