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MEDICAID - SPOUSAL IMPOVERISHMENT PROTECTION

Medicaid is a state and federally-funded government program that pays for health care and long-term care services for low-income people of all ages. One of the programs under Medicaid is called Medicaid for the Elderly, Blind or Disabled (EBD). It provides care in a skilled nursing facility. In addition, community waiver services, such as the Community Options Program (COP), Community Integration Program (CIP), or Family Care provide an at-home care alternative to a nursing home.

"Spousal Impoverishment Protection" is a program under Wisconsin Medicaid EBD regarding the income and assets that affect certain married couples when one of them is applying for or receiving nursing home care or community waiver services in their own home. The purpose of Medicaid Spousal Impoverishment Protection is to prevent the spouse who is not receiving nursing home or community waiver services from being impoverished by his or her spouse's cost of care.

Spousal Impoverishment Protection affects legally married couples (not domestic partners or same-sex couples married outside of Wisconsin) when one spouse is in a nursing home or taking part in a community waiver services program for 30 days or more and the other is not. The person in the nursing home or participating in the community waiver services program which is paid for by Medicaid is referred to as the "institutionalized spouse." The other spouse is referred to as the "community spouse." The Spousal Impoverishment Protection applies only when one spouse is receiving Medicaid. If both spouses are applying for or receiving Medicaid benefits, they are not eligible for Spousal Impoverishment Protection.

ASSETS

To qualify for Medicaid, an applicant's income and assets must be below specified levels. Under the Spousal Impoverishment Protection, there are special rules for counting and allocating the assets between the spouses. If you or your spouse enter a medical institution, nursing home or request a community waiver program, and services are expected to last 30 days or more, you should contact your county Aging and Disability Resource Center (ADRC) and request that a representative conduct an assessment of your total combined assets. The amount of your total combined assets at the first time of institutionalization for 30 days or more determines the amount of assets you may keep.

It is advisable to contact an elder law attorney for help in determining the amount of assets you can keep, since there may be exceptions to the general standards.

Some assets are counted to determine the amount that the community spouse may keep, while others are excluded. Examples of countable assets may include, but are not limited to:

Cash
Checking and savings accounts
Life insurance policies with a cash value
CDs, IRAs, stocks, bonds and annuities
Certain non-residential property such as a second home or land

Medicaid EBD does not count some assets. Excluded assets include:

Your home, as long as the community spouse or other dependent relative lives there
One vehicle
Certain burial assets (including burial insurance, burial trusts, and burial plots)
Household furnishings, clothing and other personal items
Certain special needs trusts available to disabled people, such as WisPACT trusts
Business assets which are income-producing and assets directly related and essential to producing goods or services

Once the amount of assets which are above the asset limit is determined, these excess assets can be reduced to allowable limits in various ways which are acceptable to the Medicaid program. If excess assets are not reduced, the institutionalized spouse cannot be enrolled in Medicaid. It is not advisable to attempt to reduce assets by giving away money to family members or other people, as doing so may result in a period of ineligibility for Medicaid. Please consult with an attorney on the best way to reduce excess assets before taking any steps to do so.

INCOME

Under Spousal Impoverishment Protection, there are special rules for counting income and the amount of income that can be transferred from one spouse to another. The institutionalized spouse must meet the same income and asset tests as a single person applying for Medicaid. Except for a small personal needs allowance of $45.00 per month, the institutionalized spouse must use their income to pay for part of their nursing home or at-home care and other medical expenses such as medical insurance. Only the institutionalized person's income is counted when determining eligibility for Medicaid and any cost share that will be paid to the nursing home or community waiver program. The community spouse cannot be required to pay for the institutionalized spouse's care from their own income except when there is a court order to do so.

An institutionalized person who qualifies for Medicaid may be allowed to protect some of his/her income by transferring it to the community spouse or other dependent family members, depending on the amount of income the community spouse has. It is advisable to contact an elder law attorney for advice on how to transfer income properly so that it will not disqualify the institutionalized spouse from eligibility for Medicaid.

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