

MEDICAID

**ELIGIBILITY, APPLICATION, TIMING
(AND A FEW OTHER THINGS)**

BRIEF INTRO - MEDICAID

- In about five years, the leading edge of the Baby Boom Generation will enter its 80s.
- There will be far fewer potential family caregivers to provide unpaid help.
- There is no national solution to providing Long Term Care Services and Supports.
- That job still falls mainly to the states.

BRIEF INTRO - MEDICAID

- The Cost of Long Term Care is Unaffordable for Middle-Income Families in All States
- On Average, SNF Costs Consume 243% of the Median Annual Household Income of Older Adults
- States have limited ability to control the costs of care for those who pay privately

BRIEF INTRO - MEDICAID

- **Very Few** People Purchase Long Term Care Insurance
 - Policies Vary Widely
 - In 2002 – over 100 companies selling policies;
 - By 2015 only 12 companies remained in the market with less favorable features
 - **Most Older Policies Have Not Kept Up w/Health Care Costs**
 - Approximately 10% of Americans aged 50 and Older Have LTC Policies
- **Medicaid LTC is Typically the Only Safety Net**

MEDICAID

Washington State

- **Medicaid** and related programs
- Now collectively referred to as Apple Health
 - **Medical component** of assistance programs
 - Generally requires some means testing
 - Income
 - Assets – “countable resources”
 - **Variety of programs**
 - Ranges from assistance with Medicare premiums
 - Health coverage plans
 - Caregiver supports
 - Covers the cost of Long Term Care
 - Skilled Nursing Facility
 - Residential setting: In-home care; Assisted Living; Adult Family Homes

MEDICAID: OVERVIEW

➤ Complexity

- Very intensely governed by WACs
- Be comfortable with researching answers given facts and circumstances
- WACs change frequently...
-and so can policy!
- Parameters Change often –check frequently

➤ Policy

- Agency policies
 - “Creative” planning sometimes results in stricter rules
- Courts
 - Guardianship (RCW 11.92.140);
 - DPOA (RCW 11.125.240(3))
 - New Guardianship Act – SB 5604 – sec 421(2)(y)

➤ Not always well understood/Sometimes controversial

- Advocates educate the Court; GALs; other practitioners

➤ Planning: Rules + Individ. Circumstances (not “cookie cutter”)

MEDICAID: OVERVIEW OF PROGRAMS

Major Programs:

- **Medicaid - Medically Needy “Spendedown”**
 - Medical only (does not include room/board);
 - Not receiving SSI (Income Assistance)
 - Traditional – persons over 65; or disabled
 - Asset tested – (no gifting penalty – but **proceed with caution**)
 - No income limit – but affects threshold of coverage
- (Under 65 – medical avail – different rules/income limits – see handout)

MEDICAID: OVERVIEW

- **Medicaid Long Term Care**
 - Needs based
 - Income and Asset Thresholds
 - Medical Assessment required
 - Covers cost of care AND medical
 - Allows participants to retain Medicare / Supplemental Insurance
 - Residential Setting Care
 - Skilled Nursing Facility

LONG TERM CARE OVERVIEW

- First you **must understand where you are before you know where to go!**
- The rules can vary –
 - Single
 - Married
 - Skilled Nursing Facility
 - Over 65; disabled – “classic non-Magi” recipient;
 - under 65 generally “Magi” recipient
 - Residential setting
 - eligibility rules are somewhat different;
 - rules apply to both non-Magi and Magi
- **combined with –**
 - Goal of client; and
 - What is likely to happen vs. what is “unknowable”

MEDICAID LONG TERM CARE

- Move down the path of analysis:
 - 1 - **Eligibility** (Qualifying for LTC Medicaid)
 - Am I eligible now
 - If not, what are my options to become eligible
 - Review of Estate Documents should be done here also
 - 2 - **Post Qualifying**: Income Maintenance /Maintain Eligibility
 - Is there a spouse
 - If yes, what is my spouse's income? Can my spouse claim some of my income? How can I preserve my eligibility?
 - 3 - **Estate Recovery** (Death of Recipient)

MEDICAID LONG TERM CARE

➤ **Skilled Nursing Facility (SNF)**

- Nursing homes provide 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, room, board and laundry.

