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The QMC

Long-Term Care & Medicaid

Family Workbook

Find Quality Care. Qualify for Medicaid. Preserve Assets.

QUALITY MEDICAID CARE

8780 Big Bend Blvd., Suite G

St. Louis, MO 63119

314-918-0084

www.qualitymedicaidcare.com

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QMC QUALITY MEDICAID CARE.com

Mark Easley ▪ Juris Doctorate - President

8780 Big Bend Blvd., Suite G ▪ St. Louis, MO 63119
p: (314) 918-0084 ▪ f: (877) 580-5204 ▪ www.qualitymedicaidcare.com

Dear friend:

The decision to move a family member or a loved one into long-term care is obviously very difficult.

Perhaps the move is being made because a family member can no longer care for himself or herself, or perhaps he or she has suffered a fall, or perhaps the person has a progressive disease like Alzheimer's or Parkinson's, or has had a stroke or a heart attack.

No matter the reason, those involved are almost always under great stress. At times like these, it's important that you pause, take a deep breath and understand that there are simple things that you can do to make the journey simpler. Good information is available, and you can make the right choices for you and your loved one.

This booklet is designed to provide you with information that will give you answers to some of your questions regarding paying for care, how the Medicaid process works, what you can keep and what must be spent on care, and how you can plan to ensure that long-term care doesn't financially devastate the family. These are the issues that our team of professionals deal with on a daily basis. Our team has assisted thousands of families in finding good care, qualifying for Medicaid, and getting care paid for.

Some of the planning opportunities described in this booklet require complex planning, and many require the assistance of a qualified elder law attorney. Our firm can make a referral to a qualified attorney for this planning. This booklet is designed to give you the full array of possibilities to preserve funds when Medicaid is a possible need for long-term care payment.

We hope you find this booklet helpful and informative. And let us know if we at QMC can be of assistance.

With Kindest Regards,

Mark Easley
Juris Doctorate
President, QMC

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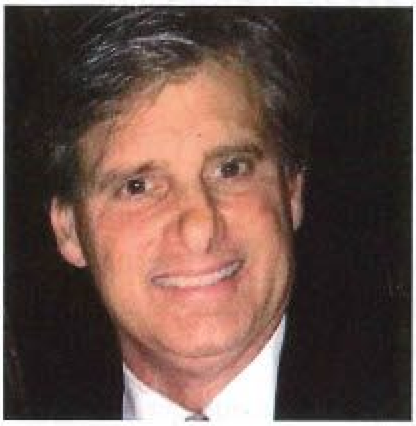
Mark Easley, Juris Doctorate, President, QMC, LLC - Bio



Mark Easley has committed his career to assisting Missouri seniors. As the Managing Attorney of the Elder and Estate Planning Law Firm of St. Louis, Mr. Easley has assisted over 3,500 clients over the past 18 years in the area of elder law, including Powers of Attorney, Revocable Trusts, Irrevocable Trusts, Healthcare Directives, Guardianships, Conservatorships, Probate Matters, Veterans Aid and Attendance applications, Medicaid applications, Medicaid filings, Divisions of Assets, and all ancillary issues relating to these matters. Mark continues to practice law with the Elder and Estate Planning Law Firm.

In the area of Medicaid, Mr. Easley has filed over 1,000 Medicaid applications, filings, appeals, Divisions of Assets, etc. At QMC, Mr. Easley and his team of professionals bring decades of Medicaid experience to this venture, with the goal of providing St. Louis and Eastern Missouri with professional, proficient, affordable guidance in the area of Long-Term Care Vendor Medicaid applications. QMC does not engage in the practice of law, but focuses exclusively on Medicaid application processing.

Mark is a graduate of John Brown University; he has also earned a Masters of Business Administration in finance from the University of Tulsa, and a Juris Doctorate from the Southern Methodist University School of Law. Mark served as a Big Brother in the Big Brothers Big Sisters of Eastern Missouri for 12 years. He is an active member of First Presbyterian Church of Kirkwood. He enjoys playing tennis.

