

“Not Over ‘Til It’s Over”: Medical Assistance Appeals

By Colin A. Morgan, Esquire
May 2014

The Medical Assistance (“MA”) Application process for long term care services can be difficult. Filing an MA Application requires adherence to complicated rules and strict asset limitations. Couple those factors with having to produce five years worth of *all* financial statements prior to filing and the average applicant is facing an uphill battle.

With the difficulty of the MA Application process comes the inevitable denial of numerous applicants. Many denied applicants simply accept a denial as the end of their battle and continue their personal struggle to afford medical care. The purpose of this article is to explain how the appeals process works and why you should never give up on fighting for your right to health care coverage.

The Medical Assistance Review Process:

The general process in which an individual applies for Medical Assistance is relatively uniform for all applicants. When a person enters a skilled nursing facility (“SNF”), she is usually presented with a Medical Assistance Application to sign. At this point, an on-staff social worker will take the application, complete it to the best of her ability and submit it to one of the many County Assistance Offices (“CAOs”) charged with reviewing MA applications. At this point, a CAO caseworker will be assigned to the matter. The caseworker will review the biographical, financial and health-related information contained in the MA application and make a determination as to whether the applicant is indeed eligible to receive MA benefits. This determination is submitted to the applicant via a document called a “162 Notice”.

While this process appears to be logical and reasonable on its surface, there are numerous moving parts that an applicant or applicant’s family has to manage to achieve eligibility. To list a few, the application process requires:

1. Five years of *all* financial statements for the applicant and, where applicable, the applicant’s spouse;
2. Proof of all sources of income for an applicant;
3. Evidence of all medical expenses;
4. Statements for all residence related expenses; and
5. Justification for any transfer (i.e. “gifts”) of assets totaling over \$500.00 for five years preceding the application.

Gathering and presenting this evidence is where many applicants run into issues. Without the extensive and exhaustive information listed above, a caseworker cannot approve an application. In most cases, the caseworker will engage in negotiations with the applicant or her family to gather the appropriate information, but this process can still yield negative results. This is the point where many applicants are issued a 162 Notice denying them of their benefits and, sadly the fight often ends here.

Appealing a Negative MA Determination:

Even if an applicant is denied MA benefits initially, there is still hope to reverse this determination. All 162 Notices afford an applicant the opportunity to appeal the determination by signing/submitting an appeal form (this is generally attached to the 162 Notice). Upon submitting the appeal form, it is imperative that an applicant seeks the proper counsel to aid in the appeal process. (The unpaid Medicaid bills can lead to liability for the applicant's children)

In many cases, an individual can successfully reverse a negative MA determination by negotiating with the assigned caseworker and submitting further necessary documentation and/or spending down some assets shortly after the appeal is filed. However, in instances where further documentation is not accessible or the case is more difficult, legal arguments and appeal hearings will become necessary to achieve eligibility.

It is vital to consult with an Elder Law attorney in these difficult cases. Where most individuals handle one or two MA applications in their lifetimes, Elder Law attorneys handle dozens of MA matters each year. An experienced Elder Law attorney understands MA laws and exactly what is necessary to achieve an applicant's success.

In summation, an applicant's fight for Medical Assistance Benefits does not end if the applicant is denied. There are processes in place which allow an individual to appeal negative MA determinations. However, the appeals process can be extremely complicated. Therefore it is imperative to seek professional advice with MA appeals.