

The Estate Planning Advisor

Filing a Medicaid Application

By Richard J. Shapiro, J.D.

When a parent or other loved one requires nursing home care, in many cases a child or other family member will need to file an application for nursing home Medicaid coverage for the nursing home resident, either immediately upon entrance into the facility or some time thereafter. Here are some of the key things you need to know about the application process (note that this article does not cover the filing requirements for the Community Medicaid program):

Medicaid is a “means tested” program. Government resources will be provided only if the applicant can prove financial eligibility. The applicant will be approved only if they are at or below the financial resources level at the time of application (currently, \$4,200 of total assets). To prove financial eligibility, the applicant must provide financial documentation showing current assets, and must provide all financial records for the three years preceding the date of application (eventually to be expanded to a requirement that five years of records be provided). If the records show any “uncompensated transfers” to third parties (i.e., gifts), the applicant will be ineligible for Medicaid during the resulting “penalty period,” which is equal to the value of all uncompensated transfers divided by the average private pay nursing home rate for that particular region (in 2007, equal to \$9,074 for the Hudson Valley). Thus, a \$100,000 gift to a child may render the parent ineligible for Medicaid for approximately eleven months after the date of filing the Medicaid application.

Because of the real risk of Medicaid ineligibility, any person looking to make uncompensated transfers who may need long-term care within five years of the gift should consult with an Elder Law attorney prior to making such gifts.

The applicant’s income information, such as Social Security, pensions, investment income, and minimum distributions from IRA’s, must also be disclosed. If the applicant is single, all income except for a monthly allowance of \$50.00 must be contributed to the cost of care. If the applicant is married and his or her spouse’s own income is below \$2,541 per month (the “MMMNA” amount), some or all of the applicant’s income may be diverted to the community spouse equal to an amount that will bring the spouse’s income, when combined with the applicant’s contributed income, up to the MMMNA amount.

In addition to financial documentation, the applicant must also prove residency in the County in which they are seeking Medicaid coverage. Utility bills and letters from landlords or neighbors are usually sufficient for this purpose. Other personal information

is also required, including proof of citizenship or naturalization, proof of death of a spouse (if applicable), and whether the applicant (or their spouse) is a veteran.

We are often asked whether an attorney or other experienced professional is required to assist with the application process. In a straightforward case – that is, where the applicant has just a few bank accounts and has made no transfers subject to a penalty period -- the family can often handle the task themselves. However, where an applicant has made gifts within the penalty period and/or owns numerous or complex assets, professional assistance is almost always advised.

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