



THE HALE LAW FIRM
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Medicaid Planning



Medicaid Planning and the Caregiver Crisis

Frequently, caregivers call us after being referred by a hospital or nursing home. They explain that their loved one has recently sustained an injury and/or suffers from a medical condition such as heart disease or dementia. Whether they are still living at home, in assisted living, or recovering in a skilled nursing and rehabilitation center, the concern is the same – they need a higher level of care and a way to pay for it. Compounding the caregiver's crisis is the emotional and physical strain produced by family tension and a prolonged state of alert. [There is a better way.](#)



FAQs: Nursing Home & Medicaid

What do Medicaid nursing home benefits cover?

There are approximately 42 Medicaid programs in Texas. It is important to understand that each program has its own eligibility criteria and benefits. If the Medicaid applicant in a Medicaid certified nursing home meets the functional and financial eligibility criteria, Medicaid will cover most of the medical and support needs of the person. As the payer of last resort, Medicaid only begins to pay once other healthcare coverage, long-term care coverage, or other coverage is exhausted.

Nursing home Medicaid does not pay for dental care. If a Medicaid nursing home recipient needs a non-covered medical service such as dental care, and the medical service is not paid for through Medicare or private health insurance, the Medicaid recipient can pay for the care and submit a copy of the paid invoice to HHSC. Provided the medical service is medically necessary, HHSC will reduce the Medicaid recipient's co-payment and pay the nursing home the difference. It is a good idea to check with the HHSC caseworker and billing office prior to paying out of pocket for a non-covered medical service.

What is a Medicaid transfer penalty and how is the penalty calculated?

HHSC imposes a transfer penalty for assets gifted or sold for less than fair market value within five years of applying for Medicaid nursing home services. When an exception to the transfer penalty does not apply, HHSC determines the fair market value of the transferred resource and imposes a penalty on the difference between the amount received for the asset and its equity value. This number is divided by the transfer penalty divisor in effect in the month in which application for Medicaid assistance for long-term care is made. For Medicaid applications filed on or after September 1, 2013, HHSC uses a transfer penalty daily divisor of \$156.34. (Note: HHSC periodically changes the transfer penalty divisor to correspond with the average daily rate of nursing home care in Texas.) The resulting figure equals the number of days the Medicaid applicant will be penalized from receiving Medicaid nursing home services. This penalty period does not begin until the Medicaid applicant is otherwise eligible to receive Medicaid nursing home assistance.

+ What resources are excluded for purposes of determining Medicaid eligibility?

1. Homestead residence - principal residence
2. Real estate for sale
3. Automobile
4. Household goods and personal effects
5. Burial spaces
6. Irrevocable prepaid funeral plan
7. Burial funds
8. Term life insurance
9. Other life insurance in certain situations
10. Business property essential to self-support
11. Livestock
12. Retirement benefits

Quality Care

For Yourself and Your Loved Ones

PROTECT YOUR FAMILY

If you or someone you love is at risk of spending down their life savings to pay for the ever-growing cost of long-term care, then we invite you to call today for your free initial consultation.

We look forward to exploring the opportunities our long-term care and asset protection planning can provide. The risk of needing long-term care and its related expenses is too great to ignore. According to Health and Human Services statistics, about 70 percent of individuals over age 65 will require at least some type of long-term care services during their lifetime and 40 percent will need care in a nursing home for some period of time.

Medicaid Planning Answers

+ Does Medicare cover nursing home care?

The Social Security Act provides Medicare coverage for necessary post-hospital extended care services for up to 100 days. Extended care services are defined as nursing care and rehabilitation therapy provided to a Medicare patient at a skilled nursing facility. In determining whether this significant, yet temporary, benefit is available, but some following basic requirements must be satisfied.

+ How is medical necessity determined for Medicaid nursing home care?

The state Medicaid claims administrator, Texas Medicaid & Health Partnership (“TMHP”), is responsible for making medical necessity determinations for nursing home Medicaid. TMHP makes its determination by evaluating the person’s medical and nursing needs based on the minimum data set (“MDS”) assessment prepared by a registered nurse. TMHP begins the medical necessity review process upon receiving an MDS assessment and the Long-Term Care Medicaid Information Section from a Medicaid contracted nursing facility.

+ What are some strategies to getting under the Medicaid resource limit?

It is possible to qualify people for nursing home Medicaid who have several hundred thousand dollars. Strategies often used include:

1. Shifting Medicaid countable resources into excluded resources
2. Requesting expansion of the protected resource amount
3. Purchasing a Medicaid qualified immediate annuity in order to convert a countable resource to income in the name of a Medicaid ineligible spouse
4. Gifting countable resources.

+ How much is the Medicaid co-payment to the nursing home?

The Medicaid program requires nursing home benefit recipients to share in the monthly cost of their care. This is called the Medicaid co-payment or their applied income. In Texas, every nursing home Medicaid recipient is entitled to a personal needs allowance of \$60 per month. But as explained in more detail below, Medicaid recipients can actually keep more of their income than the \$60 allowance suggests. It is also important to understand that the Medicaid recipient still receives their income. Therefore, even if an individual is on Medicaid, the recipient will still be responsible for satisfying a monthly co-payment to the nursing facility.



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