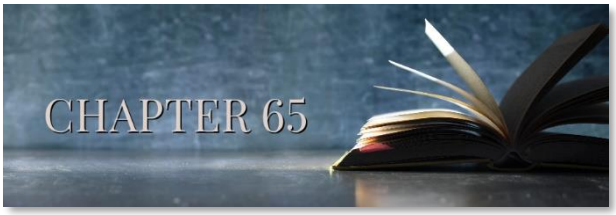
LTCi

AVOIDING THE SPEND-DOWN

KNOWLEDGE SERIES

This material is unbiased and intended to impart general information regarding **L**ong-**T**erm **C**are payment strategies for avoiding a MEDICAID spend-down in an easy-to-understand educational based format.



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WHAT IS A MEDICAID SPEND-DOWN?

A Medicaid Spend-down is the process of exhausting all private resources available to qualify for payment of confined Nursing Care.

Medicare vs Medicaid

Medicare is a federally funded Healthcare Insurance Entitlement Program. The benefits are entitled as an "earned" right for those who meet their eligibility requirements, whereas Medicaid is not. Medicaid is a Means-tested Social Welfare Program where the recipient must qualify to receive benefits.

Medicaid is a federally funded program administered by the state in which the recipient lives, and each individual state passes their own laws to manage the program. A Medicaid recipient may qualify for assistance for Home Bound Care, but the majority applying for Medicaid usually need Institutional Care.

Each state has Medicaid Institutional Care Programs (ICP). These programs have (ICP) Asset Rules that determine what are countable and exempt Assets for Medicaid eligibility. If the individual is married, Medicaid will allow the well spouse to retain a Community Spouse Resource Allowance (CSRA). The (CSRA) is the amount of nonexempt Assets that the Community Spouse is permitted to keep without affecting the ill spouse's Medicaid eligibility.

Each state also has Medicaid (ICP) Income Rules that look at the applicant's gross income. If married, the Community Spouse is allowed to have a Minimum Monthly Maintenance Income Allowance (MMMIA). Each state calculates the minimum amount of income the spouse of a Nursing Home resident must have to survive. Medicaid permits the Community Spouse to retain a certain portion of the institutionalized spouse's income to bring the Community Spouse's income up to the (MMMIA), if needed. The (MMMIA) can be increased if Community Spouse can show that expenses for rent or mortgage, utilities, insurance, and taxes exceed a monthly Excess Shelter Allowance.

Estate Recovery after death is mandatory due to Federal Funding -

In August of 1993, Congress passed a law that requires states to have a Medicaid Estate Recovery program in place. This recovery process may only start after the death of a deceased Medicaid recipient's surviving spouse, and only if they had no children under their care that were blind or permanently and totally disabled, or underage of twenty-one. After a Medicaid recipient dies. The state will file a claim with the Probate Court against the Medicaid recipient's Estate to recover amounts paid by Medicaid for the deceased Medicaid recipient's medical care. The Estate will be inventoried to include all real and personal property, and any other assets owned by the Medicaid recipient. This claim

will need to be satisfied to close the estate. This does not mean that the first option is to sell the decedent's home and/or land. The Personal Representative, Administrator, or Executor of the Estate will determine if there are any other assets or repayment options available to pay the Medicaid claim. If insufficient, the Estate Liquidation process begins to repay the Medicaid claim and other expenses of the Estate. States are not interested in taking titles to any property.

Deficit Reduction Act

By 2012, the Deficit Reduction Act's change over the previous 3-year Look-back Rule was fully implemented. This extended the Look-back Rule regarding asset transfers to qualify for Medicaid to 5-years (60-months). This look-back period begins on the date someone applies for Medicaid to receive Nursing Home Care, and only two states (CA and NY) have variations to this rule.

The Veteran's Non-Service-Connected Improved Pension Benefit

This benefit has been around since 1951. It is designed to help financially struggling Veterans or their widows with low Incomes and Assets. For those Veterans and their spouses, or their widows needing and utilizing Elderly Care there are Housebound and Aid and Attendance Benefits which are in addition to the Improved Pension Benefit. The Veteran's military service record is the first qualification for the Non-Service-Connected Pension. To meet the military qualifications. A Veteran would have served 90-days of active duty, including at least one day during a recognized wartime period (which could have been served state side), they must have a discharge of any kind other than dishonorable, and have at least one disability rated at 100%, or be over the age of 65.

There are Income guidelines governing qualifications for this benefit, but the Department of Veterans Affairs defines "countable income" for this benefit as Income minus Un-reimbursed Medical Expenses. There are Asset limitations and a 3-year (36-month) lookback period as well over asset transfers to qualify for benefits. The local VA Service Officer is a good go to resource for details.

AVOIDING A MEDICAID SPEND-DOWN

Avoiding a Medicaid Spend-down is about being Pro-active (seeking practical solutions) vs Reactive (responding at the point of need). The best way to avoid a Medicaid Spend-down is planning and understanding your options.

There are two ways to Insure Your Assets. You will either INSURE your assets by purchasing Long-Term Care Insurance (LTCi) as a Budget-based solution or REPURPOSE certain assets as a conversion redirect for an Asset Based Solution that offers enhanced (LTCi) benefits.

INSURING YOUR ASSETS

Long-Term Care Insurance (LTCi)

Long-Term Care Insurance can be purchased to cover all types of Elderly Care. The policy is usually underwritten after applying for coverage. Underwriting is the process of evaluating the applicant's health status to determine eligibility and may require the ordering of an Attending Physicians Statement. These types of plans have benefit triggers and waiting periods. The payment mode is usually either a monthly pre-authorized check paying arrangement, or annual premium. (LTCi) policies are subject to potential future rate increases.