➤ **Eligibility –**

- Income: Generally, only applicant's is considered

- Total Countable resources: Single - \$2,000 Married - \$60,075

- SNF – May be higher when applying Maximum CSRA (resources exceeding \$120k)

- Medically – need the type of care provided in a nursing home

➤ **Application - timing**

- Must be eligible as of the first day of the month in the month the applicant entered the SNF if applicant wishes to receive coverage in that month.

- Coverage will start as of the first day of the month in the month the application was submitted.

- If an applicant is otherwise eligible as of the first of the month in which coverage starts, and there is a delay with the processing of an application, DSHS should go back and pick up the cost.

MEDICAID LONG TERM CARE

- **COPES (Community Options Program Entry System)**
- **Residential Setting** – in-home, adult family home (AFH); or assisted living (AL) facility
- “...varying levels of assistance with care are provided. Some facilities provide occasional nursing care. Some offer specialized care for people with mental health issues, developmental disabilities or dementia. AFH can have two to six residents and is licensed by the state”
- **Eligibility**
- Income: Generally, applicant can have up to \$7,952
- Total Countable resources: Single - \$2,000 Married - \$60,075
- **Max CSRA NOT ALLOWED under this program**
- Medically – Extensive help w/2 or more ADLs or Some help w/3 or more ADLs
- **Application - timing**
- Coverage will not begin until care plan is in place
 - Medical Assessment done
 - Financially eligible
 - **No retroactive coverage**
- Make application at least 45 days prior to needing the coverage.
- Recent issues working with case workers – stay on top of it

MEDICAID LONG TERM CARE

- **Community First Choice (CFC)** – residential setting
 - For qualified individuals, CFC offers
 - personal care services, skills acquisition training,
 - assistive technology, personal emergency response systems,
 - and a few other services that help clients remain in community settings
- **Eligibility**
 - Income limits – currently \$783/mo
 - Resource Limits - \$2,000 – no transfer penalty (**beware**)
 - Services may be combined with COPES benefits in some cases
- With **COPES**, there **IS** a transfer penalty
 - Note: COPES has higher income limits
- **Application – timing**
 - Services begin when DSHS authorizes them (Assessment/Financially eligible)
 - Not retroactive
 - Make application similar to COPES timing

CAREGIVER WAIVER PROGRAM

- **Tailored Supports for Older Adults (TSOA) and Medicaid Alternative Care (MAC)**
 - New Programs!
 - Provides free services to unpaid caregivers
 - Family members; non-family members (TSOA may provide \$\$ assistance/services even if you do NOT have an unpaid caregiver)
- **TSOA** – persons not currently eligible for m/c
- **MAC** – eligible for traditional LTC
 - But choosing not to receive it.

CAREGIVER WAIVER PROGRAM

TSOA & MAC (Cont'd)

- Must be financially and functionally eligible – examples:
 - TSOA: Income: Applicant gross income $\$2,349 \leq$
Countable resources: $\$53,100$ (single); $\$111,175$ (married)
 - MAC: Income: SSI recipient or gross income $\$783$ (single); $\$1,175$ (married) –
different limits if under 65 – see handout
Countable resources – depends – see handout
May receive benefit immediately: Phone call (1-800-422-3263); or
Online (www.washingtonconnection.org); or paper application

Caregiver may receive (some examples):

Training; education and consultation; Coping Skills; Dementia Training
Dietician Consultation;
Medication Management Consultation;
Health maintenance and therapy supports;
Counseling;
Massage therapy

Annual limits apply

INTERSECTION WITH GUARDIANSHIP

Guardianship and Trusts

General trust rules – WAC 182-516-0110

➤ If trust already exists:

- What type of trust is the IP beneficiary of?
 - Does the trust preserve eligibility for needs based benefits?
 - Is the trust fulfilling its intent?
 - Is Guardian Trustee?
 - If not, is there an existing relationship between Guardian and Trustee?

➤ Can/should a trust be established

- Preserve benefits
- Professional fiduciary – level of control
- Provide for future needs
- DO NOT commingle 1st party and 3rd party assets
- If parent or grandparent establishes trust – “seed” the trust first
- If court establishes trust – court must enter an order requiring the establishment of the trust BEFORE it is executed. SI 01120.203(B)(8)

INTERSECTION WITH GUARDIANSHIP

➤ **Guardianship and ABLER Accounts**

- Would the IP qualify? (disabled before age 26)
- Can this give the IP more autonomy and choices?
- Can the ABLER account and a trust work together for the IP's benefit?

