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# Elder Law: Nursing home finances for married couples

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Here we go, again. The average daily cost in Pennsylvania for nursing home care is now $302.42 per day ($110,383 per year!).

With the release by the Centers for Medicare and Medicaid Services of the new “spousal impoverishment” amounts, we felt this would be a good time to review some basics as they relate to the medical assistance (Medicaid or MA) program for long term care services in Pennsylvania.

Let’s look at Marie and Ralph, a married couple, who are concerned about the possible need for long-term care services because of Marie’s declining health situation.

Ralph knows that she will need nursing facility care, not assisted or personal care. With financial and insurance options to pay for her care being rather limited, they will have to rely on the medical assistance program.

The joint federal-state program will pay for nursing facility care for one who meets both the financial and medical eligibility criteria. About 70 percent of residents in nursing homes have their care paid for through this program. Who among us can afford $110,000 a year on an ongoing basis?

So, let’s review some of the basics of the program for married couples in situations such as Marie and Ralph’s. The 1988 federal Medicare Catastrophic Coverage Act, created a process of allocating income and resources between an ”institutionalized spouse” (Marie) and a “community spouse” (Ralph).

In order to determine Marie’s eligibility for medical assistance, we first have to determine their resources, which are divided into two “buckets”: those which are “exempt” (non-countable) and those which are “countable” for medical assistance financial eligibility.

For example, their house, their car and their pre-paid funerals are three examples of resources considered “exempt” (non-countable). Everything else they own individually or together — except, fortunately for Ralph, his IRA which is exempt in Pennsylvania, but not in every state — is considered “non-exempt” (countable).

From those countable resources, Ralph is entitled, as a “community spouse,” to keep one-half, subject to a minimum of $23,844 to a maximum of $119,220. Those amounts are current as of Jan. 1. This is called the “community spouse resource allowance.” Here are two examples:

1. They have total countable resources of $40,000. Ralph can keep the minimum amount of $23,844, as his half would be only $20,000.

2. They have total countable resources of $350,000. Ralph can keep only an amount up to the maximum $119,220 (otherwise his half would be $175,000, which exceeds the permissible limit).

In both examples, the amounts greater than what Ralph can keep are to be used for Marie’s nursing facility care or to purchase certain additional “exempt assets.”

For those who think they can give away their resources to become eligible for coverage, be duly warned. The daily average cost of nursing home care of $302.42 is also known as the “penalty divisor.” This is used to divide into the amount of resources one may have transferred/gifted (given away) in the five years preceding an application for medical assistance.

This could create a period of ineligibility. For example, two years ago, they gave away $30,242 to their favorite lawyer (yeah, right). This gift created a period of 100 days of ineligibility for Marie.

Now, we have to look at what Ralph will need in the way of income to live on so he does not become impoverished as a result of Marie being in a nursing facility.

Ralph is entitled to a “monthly minimum maintenance needs allowance” of $1,991.25 per month. ($23,895 per year) with a “monthly maximum maintenance needs allowance” of $2,980.50 per month ($35,766 per year). These figures are adjusted, based upon inflation with the “maximum” in January and the “minimum” in July. There are two such examples:

1. Ralph has a monthly Social Security amount of $1,100 and a pension of $600. He has no other income. Thus, between a combination of Ralph’s Social Security, pension and the possible purchase from their excess countable resources of a Medicaid qualified annuity, his income can increase to the $1,991.25 per month minimum.

2. Ralph has a monthly social payment and pension amount of $3,300. He thus exceeds the monthly maximum amount.

There are times when the maximum amount can be exceeded such as in unique “hardship situations (ex: Marie is in a nursing facility and Ralph in an assisted living or personal care facility which could cost him $3,500 - $7,000 a month.

This is just a brief overview of a complex, often confusing topic, and, for many, an extremely stressful time. Plan early in a pre-crisis mode if you have the opportunity to do so. You’ll be happy you did.

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