

Navigating Medicare and Medicaid Coverage for Long Term Care Costs

KANSAS ADVOCATES FOR BETTER CARE

September 14, 2023

by Karen H. Weber, elder law and special needs lawyer

The General Rule Regarding Medicare Coverage of Long Term Care Costs

- Medicare only pays a maximum of 100 days of long term care costs
- And, only in limited circumstances
 - Must first have a hospital stay of at least 3 days; and
 - Must enter nursing home within 30 days of the 3-day hospital stay; and
 - Must be receiving rehabilitation care
 - Medicare does not pay for custodial long term care

The General Rule Regarding Asset Limits for Medicaid Benefits

- To be eligible, a person must have less than \$2,000 of “countable” assets in Kansas and \$5,035 in Missouri

5 “Exempt” Assets Not Counted by Medicaid

- The residential home is “exempt” (up to \$688,000 equity value)
 - Exempt only while the Medicaid recipient or spouse is living
 - Medicaid can file a lien against real estate but cannot enforce, or collect, until after the death of the Medicaid recipient and the spouse, if any
- Household goods and personal belongings are exempt
- One automobile per household is exempt
- Prepaid funeral plans for both spouses are exempt (must be irrevocable and services must be limited to \$7,000 in Kansas)
- Life Insurance may be exempt
 - only if the cash surrender value of all policies is less than \$1,500

“Spend Down” Strategies

- Trade in the old car and buy a new, more reliable vehicle
- Purchase prepaid funeral plans (must be irrevocable)
- Pay off debt like credit cards or pay down on the home mortgage
- Pay taxes and insurance obligations early
- Make home improvements or update home furnishings
- Take that long overdue vacation

Additional “Spend Down” Considerations

- The timing of when to start the spend down process can be important
 - Spend down does not count until one spouse has entered long term care for 30 consecutive days
 - For HCBS Medicaid, the spend down does not count until the applicant is assessed and determined eligible for an HCBS waiver
- A married couple can “spend down” assets for the needs of either spouse, not just the spouse in long term care

Can Gifts to Children be Part of Spend Down?

- A Medicaid applicant can make gifts to children, but gifts create a Medicaid “penalty period”
- Gifts must be revealed to Medicaid
- The Medicaid application must be filed at the correct time if gifts have been made
- It is not too late to preserve some assets even if a loved one is already in the nursing home

“Division of Assets” for married couples

- Medicaid allows married couples to preserve one-half of the “countable assets” for the “healthy” community spouse
- The other one-half of the assets must be “spent down” to \$2,000 in Kansas or \$5,035 in Missouri

“Division of Assets” for Married Couples

- The “community spouse” or “well spouse” still at home is allowed to keep all of her own monthly income and one-half of the couple’s “countable” assets, up to a maximum of \$148,620
 - The minimum community spouse resource allowance is \$29,724
 - That means, a couple with less than \$29,724 does not have to spend down one-half of the assets

Additional Income Rules for Married Persons

- The general rule is that the spouse in the nursing home must pay his monthly income to the nursing home and Medicaid negotiates and pays the balance
- The community spouse is entitled to receive a minimum monthly income of \$2,288.75/month
- If she does not receive that amount in her own name, income may be allocated to her from the nursing home spouse to bring her income up to the minimum monthly income allowance
- If the community spouse has a mortgage or other “excess shelter expenses,” her monthly income allowance can be increased to a maximum of \$3,715.50/month

Long Term Care Insurance

- Should be considered if you qualify and do not have pre-existing conditions
- Be sure to include home health coverage and assisted living care
- Alternative estate planning is possible if long term care insurance is not obtainable
 - Can include irrevocable or other types of trusts (such as special needs trusts)
 - There is no Medicaid penalty period for gifts to trusts for the sole benefit of a person with disabilities

Karen H. Weber

**Weber Elder Law Office
8645 College Boulevard, Suite 105
Overland Park, KS 66210
(913) 661-0550
www.elderlawkc.com**