➤ **In-Kind Support**

- Is the IP paying rent?
- Is someone else?
- Balance between benefit reduction and living environment
- What if IP "owns" the house?
- What if the Trust owns the house?
 - Is there a mortgage?

INTERSECTION WITH GUARDIANSHIP

➤ **Guardianship and Medical Programs**

➤ What is the IP eligible for?

- Parent's plan? Private Plan? Medicaid Medically Needy or Medicaid Long Term Care?
- Understand the "order" of coverage – how can a trust help here?

➤ **Remember:**

- If the IP receives SSI, the IP is eligible for Medicaid Medical.
- If the IP receives SSD, the IP is eligible for Medicare.
- Sometimes the IP is eligible for both: when SSD benefit is smaller than SSI benefit – however, it is means tested.
- If the IP receives SSA retirement, the IP is generally eligible for Medicare.

INTERSECTION WITH GUARDIANSHIP

- **Guardianship and Long Term Care**
 - Identify: what are the goals/needs for LTC planning?
 - Has there been any pre-planning done already?
 - Does the IP have the resources for LTC needs?
 - Is the IP the beneficiary of a trust that can assist with LTC needs?
 - Is the IP a candidate for Medicaid LTC planning?
 - Is the Guardian authorized by the court to initiate LTC planning?
 - What are the family dynamics involving the IP (what is the Guardian's duty here?)
 - Are there adult children from a first marriage;
 - Is/Was there a Community Property Agreement indicating intent
 - What does the IP's will say regarding intent?

WHAT'S MORE RECENT / MISCELLANEOUS

➤ **Qualifying for Medicaid LTC**

- Legal Separation to allocate assets will not work
- Gifting to third-party to hold on to funds for benefit of applicant will be deemed a “constructive trust”
- Individual can also establish a d(4)(A) if meets the criteria: Under 65; disabled

➤ **Trusts**

- Beginning 4-27-18, if trust previously reviewed by SSI and accepted, and subsequently decide there is some “defect” they can no longer immediately terminate benefit and assess overpayment – get 90 days to amend the trust. **POMS SI 01120.200(K)(2)**
- Now have centralized “trust experts” to review trusts
- They will not review d(4)(A) trusts in “advance” but will review d(4)(C) in advance. **POMS SI 01120.202(C)**.

× Trusts – cont'd

- If the disabled person has a credit card not linked in any way to the SNT – the trust can pay the debt.
 - Will not be counted as income by SSI or Medicaid
 - May be treated as in-kind support & maintenance if credit card used to purchase food or shelter expenses (e.g. rent; utilities...) [POMS SI 01120.201\(I\)\(1\)\(d\)](#).
- Gift cards/certificates that can be used to pay for food/shelter treated as income; those that cannot be used for food/shelter but can be “sold” or cashed out will be treated as income – [POMS SI 01120.201\(I\)\(1\)\(f\)](#)
- Pre-paid True Link (or similar) cards are not counted as a resource as long as the account is owned by the trustee of the SNT (cannot access it for cash – if used for food/shelter in-kind support and maintenance still applies but won't be counted as income – [POMS SI 01120.201\(I\)\(1\)\(e\)](#).

LONG-TERM SERVICES & SUPPORTS ACT

- **Long-Term Services and Supports (LTSS) Trust Act**
- In 2019 the state enacted a long-term care insurance benefit
 - funded by worker contributions into a Trust Fund.
 - The Long-Term Services and Supports (LTSS) Trust Act is the first of its kind in the United
- Individual's lifetime benefit of \$36,500 adjusted annually for inflation.
- January 2022 - workers will pay \$0.58 per \$100 of earnings.
- January 2025 – vested workers needing long-term care can access their earned benefits.
- Benefits include:
 - professional care at home, licensed residential or nursing facilities
 - home safety evaluations
 - home-delivered meals
 - training, pay and support for family members who provide care
 - rides to the doctor
 - adaptive equipment and technology like wheelchair ramps; medication reminder devices.