Qualified State Long-Term Care Insurance Partnership Programs

The 2005 Federal Deficit Reduction Act authorized states to establish Long-Term Care Insurance Partnership Programs. These Partnership policies must be federally tax-qualified, and they permit participating policyholders to protect assets from a Medicaid spend-down on a dollar-for-dollar basis equal to the amount of any Long-Term Care insurance benefits received. This protection relates to both eligibility and Estate Recovery. In return for purchasing a Partnership Policy, a portion of policyholders' assets will be disregarded when determining their eligibility for Medicaid's Long-Term Care services if they apply for such services.

Insurers must provide a Partnership Status Disclosure Notice. The (LTCi) Partnership Program requires the applicant or policyholder to be a resident of the State offering the (LTCi) Partnership Program, and the (LTCi) coverage must offer Inflation offset protection up through age 75. The policy must also include guaranteed renewability and non-cancelability provisions, and a "free look" period that defines the time when a policyholder may cancel the policy for any reason and receive the return of premiums paid. The policy must provide essentially the same benefits for Custodial Care and Skilled Nursing Care, and Insurers cannot use different underwriting standards when evaluating health history for the approval of coverage. An Approved Long-Term Care Partnership Program Summary is to be made available upon request, or when benefits have been exhausted and you are applying for Medicaid's Long-Term Care services.

ASSET BASED SOLUTIONS

Life Insurance with (LTCi) benefits

The (LTCi) benefits with these types of plans are considered a "Living Benefit" which is based upon an accelerated payout percentage of the Life Insurance death benefit. These plans are also underwritten and have benefit triggers and waiting periods. The payment mode is usually either a monthly

pre-authorized check paying arrangement, or annual premium. Life Insurance policies with (LTCi) benefits are not subject to potential future rate increases.

Annuities with (LTCi) benefits

There are Annuity plans available that offer (LTCi) that are considered a "Hybrid," or as an alternative to traditional (LTCi), and these plans usually offer (LTCi) benefits in the form of a rider. When offered in the form of a rider they may be offered as an optional part of a Guaranteed Lifetime Income Rider (GLIR). These (GLIRs) may have different names based upon the carrier. The (LTCi) portion of the rider is usually not underwritten but may require that the annuitant is not hospitalized or currently receiving Elderly Care. Many of these (LTCi) riders have benefit triggers and waiting periods. The payment mode is usually a single premium. Fixed Annuity contracts with (LTCi) benefits are not subject to potential future rate increases.

Pension Protection Act 06 (PPA) introduced significant changes to the tax treatment of certain types of Insurance contracts creating innovative solutions for funding Long-Term Care. The (PPA) relies on two sections of the IRS Code to define the guidelines over a qualified exchange for Tax-free Income to help pay for qualified Long-Term Care. The 1035 Exchange Rule allows tax-free transfers of cash values or policies between Insurance or Annuity Contracts, and Section 7702(B)e defines how Life Insurance Contracts qualify for special tax treatment.

Section 844(b) of the (PPA) - The Exchange is for existing Non-qualified Annuities (Annuities that were established with after-tax funds), and/or for the Exchange of Cash Value in Life Insurance policies. This Exchange process transfers these types of non-qualified accounts over to a new (PPA) compliant Annuity which must include a Long-term Care Rider. Any Capital Gains on the Exchanged contracts become nullified, but vesting periods may apply.

TYPES OF ELDERLY CARE

These are the most common types of Elderly Care:

- Skilled Nursing Care
- Custodial Nursing Care
- Assisted Living
- Adult Day Care
- Senior Home Health Care
- Community Based Service
- Hospice

Skilled Nursing Care

Original Medicare pays 100% for the first 20-days in a Skilled Nursing Facility. A Skilled Nursing Facility is for a patient who needs 24-hour nursing supervision to ensure that their medical, psychological, or social needs are met. The majority of patients that cannot recover from a hospital admission at home will end up in a Skilled Nursing Facility for recovery. Medicare recipients are responsible for paying for days 21-100 in a Skilled Nursing Facility and all costs beyond 100 days in the benefit period.

Custodial Nursing Care

Custodial Care does not provide intensive medical treatment, the kind provided in a Skilled Nursing Facility. A Custodial Nursing Facility is what used to be called the "Rest Home." Custodial Care provides for Long-term Nursing Home Room and Board with 24-hour assistance and personal care for dressing, eating, bathing, moving around, daily nursing and healthcare monitoring. Custodial Nursing Care is the kind that can last for years. By 2032, health care spending will represent 19.7% of the (GDP) - Gross Domestic Product *NHE Fact Sheet (CMS) 2024. Neither Medicare nor Medi-gap private insurance supplements will pay for Custodial Nursing Home confinement, but it can be covered with (LTCi).

Assisted Living Care

Assisted Living communities are intended for seniors who need some level of assistance with activities of daily living, but not the required 24/7 care offered by a Custodial Nursing Home. Assisted Living offers a variety of amenities and services that enable residents to enjoy independence, privacy, companionship, and safety. Assisted Living facilities may be luxury, hotel-like settings with a variety of dining options, fitness centers, pools and more. They may also be a small building with a few residents in rooms or apartments, a common area and dining room. Assisted Living communities are not federally regulated, and state rules and regulations vary significantly. As a result, the costs, amenities, and services can differ from state to state and from community to community.

Senior Home Health Care

Senior Home Care involves a wide array of services provided in a person's home. Most commonly, it refers to a Home Care Aide who provides support with activities of daily living such as bathing and dressing, preparing meals, doing laundry and cleaning. Home Care Aides may offer socialization and companionship, and they can help around the house with tasks such as walking the dog. This type of home care is referred to as personal care.

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Long Term Care Insurance

This material is an easy-to-understand Educational Based Resource to be used as a reference, and not as a substitute for **Qualified Professional Advice.**