

## Elder Law: Underused program helps seniors stay at home

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By Julian Gray and Frank Petrich

After Mr. Harris retired 10 years ago from a manufacturing plant, he and his wife made a promise to each other that they would never place either in a nursing home if their health declined. They have lived in the same home for more than 50 years, raised their children there and still enjoy the neighborhood filled with fond memories.

While they don't consider themselves wealthy, they have accumulated some savings and retirement funds. Mr. Harris receives the bulk of the family income through his Social Security and pension while Mrs. Harris receives around \$600 a month in Social Security retirement benefits. Absent any emergencies, they can live comfortably on their income and within their means.

Over the past few years, Mrs. Harris has suffered some setbacks in her daily activities due to the early stages of dementia. However, with her husband's help, she is able to live a relatively normal life.

Mr. Harris has taken on an increased role as his wife's caregiver, but realizes that with his own bad back and other physical ailments from years of physical labor, he, too, may be limited in the care he can provide as time goes on.

In addition, he is becoming concerned about leaving his wife at home alone safely. Frequently, he remembers the promise that they made to each other, and he shudders to think that he may someday have to break that promise.

Mr. Harris has done some research and attended local events to learn about home health-care options in the event that his wife's needs escalate to more than he can handle. However, with their limited savings and income, he feels that such home care would not be financially sustainable for the long term.

He also inquired with local government agencies as to the availability for assistance in their home, only to be told that they did not qualify for financial reasons.

The Harris' situation is quite common as many seniors are not prepared to take on the financial burden of private home health-care costs. For many, the alternative of facility care is a last resort.

Fortunately, there are programs in Pennsylvania to assist those in need. One such program is the Aging 60+ Waiver Program; more commonly referred to as the "PDA Waiver" program.

The PDA Waiver program provides Home and Community Based Services to persons age 60 or older who are clinically eligible for nursing facility care and meet the income and resource tests described below. This program is funded through Pennsylvania's Medicaid program, called Medical Assistance, as an alternative to nursing home care.

The requirement of facility care in order to receive Medicaid coverage has been "waived" by the federal government in order to provide these services in a person's own home. In Allegheny County, the cost of this waiver program to Medical Assistance is approximately \$2,275/month. This is one-half the amount Medical Assistance would be paying if that same person were residing in a nursing facility.

A wide range of services is available under this program, including: personal care services, home health aides, medical equipment and supplies, transportation and home health visits, to name a few. Generally, a person's situation dictates a formal care plan.

Once the care plan is established, the recipient will receive the designated services in her home at no cost to the recipient. Depending on the number of hours per week prescribed in the care plan, this can amount to thousands of dollars in benefits each month. Sounds too good to be true? There are a few considerations that warrant further discussion.

Medicaid-funded programs such as PDA Waiver are tested for medical and financial eligibility. The first test is whether the program applicant is nursing facility clinically eligible, or "NFCE." While the NFCE definition has been reworked in recent years, the general rule is that the applicant for services could clinically be eligible for nursing home care.

The actual determination is provided by the Area Agency on Aging, or AAA, in the county of residence. Once the AAA determines medical eligibility (usually through an in-home visit), the applicant must meet strict financial guidelines. This is where most applicants are unaware of their options.

The financial test for the PDA Waiver program is quite similar to the eligibility for nursing home covered Medicaid, with one twist. Under the PDA Waiver program, the applicant's income must not exceed the level prescribed by the Department of Public Welfare, which is the gatekeeper for Medicaid benefits in Pennsylvania.

Currently, the monthly income limit for the PDA Waiver program is \$2,022. The spouse's income is not counted. Therefore, Mrs. Harris would be income eligible for the program because her income is only \$600/month. In addition to the income test, there is an asset test.

The asset test is a bit more complicated, but there are many exemptions available to assist applicants and their spouses to achieve eligibility. Unfortunately, most applicants are unaware of the options and the government cannot provide legal advice to obtain the sought-after benefits.

In the situation of Mr. and Mrs. Harris, they feel that they would not be financially eligible for this program because they own a home, a car, Mr. Harris' IRA worth \$50,000 and have various CD's totaling about \$100,000.

However, upon closer inspection, the Harrises would be surprised to learn that eligibility for this program to help Mrs. Harris would not require them to "spend down" all of their savings. In fact, there are federal spousal protections enacted for this very purpose. Moreover, new legislation and recent case law in Pennsylvania now provide more options to obtain eligibility for the PDA Waiver program.

The sad truth is that many seniors do not avail themselves of the assistance that is available and delay getting help until a crisis occurs. This usually means that a nursing home stay is imminent. By acting proactively and obtaining needed homecare before a crisis occurs, Mr. and Mrs. Harris may be able to keep their promise to each other.

Julian Gray and Frank Petrich are both Certified Elder Law Attorneys with more than 50 years of combined elder law experience who practice in the Pittsburgh area at Gray Elder Law. Send questions for consideration in this column to [elderlawguys@grayelderlaw.com](mailto:elderlawguys@grayelderlaw.com) and visit their web site at [www.grayelderlaw.com](http://www.grayelderlaw.com).

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