

Qualifying for Nursing Home Medicaid Benefits

Medicaid pays the cost of nursing home care when an individual meets the medical requirements and has limited income and resources. After nursing home residents have depleted their own resources, they may eventually be eligible for Medicaid.

Once on Medicaid, all nursing home costs are covered. In the case of a single individual, all income goes to the nursing home, except for \$50 retained each month by the individual for a Personal Needs Allowance (PNA). Medicaid pays the remainder of the costs, including prescriptions. If the individual has a spouse in the community, part or all of the income may be paid to the spouse as a Monthly Income Allowance (MIA). This is discussed under Qualification for Married Individuals

REQUIREMENTS

Three requirements must be met for an individual to be eligible for Long-term care Medicaid. The individual must be eligible in **all** three categories:

- Medical need for nursing home care
- Income below a specific amount
- Resources (savings, stocks, life insurance) below a specific amount

An individual applying for Medicaid must be a citizen of the United States, either by birth or naturalization, or be a lawfully admitted alien who entered the United States prior to August 22, 1996. **Original** documentation of citizenship is required.

An individual must be a resident of Colorado. There is no length of residency requirement. The individual can apply for Medicaid the first day in Colorado, provided there is the intent to remain in Colorado. The application process cannot begin before the individual arrives in Colorado.

MEDICAL NEED FOR NURSING HOME CARE

The Medicaid process is started with the Single Entry Point (SEP) agency. A caseworker from the Single Entry Point agency will medically assess the applicant using the ULTC-100.2 assessment tool.

The ULTC-100.2 assessment is used to determine an individual's need for long term care. This assessment may be done in the hospital, nursing home, or in the individual's own home, by a social worker or a case manager. The ULTC-100.2 assesses the individual's ability to carry out activities of daily living (ADLs), such as mobility, personal care and hygiene, mental capacity, and control of bladder and bowel. It also assesses mental capacity, including memory loss, confusion, and behaviors.

WHERE TO APPLY

The application for Medicaid for long-term care services is made through the Single Entry Point agency (SEP) in the county where the applicant is physically at the time of application, whether this be in his/her own home, in the hospital, in a Medicaid approved assisted living, or in a nursing home. The SEP is a designated agency within a local area where persons seeking Medicaid long-term care services obtain screening and referral information, assessment of need, and case management services. This agency determines the need for long-term care in the appropriate program. The SEP agency may or may not be the local department of human services. If the applicant is at home and the home is in County A, but will be going into a nursing home in County B, an application is made through the SEP in County A. Upon approval, County A will transfer the application to County B.

A listing of SEP agencies is found in Appendix 3.

APPLICATION PROCESS

The application for long-term Medicaid begins with the Single Entry Point Agency (SEP). The referral can be made to the SEP by a family member, social worker, hospital discharge planner, or anyone involved in the care of the applicant. Once the referral is made, the Medicaid application will need to be completed and turned into the county Department of Human Services, detailing income and asset information. When the application is received by the county agency, the ULTC-100.2 assessment is done using information obtained from the applicant, family members, or hospital personnel. A family member should be present at this appointment to supplement any information about the applicant's condition.

Once the applicant is approved by the SEP as needing nursing home level of care (required whether seeking in-home care, assisted living or nursing home care), the Medicaid application will be processed by the county Department of Human Services. An appointment may be set up with an eligibility technician at the county department for financial eligibility. Not all counties require a face to face appointment. The application process can take two to three months before approval. In some instances it may be backdated depending on resource eligibility at the time the application was turned in to the county.

INCOME

Income is anything of value which comes into a household during a month. To qualify for Medicaid an individual's monthly gross income from all sources must be less than three times the current Supplemental Security Income (SSI) amount. In 2009 the current monthly amount is \$2,022. This amount is adjusted annually in January of each year.

Gross income includes Social Security, pensions, Veteran's pensions, rental income, etc. Gross income includes the Medicare Part B premium withheld from the Social Security check. The current Part B premium in 2009 is \$96.40/month. Gross income also includes any other deductions withheld from pension checks, including life insurance premiums, health insurance premiums, income taxes, etc.

If the applicant's gross income is above the eligibility amount, but less than the average monthly nursing home costs in the area, an Income Trust (also known as a Miller Trust) may be set up for purposes of income eligibility. This trust is discussed under section on Income Trusts.

Income Disbursement after Medicaid Approval

All of a single individual's income is paid to the nursing home as the patient payment each month, except \$50 allowed for a Personal Needs Allowance (PNA). If the individual has a spouse in the community, part or all of the income may be paid to the spouse as a Monthly Income Allowance (MIA). See Qualifications for Married Individuals.