Mark's wife, Sarah, is a compliance executive with Heartland Credit Union Association. As a person diagnosed with Young Onset Parkinson's Disease, Sarah is very active in Parkinson's causes and activities, helping others deal with the challenges of the disease. A graduate of Baylor University, Sarah is also an avid bicycle rider and enjoys painting and rehabbing older homes.

Mark and Sarah have two sons: Nathan, a graduate of Mizzou, currently residing and working in Chicago and enjoys hockey, tennis and snow skiing; and Brett, a student at Fort Lewis College in Durango, Colorado, who enjoys guitar, rock climbing and snow skiing.

MEDICAID REVIEW

Americans are living longer than ever before. At the turn of the 20th century, the average life expectancy was about 47 years. As we enter the 21st century, life expectancy has almost doubled. As a result, we face more challenges and transitions in our lives than those who came before us.

One of the most difficult transitions people face is the change from independent living in their own home or apartment to living in a long term care facility or "nursing home." There are many reasons why this transition is so difficult. One is the loss of home...a home where the person lived for many years with a lifetime of memories. Another is the loss of independence. Still, another is the loss of the level of privacy we enjoy at home, since nursing home living is often shared with a roommate.

Most people who make the decision to move to a nursing home do so during a time of great stress. Some have been hospitalized after a stroke, some have fallen and broken a hip, still others have progressive dementia, like Alzheimer's disease, and can no longer be cared for in their own homes.

Whatever the reason, the spouse or relative who helps a person transition into a nursing home during a time of stress faces the immediate dilemma of how to find the right nursing home. The task is no small one, and a huge sigh of relief can be heard when the right home is found and the loved one is moved into the nursing home. For many, the most difficult task is just beginning: How to cope with nursing home bills that may total $7,000 to $9,000 per month or more?

How to Pay for Nursing Home Care

One of the things that concerns people most about nursing home care is how to pay for that care. There are basically four ways that you can pay the cost of a nursing home:

1. Long Term Care Insurance - If you are fortunate enough to have this type of coverage, it may go a long way toward paying the cost of the nursing home. Unfortunately, long term care insurance has only started to become popular in the last few years and most people facing a nursing home stay do not have this coverage.

2. Pay with Your Own Funds - This is the method many people are required to use at first. Quite simply, it means paying for the cost of a nursing home out of your own

pocket. Unfortunately, with nursing home bills averaging between $7,000 and $9,000 per month in our area, few people can afford a long term stay in a nursing home.

3. Medicare - This is the national health insurance program primarily for people 65 years of age and older, certain younger disabled people, and people with kidney failure. Medicare provides short term assistance with nursing home costs, but only if you meet the strict qualification rules.

4. Medicaid - This is a federal and state funded and state administered medical benefit program which can pay for the cost of the nursing home if certain asset and income tests are met. Since the first two methods of private pay (i.e. using your own funds) and long term care insurance are self-explanatory, our discussion will concentrate on Medicare and Medicaid.

What About Medicare?

There is a great deal of confusion about Medicare and Medicaid. Medicare is the federally funded and state administered health insurance program primarily designed for older individuals (i.e. those over age 65). There are some limited long term care benefits that can be available under Medicare. In general, if you are enrolled in the traditional Medicare plan, and you've had a hospital stay of at least three days, and then you are admitted into a skilled nursing facility (often for rehabilitation or skilled nursing care), Medicare may pay for a while. (If you are a Medicare Managed Care Plan beneficiary, a three day hospital stay may not be required to qualify.)

If you qualify, traditional Medicare may pay the full cost of the nursing home stay for the first 20 days and can continue to pay the cost of the nursing home stay for the next 80 days, but with a deductible that's nearly $200 per day. Some Medicare supplement insurance policies will pay the cost of that deductible. For Medicare Managed Care Plan enrollees, there is no deductible for days 21 through 100, as long as the strict qualifying rules continue to be met.

