

PREPARED BY:

LAURA L. ANDERSON, ESQUIRE  
BOARD CERTIFIED IN WILLS, TRUSTS & ESTATES

## INTRODUCTION TO MEDICAID QUALIFICATION FOR NURSING HOME CARE

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National statistics indicate that 1 out of 4 persons ages 65-80 will need nursing home attention during their lifetimes. For those persons over age 80 -- 1 out of 2 will need nursing home care. The figures are even more staggering for those persons suffering from memory disorders. Eighty-five percent (85%) of Alzheimer's patients will require nursing home care prior to death.

Fifty percent (50%) of those persons entering a nursing home will be discharged (due to recovery, death or otherwise) after 6 months. The remaining fifty percent (50%) will require nursing home care for 2½ years.

We are advised by the Florida Department of Children and Families that the average cost of nursing home room and board in Florida is \$5,000 per month. But remember that this figure is only room and board -- it does not include extras of medication, doctors, therapy, laundry, diapers, grooming, etc. -- expenses which raise the average cost closer to \$6,500 per month.

It does not take a math genius to determine that the average person cannot support this kind of payment for a long period of time. Not surprisingly, the statistics are disheartening. The House Select Committee on Aging in 1987 found that seventy percent (70%) of single elderly persons exhaust their funds after 13 weeks in a nursing home -- while more than ½ of elderly couples with one spouse in a nursing home exhaust their funds within 26 weeks.

How can an individual plan to meet this expense? Are there any government programs available to provide assistance in making these payments? This paper is designed to give an overview of the Medicaid Institutional Care Program -- one of two government programs designed to provide assistance in meeting the costs of nursing home care. If the individual is a veteran, benefits may be available through the Veteran's Administration; however, those benefits are not discussed herein.

It is important to realize that Medicaid, not Medicare, is the potential source for payment of nursing home expenses. The typical individual is most familiar with Medicare. Virtually everyone age 65 and older receiving Social Security, or under 65 and receiving Social Security Disability is entitled to Medicare. Medicare pays for hospitalization, skilled nursing care, and if part B is elected,

such things as physician services, diagnostic tests, outpatient services, etc. It is not designed to pay for typical custodial nursing home care, including the costs associated with providing assistance with eating, bathing, toiletry and mobility. Although a limited benefit may be paid under Medicare for skilled nursing home care, usual coverage under Medicare only lasts 10-20 days. The benefit provided under a Medicare supplement insurance policy will also cease after an average of 10-20 days in the nursing home.

Medicaid, unlike Medicare, is designed solely for the poverty stricken. It is a need based program, not an entitlement simply because a person has attained the age of 65.

The Medicaid Institutional Care Program is administered by the State of Florida, Department of Children and Families (DCAF). If a person meets the criteria, this program will pay for the costs of nursing home care.

The criteria are as follows:

1. Must be a Florida resident and either a U.S. citizen or permanent resident alien.
2. Must be over 65 and need nursing home care, or be blind or disabled.
3. Must meet asset cap.
4. Must meet income cap.

It is important to realize that all criteria must be satisfied to obtain benefits. The criteria numbered 3 and 4, require further explanation. They are designed to ensure that only the impoverished, or those in danger of impoverishment, receive Medicaid benefits.

The asset cap for a person entering a nursing home is \$2,000. If the person entering the nursing home is married, his or her spouse can also have assets of \$113,504. Certain assets are not counted in arriving at the \$2,000 cap and the \$113,504 cap. These assets include, but are not limited to:

1. Equity interest in homestead real property up to \$525,000. If spouse, child (under 21) or disabled adult child are living in home, value is unlimited.
2. Household furnishings and personal effects.
3. One (1) automobile, regardless of value or use.
4. Life insurance, provided that face value on all policies having cash surrender value totals \$2,500 or less.

5. Irrevocable prepaid funeral arrangements of any amount.
6. Certain rental or business property.
7. Certain annuities.
8. Certain life estate interests in real property.

No gifts should be made in an attempt to reduce an individual's assets below the \$2,000 or \$113,640 threshold for Medicaid Institutional Care Program qualification purposes without first receiving competent legal advice. Every gift made prior to filing an application for benefits has a cost. This cost equates to a period of time during which the individual may not obtain the desired benefits. If gifts are made, the individual could, quite possibly, never be eligible for benefits.

With proper planning, countable assets in excess of the \$2,000 or \$113,640 threshold such as bank accounts, stock, etc. could be invested in non-countable assets, allowing an individual to immediately satisfy the asset criteria for Medicaid eligibility. An example of this type of planning might include using countable cash assets to pay off or reduce the balance of a mortgage on the homestead real property.

Assuming that the asset test criteria is satisfied, an individual entering a nursing home must also pass an income test. Currently, the person entering a nursing home cannot have gross monthly income in excess of \$2,094. Most deductions normally withheld from gross income must be added back in determining whether the income test is satisfied. For example, the premium for Medicare, part B, which is withheld automatically from Social Security payments, as well as any tax withholding must be added back.

The gross monthly income limitation used to be a hard and fast rule in the State of Florida. If an individual had one penny over the income amount, Medicaid Institutional Care Program benefits were not available. For those individuals with large pensions, but less than substantial assets, this was an inequitable result.

Congress provided relief in the Omnibus Reconciliation Act of 1993, by requiring income cap states (of which Florida is one) to allow individuals to assign all of their monthly income, or perhaps, only that amount in excess of the income cap, to an irrevocable income trust in order to reduce income and qualify for Medicaid Institutional Care Program benefits -- the rationale being that if the income is held by the income trust, it is not available to the individual; and, therefore, is not counted.

Florida currently requires that income placed in the irrevocable income trust be used to pay the nursing home and, if applicable and awarded by DCAF, to pay an allowance of sorts to the spouse who is not residing in a nursing home. The government picks up the difference, i.e., the amount by which the nursing home cost exceeds the monthly income received and paid to the

nursing home. The irrevocable income trust must provide that any income remaining in the trust at the death of the person receiving nursing home care must be first used to reimburse the State of Florida. Only after the State is reimbursed may the funds remaining in the irrevocable income trust, if any, be paid to any other party.

Because an exhaustive essay discussing the intricacies of Medicaid Institutional Care Program qualification would approximate the length of several college textbooks, the information provided in this material is necessarily brief. The rules are quite complex, but there are planning opportunities available to enable an individual to receive government assistance in financing the cost of nursing home care, simply by adhering to the rules themselves. Each individual has special needs and assets that make his or her case unique. There is no "one size fits all" plan. Accordingly, I encourage you to seek out competent legal advice to assist you in planning to meet the costs of long-term custodial care. As the statistics indicate, the risk and likelihood of needing this care in the future is simply too great to ignore.

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This material should not be regarded as offering a complete analysis or opinion on any provision of local, state or federal law. You should not attempt to implement any of the planning strategies set forth in this brochure without first obtaining competent, professional advice from qualified persons.