The PNA is kept by the nursing home in a separate patient account to pay for personal need items for the resident such as hair care, clothing, candy, cigarettes, etc. A family member can manage this money instead of having an account at the nursing home. In either case a record of expenses needs to be documented. The PNA can accrue each month if not used and the balance is considered a resource, counted toward the \$2,000 resource limit, whether it is kept by the nursing home or by a family member.

RESOURCES

A resource or asset is defined as anything of value that has been carried over from the previous month. To qualify for Medicaid an individual's countable resources (assets) must be less than \$2,000. If the individual has a spouse in the community, the resource amount allowed the community spouse is higher. See Qualification for Married Individuals Resources fall into two categories: **exempt and non-exempt**.

EXEMPT RESOURCES

The value of exempt resources is not counted in determining Medicaid eligibility. Exempt resources include:

Home

A home in Colorado, regardless of value, in which the applicant, the spouse, or a dependent child resides, or the home to which the applicant intends to return, is exempt when applying for Medicaid. Any contiguous property to the home is also exempt. **Having a home in a trust makes it a non-exempt asset and the value will be counted toward the eligibility amount. It must be taken out of trust before the individual or couple is eligible for Medicaid.**

The intent to return home is a subjective, not an objective intent. The county department may require a statement to be signed, acknowledging this intent. In the case of a single individual the state can recover Medicaid costs by placing a lien (or several liens) on the home while the individual is alive, or filing a claim in the probate estate when the individual dies. See section under Estate Recovery.

The home is exempt at the time of application **only if the following conditions are met:**

- The individual is institutionalized or living at home and applying for Home and Community Based Services (HCBS).
- The home is now or was the Medicaid applicant's principal place of residence.
- The Medicaid applicant actually lived in the home prior to being institutionalized.
- The applicant intends to return home, regardless of actual ability to return home. This must be documented in writing.
- A spouse or dependent relative of the applicant continues to live in the home.

Owning a home while in a nursing home

Even though the home is exempt when applying for Medicaid, continued ownership of a home can be a problem for a **single** individual once in a nursing home on Medicaid. Once on Medicaid (or in a "Medicaid Pending" situation), **all of the individual's income is required to be paid** to the nursing home as the patient payment. None of the income can be used to pay mortgage payments, condo fees, taxes, insurance, utilities, etc. These expenses will have to be paid out of resources or by family members. If the individual has a spouse in the community, part or all of the income may be paid to the spouse as a Monthly Income Allowance (MIA). See Qualifications for Married Individuals.

If the house is rented to meet these expenses, the net rental payment is considered unearned income to the Medicaid recipient, and is added to the income required to be paid to the nursing home as patient payment. Rental income is countable to the extent it exceeds allowable home expenses. Allowable home expenses are maintenance, taxes, management fees, interest on the mortgage, and utilities. Payment on the principal of a mortgage loan is not considered an allowable expense

Medicaid Estate Recovery on the Home

The exemption for the home is one of the most misunderstood and often confusing eligibility issues when applying for Medicaid. The home is exempt for eligibility purposes, but once an individual has been approved for Medicaid, the state can place a lien on the home to recover Medicaid costs. The State may also file a claim in the probate estate of a deceased Medicaid recipient to recover costs. This is discussed under Estate Recovery. If there is a spouse, different rules apply. See Qualifications for Married Individuals.

Other exempt resources include:

- Automobile- One automobile is exempt, regardless of value, if it is used to obtain medical treatment, is equipped for a handicapped person, or is used to get to employment. If the automobile does not meet one of these criteria, an automobile with a value up to \$4,500 is exempt. If the vehicle is worth more than \$4,500, the difference is counted toward the \$2,000

resource limit or the Community Spouse Resource Allowance, if there is a spouse. This is discussed under Qualifications for Married Individuals.

● **As of June 1, 2006 household goods and personal effects no longer must have a total equity value of \$2,000 or less to be considered an exempt resource.**

Household goods are exempt if they are items of personal property found in or around the home that are used regularly or if they are needed for maintenance, use, and occupancy of the home. Examples of household goods include: furniture, electronic equipment, carpets, cooking and eating utensils, and dishes.

Personal effects are exempt if they are items ordinarily worn or carried by the individual, if they are items of cultural or religious significance to the individual, or if they are items required because of an individual's impairment. Examples of personal effects include personal jewelry, personal care items, prosthetic devices, and educational or recreational items.