So, in the best case scenario, the traditional Medicare or the Medicare Managed Care Plan may pay up to 100 days for each "spell of illness." In order to qualify for this 100 days of coverage, however, the nursing home resident must be receiving daily "skilled care" and generally must continue to "improve." (Note: Once the Medicare and Managed Care beneficiary has not received a Medicare covered level of care for 60 consecutive days, the beneficiary may again be eligible for the 100 days of skilled nursing coverage for the next spell of illness.)

While it's never possible to predict at the outset how long Medicare will cover the rehabilitation, from our experience, it usually falls far short of the 100 day maximum. Even if Medicare does cover the 100 day period, what then? What happens after the 100 days of coverage have been used?

At that point, in either case, you are back to one of the other alternatives... long term care insurance, paying the bills with your own assets, or qualifying for Medicaid.

What is Medicaid?

Medicaid (MO HealthNet in Missouri), is a benefits program which is primarily funded by the federal government and administered by each state. Sometimes the rules can vary from state to state.

One primary benefit of Medicaid is that, unlike Medicare (which only pays for skilled nursing), the Medicaid program will pay for long term care in a nursing home once you have qualified. Medicare does not pay for treatment for all diseases or conditions. For example, a long term stay in a nursing home may be caused by Alzheimer's or Parkinson's disease, and even though the patient receives medical care, the treatment will not be paid for by Medicare. These stays are called custodial nursing stays.

Medicare does not pay for custodial nursing home stays. In that instance, you'll either have to pay privately (i.e. use long term care insurance or your own funds), or you'll have to qualify for Medicaid.

Why Seek Advice for Medicaid?

As life expectancies and long term care costs continue to rise, the challenge quickly becomes how to pay for these services. Many people cannot afford to pay $8,000 per month or more for the cost of a nursing home, and those who can pay for a while may find their life savings wiped out in a matter of months, rather than years.

Fortunately, the Medicaid Program is there to help. In fact, in our lifetime, Medicaid has become the long term care insurance of the middle class. But the eligibility to receive Medicaid benefits requires that you pass certain income and asset tests. The reason for

Medicaid planning is simple. First, you need to provide enough assets for the security of your loved ones. Second, the rules are extremely complicated and confusing. The result is that without planning and advice, many people spend more than they should and their family security is jeopardized.

Exempt Assets and Countable Assets:

What Must Be Spent?

To qualify for Medicaid, applicants must pass some fairly strict tests on the amount of assets they can keep. To understand how Medicaid works, we first need to review what are known as exempt and nonexempt (or countable) assets. Exempt assets are those which Medicaid will not take into account (at least initially). In general, the following are the primary exempt assets:

- Home - (equity up to $572,000). The home must be the principal place of residence. The nursing home resident may be required to show some "intent to return home" even if this never actually takes place.
- Personal belongings and household goods.
- One car or truck.
- Burial spaces and certain related items for applicant and spouse.
- Up to $1,500 designated as a burial fund for applicant and spouse.
- Irrevocable prepaid funeral contract.
- Value of life insurance if face value is $1,500 or less. If it does exceed $1,500 in total face amount, then the cash value in these policies is countable. All other assets are generally non-exempt, and are countable. Basically, all money and property, and any item that can be valued and turned into cash, is a countable asset unless it is one of those assets listed above as exempt. This includes:
- Cash, savings, and checking accounts, credit union share and draft accounts.
- Certificates of deposit.
- U.S. Savings Bonds.
- Individual Retirement Accounts (IRAs), Keogh plans, 401(k)s, and 403(b)s.
- Nursing home accounts.

- Prepaid funeral contracts which can be canceled.
- Trusts (depending on the terms of the trust).
- Real estate (other than the primary residence).
- More than one car.
- Boats or recreational vehicles.
- Stocks, bonds, or mutual funds.
- Land contracts or mortgages held on real estate sold.

