

Elder Law Guys: What's a single person to do about eligibility for Medical Assistance?

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Column by Julian Gray and Frank Petrich

Recently, we wrote about Medical Assistance eligibility requirements for long term services and supports available to married couples. That evoked a number of emails and comments from readers, especially those who were single or widowed.

So now we'll focus on the more draconian eligibility requirements for the single applicant who is more limited as to options. Singles often fall into one of three financial categories:

1. They have so much in the way of resources, that they won't ever qualify for Medical Assistance (these folks are few and far between);
2. Those who, over the years, have acquired sufficient resources that they don't want to have to spend down to qualify for Medical Assistance as they want to leave something to loved ones; and,
3. Those whose resources are minimal and may almost immediately qualify.

The term "long-term services and supports" means medical and personal care assistance that people may need to perform activities to care for themselves because of disability, illness or simply just getting old.

These can include some basic needs such as bathing, toileting and dressing oneself along with more complex tasks such as medication administration, preparing meals and managing finances.

It is also important for people to remember that to be eligible for limited Medicare (not Medical Assistance) coverage for nursing home care, there is still the requirement of a three-day hospital stay.

In order to be eligible for Medical Assistance, a person must be determined to be "nursing facility clinically eligible," which is usually preceded by the individual's physician completing a Medical Assistance medical evaluation form. If the applicant meets the medical criteria, the applicant must also be financially eligible.

To be financially eligible for nursing facility care, the individual can have resources no greater than \$2,400 if monthly income is greater than \$2,313 — 300% of the federal Supplemental Security Income benefit amount.

For the Pennsylvania Department of Aging waiver program, which provides home and community-based services for those who might otherwise require nursing facility care but who can be safely cared for at home, the resource limit is \$8,000.

Assets of the individual include both income and resources.

While there is not actually a separate income test, a strict resource test becomes the major stumbling block for many. With the average Pennsylvania nursing cost of \$10,420 per month as of Jan. 1, 2019, we encounter few individuals who have the monthly income to pay at those amounts for any prolonged period of time.

Resources refer to real or personal property which a person has or can make available for their care. These are either "countable/non-exempt" i.e., everything that is not exempt. Examples are cash, mutual funds, CD's, jointly held assets, etc.

Resources that are excluded ("exempt") from consideration include some of the following:

1. Real property used as the applicant's residence (if not handled properly, it could be subject to estate recovery at the applicant's death);

2. Property used in a trade or business, essential to self-support;
3. Non-business property which is essential to self-support (tools, employer-required equipment, etc.);
4. Household goods and personal effects (clothing, jewelry, hobby items);
5. Motor vehicle (only one is excluded and a question would be what the applicant would do with it if permanently residing in a nursing facility);
6. Life insurance policies owned by the applicant up to an aggregate cash value of \$1,500. Note that term insurance is excluded, as it has no face value;
7. Burial spaces for the applicant and immediate family members and;
8. An irrevocable burial reserve which is not "exorbitant" which, in Allegheny County can be up to approximately \$16,000.

We like to think that it's never too late to plan, especially before a crisis such as a fall, a stroke, a motor vehicle accident, etc. arises. If you are planning for yourself or for a loved one, get your ducks in a row now, not later.

Look to income tax returns to help determine what assets there may be. Look for bank accounts, obtain a copy of the deed for the house to determine whose name is on the deed and what the assessed value of the house may be.

In other words, verify what there is as the appropriate county assistance will do so in their determination of financial eligibility.

Have a power of attorney in place to give authority to someone to assist you and make sure it has broad gifting powers as it may be possible to transfer some of your assets to others without incurring a "gifting penalty." It may also be possible to spend down some of your countable assets and replace them with exempt assets.

Seek expert advice if you find yourself, or a loved one, in a possible nursing home scenario. And do it while there still is an opportunity to do appropriate planning.

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