- Wedding and engagement rings
- Medical equipment. This includes wheel chairs and any adaptive medical equipment.
- Life insurance policy or policies with a combined face value (death benefit) of \$1,500 or less. If the total face value amount of one or several policies is less than \$1,500, the total cash value amount is not counted toward the \$2,000 allowed resource allowance.
- Term life insurance policy(ies). - These have no cash value and are totally exempt.
- Irrevocable burial insurance policy of any value. - A revocable policy with a value less than \$1,500 is also exempt, including plots and markers.

SPENDING DOWN RESOURCES

Resources above the Medicaid eligibility amount of \$2,000 for an individual, or the 2009 Community Spouse Resource Allowance (CSRA) of \$109,560 (See Qualifications for Married Individuals) must be spent down or converted to exempt resources before the applicant can qualify for Medicaid.

Some examples of spend down include:

- Private payments to the nursing home, assisted living facility, adult day care, or home health services.
- Payment of any medical or other outstanding bills.
- Purchase of an **irrevocable** funeral/burial or cremation plan.
- Payment for repairs and/or maintenance on the home. In some instances it may be necessary to fix up a home to sell it.
- Purchase items for the applicant, such as clothes, television, dentures, eye glasses, etc.
- Prepay utility expenses and/or rent or mortgage payments. If there is doubt that the individual may return home, these payments buy some time during the transitional period.
- Pay down an existing mortgage.
- Reimbursement of family members.
 - Often family members who have been caring for an individual who will be applying for Medicaid want to reimburse themselves for prior care given the individual. Medicaid accepts monthly payments as reimbursement for care, but may consider payment for **prior** care paid retroactively to a caregiver in a lump sum as a transfer of assets and assess a penalty period. (See Transfer of Assets.) Federal law requires that families have a written agreement in advance that clearly defines what services are being provided in return for payment.
 - Expenses that a family member may incur in traveling to and from Colorado to help a family member are allowed reimbursements. These expenses include air travel, motel/hotel expenses, rental car, etc. Medicaid does not allow reimbursement for lost wages by the individual during this time of care giving or relocation. Receipts will be required, showing expenses.
- Purchasing a home or an interest in a home with a family member is allowed if the applicant actually intends to live in the home. Children may move a parent or parents to Colorado to live

with them. The children may need to remodel a home, or buy a bigger home to accommodate the parent. The parent may pay for the remodeling or toward the purchase of a new home, but the title must be deeded to the parent as co-owner.

- The Medicaid applicant cannot spend down resources by purchasing a home or an interest in a home owned by another person (including a relative) if the applicant has not owned a home previously, and there is no intent to live in the home.

When spending down resources, documentation should be kept of all expenditures and payments. This will be required at the time of the Medicaid application to insure that money has not been given away.

Many nursing homes require the resident to pay the private pay rate for a period of time from a few months up to a year before they will accept Medicaid as the primary payor. This should be kept in mind since spend-down funds may need to be preserved for this purpose to assure a Medicaid bed when needed. Almost all assisted living facilities require a period of private pay payment.

TRANSFER OF RESOURCES

Except in limited circumstances, money and property cannot be given away in order to qualify for Medicaid. **There is a “look back” period of 60 months, or five years from the date of application**, which allows the state to check financial records to see if any transfers have been made or if resources have been transferred to a trust..

Transfer rules apply to any exchange of property for less than fair market value. Transfers include changing ownership on real estate property, gifts of money to family members, donations to charity, etc. Gifts, which may be legal under IRS rules, may not be allowed under Medicaid regulations and will count as a transfer of property with a penalty. Transfers of property between spouses do not incur a transfer penalty. See Transfers of Resources..

LEGAL HELP

It is not necessary to have a lawyer in order to apply for Medicaid, but those individuals or families with unusual circumstances, such as a trust, transfers, a family business, etc., may want to contact an attorney who specializes in elder law, specifically Medicaid. Medicaid laws and regulations change frequently. For this reason, the attorney should be a member of the National Academy of Elder Law Attorneys (NAELA). These attorneys keep current on federal and state changes in Medicaid. Colorado Legal Services of Metro Denver and the Colorado Bar Association’s Committee on Legal Problems of the Elderly are also good legal resources. See Appendix 4.

An important legal document is a Durable Power of Attorney for financial affairs. In spending down assets, it may be necessary for a family member to sell property, cash in CDs, stocks, insurance policies, etc. If the individual applying for Medicaid cannot sign for himself, a Durable Power of Attorney will be necessary. If there is no Durable Power of Attorney, the family may have to petition the court for Conservatorship, which could be costly and usually takes several months to complete.