While the Medicaid rules themselves are complicated and tricky, it's safe to say that a single person will qualify for Medicaid as long as she has only exempt assets plus a small amount of cash and/or money in the bank, up to $2000 in Missouri.

Some Common Questions:

I've added my children's names to our bank account. Do they still count?

Yes. The entire amount is counted unless you can prove some or all of the money was contributed by the other person who is on the account. This rule applies to cash assets such as:

- Savings and checking accounts
- Credit union share and draft accounts
- Certificates of deposit
- U.S. Savings Bonds

Can't I Just Give My Assets Away?

Many people wonder, can't I give my assets away? The answer is, maybe, but only if it is done just right. The law has severe penalties for people who simply give away their assets to create Medicaid eligibility. In Missouri, for example, every (roughly) $5,000 given away during the five years prior to a Medicaid application creates a one month period of ineligibility. So even though the federal gift tax laws allow you to give away up to $14,000 per year without gift tax consequences, those gifts could result in a period of ineligibility for Missouri Medicaid of over four months.

Giving under the new rules may be possible; however, it is critically important that you have the advice of an attorney well versed in these new rules.

Though some families do spend virtually all of their savings on nursing home care, Medicaid often does not require it. There are a number of strategies which can be used to protect family financial security.

Division of Assets:

Medicaid Planning for Married Couples

"Division of Assets" is the name commonly used for the Spousal Impoverishment provisions of the Medicare Catastrophic Act of 1988. It applies only to married couples. The intent of the law was to change the eligibility requirements for Medicaid where one spouse needed nursing home care while the other spouse remained in the community, i.e., at home. The law, in effect, recognizes that it makes little sense to impoverish both spouses when only one needs to qualify for Medicaid assistance for nursing home care.

As a result, a planning technique called a division of assets was born. Basically, in a division of assets, the couple reviews all their countable assets. Exempt assets, discussed above, are not counted. The countable assets are then divided in two, allowing the at-home or "community spouse" to keep one half of all countable assets to a maximum of approximately $126,420. The other half of the countable assets must be "spent down" to less than $4,000 in Missouri. The amount of the countable assets which the at-home spouse gets to keep is called the Community Spouse Resource Allowance (CSRA).

Each state also establishes a monthly income floor for the at-home spouse. This is called the Minimum Monthly Maintenance Needs Allowance. This permits the community spouse to keep a minimum monthly income ranging from about $2,030 to $3,090. If the community spouse does not have at least $2,030 in income, then he or she is allowed to take the income of the nursing home spouse in an amount large enough to reach the Minimum Monthly Maintenance Needs Allowance (i.e., up to at least $2,030). The nursing home spouse's remaining income goes to the nursing home. This avoids the necessity (hopefully) for the at-home spouse to dip into savings each month, which would result in gradual impoverishment.

To illustrate, assume the at-home spouse receives $800 per month in Social Security. Also assume that her needs are calculated to be the minimum of $2,030. With her Social Security, she is $1,230 short each month.

$2,030 at-home spouse's monthly needs (as determined by formula)

$ 800 at-home spouse's Social Security

$1,230 short fall

In this case, the community spouse will receive $1,230 (the shortfall amount) per month from the nursing home spouse's Social Security and the rest of the nursing home spouse's income will then go to pay for the cost of his care.

This does not mean, however, that there are no planning alternatives which the couple can pursue. Consider the following case studies:

Case Study:

Medicaid Planning for Married People

Ralph and Alice were high school sweethearts who lived in St. Louis, Missouri, their entire adult lives. Two weeks ago, Ralph and Alice celebrated their 51st anniversary. Yesterday, Alice, who has Alzheimer's, wandered away from home. Hours later she was found sitting on a street curb, talking incoherently. She was taken to a hospital and treated for dehydration. Ralph comes to see you after their family doctor tells him he needs to place Alice in a nursing home. He tells you they both grew up during the Depression and have always tried to save something every month. Their assets, totaling $100,000, not including their house, are as follows:

Savings account	$15,000
CDs	$45,000
Money Market account	$37,000
Checking account	$3,000
Residence (no mortgage)	$80,000

Ralph gets Social Security and Pension checks totaling $1,500 each month; Alice's check is $450. His eyes fill with tears as he says, "At $5,000 to the nursing home every month, our entire life savings will be gone in less than three years!" What's more, he's concerned he won't be able to pay her monthly nursing home bill because a neighbor told him that nursing home will be entitled to all of their Social Security checks.

There is good news for Ralph and Alice. It's possible he will get to keep his income and most of their assets... and still have the state Medicaid program pay Alice's nursing home costs. While the process may take a little while, the end result will be worth it.

To apply for Medicaid, he will go through the Missouri Family Services Division (FSD), and he will be able to keep about 1/2 of their assets (or about $50,000), plus he will keep his income.

Case Study:

A Trust for a Disabled Child

Margaret and Sam have always taken care of their daughter, Elizabeth. She is 45, has never worked, and has never left home. She is "developmentally disabled" and receives SSI (Supplemental Security Income). They have always worried about who would take care of her after they die. Some years ago, Sam was diagnosed with dementia. His health has deteriorated to the point that Margaret can no longer take care of him. Now she has placed Sam in a nursing home and is paying $5,000 per month out of savings. Margaret is even more worried that there will not be any money left for the care of Elizabeth.

Margaret is satisfied with the nursing home Sam is in. The facility has a Medicaid bed available that Sam could have if he were eligible. Medicaid would pay his bill. However, according to the information she got from the social worker, Sam is $48,000 away from Medicaid eligibility. Margaret wishes there was a way to save the $48,000 for Elizabeth after she and Sam are gone. There is.

Margaret can set up a "special needs trust" with the $48,000 to provide for Elizabeth. As soon as Margaret transfers the money to the trust, Sam will be eligible for Medicaid. Elizabeth won't lose her benefits, and her security is assured.

Of course, all trusts must be reviewed for compliance with Medicaid rules. Also, failure to report assets is fraud, and when discovered, will cause loss of eligibility and repayment of benefits and perhaps even criminal penalties. Still, some people question making gifts before entering a nursing home.

I Heard I Can Give Away $14,000 Per Year. Can I?

As discussed earlier, many people have heard of the federal gift tax provision that allows them to give away $14,000 per year without paying any gift taxes. What they do not know is that this refers to a gift tax exemption. It is not an absolute right where Medicaid is concerned.

Will I Lose My Home?

Many people who apply for medical assistance benefits to pay for nursing home care ask this question. For many, the home constitutes much or most of their life savings. Often, it's the only asset that a person has to pass on to his or her children.

Under the Medicaid regulations, the home is an exempt asset (so long as equity is less than $572,000). This means that it is not taken into account when calculating eligibility for Medicaid. But in 1993, Congress passed a little-debated law that affects hundreds of thousands of families with a spouse or elderly parent in a nursing home. That law requires states to try to recover the value of Medicaid payments made to nursing home residents. Estate recovery does not take place until the recipient of the benefits dies (or until both spouses are deceased if it is a married couple). Then, federal law requires that states attempt to recover the benefits paid from the recipient's probate and in some cases non-probate estate. Generally, the probate estate consists of assets that the deceased owned in his or her name alone without beneficiary designation. The non-probate assets include assets owned jointly or payable to a beneficiary.

About two-thirds of the nation's nursing home residents have their costs paid in part by Medicaid. Obviously, the Estate Recovery law affects many families. The asset most frequently caught in the Estate Recovery web is the home of the Medicaid recipient. A nursing home resident can often own a home and receive Medicaid benefits without having to sell the home. Upon death, if the home is part of the probate or non-probate estate, the state may seek to force the sale of the home in order to reimburse the state for the payments that were made. Since Medicaid rules are constantly changing, you will need assistance from someone knowledgeable about these rules.