

Increase Revenue With Medicaid Planning (And Have Uncle Sam Pick Up The Tab)

By Gordon Williamson, JD, MBA, CLU, ChFC
Institute of Business and Finance

Talking to existing or prospective clients about Medicaid planning is a way to set yourself apart from your peers. It is also an excellent title to attract attendees to seminars and workshops. With proper planning, the advisor can shelter a large percentage of a client's assets so that if nursing home care is needed, the costs will be paid by the government and not by the recipient or the recipient's spouse. Before reading about Medicaid planning, keep in mind the following important considerations:

1. Medicaid rules are complex, confusing, and change frequently; the rules and/or procedures can vary from county to county (in fact, there are actually several sets of overlapping rules).
2. Medicaid does not cover custodian care, but it does cover custodial nursing home care to a limited extent.
3. If affordable, long-term care insurance is often a better alternative.
4. Tax, estate, and Medicaid planning do not work well together; what is good for one area can be detrimental to another component of planning. For example, we know that taxes are part of life and that we will eventually die, therefore we make tax and estate planning a priority. However, we do not know if we will ever apply for Medicaid and if we do, what the rules will be at that particular time.

Before discussing the four major components of Medicaid planning, it is important to first find out if your client's residency is a "medically needy" or "cap" state. From a planning perspective, a brief discussion of these two program criteria is provided because after reading the description of each, your client may decide to move to a state that is based on "medically needy" criteria or one that uses "cap" state criteria.

In a *medically needy* state, Medicaid services can be provided to those individuals whose assets are within the state's eligibility limits. Such an individual must agree to "spend down," which means the individual has to pay all extra income to the care provider before Medicaid kicks in. Once a sick person enters a nursing home or begins to receive Medicaid home care, that person must "spend down" each month. This means that all of one's monthly income must be used to pay for the provided care, minus a "personal needs allowance" which varies from state to state but is generally considered a nominal amount (the Federal government requires that this amount be at least \$30 per month).

In a cap state, your clients cannot receive Medicaid benefits if their income exceeds the state's "income cap" – even though the applicant may have no assets. The income cap varies from state to state but, according to federal mandate, the dollar amount cannot exceed three times the maximum Social Security Income (SSI) benefit. This benefit will be approximately \$1,700 for the 2004 calendar year — making the income cap for 2004 no more than \$5,100 per month.

Because Medicaid is such a difficult and complex topic, it is helpful to divide it into four main components: (I) income, (II) assets, (III) transfers, and (IV) protection for the healthy spouse.

I. Income

Medicaid defines "income" as almost anything that is paid on a one-time or continuing basis. If you receive income of any kind and do not spend all of that income, any excess becomes an

asset. For example, Mary receives a check for \$700, spends \$500 and puts \$200 in the bank; the \$200 is considered an asset. Some states count Social Security benefits and/or pension payments as income.

II. Assets

When a Medicaid application is made, the agency makes a one-time calculation, or “snapshot,” of all the assets owned by the applicant and his or her spouse. All such assets are added together and half of the final figure is considered to be owned by each spouse. Non-exempt assets, like one’s personal residence, are not counted in this calculation.

After the community spouse (the healthy spouse) receives his or her CSRA (see “IV” below), the Medicaid applicant is eligible for Medicaid help if his or her resources are below the state’s Medicaid resource level, which ranges from \$1,000 to \$2,000. Some states allow the community spouse to keep the maximum CSRA even if it exceeds one half of the combined assets of both spouses.

III. Transfers

There are certain transfers you can make that have no effect on Medicaid eligibility. Some of the more common types of exempt transfers are those involving a spouse transferring an asset to another spouse, a transfer made in return for its fair market value and one’s personal residence. As a generality, you need only be concerned with transfers made within the 36 months before the Medicaid application is made (60 months in the case of a trust).

IV. Protection For The Healthy Spouse

The “healthy spouse,” frequently referred to as the “community spouse,” is entitled to a monthly income that is referred to as the “Community Spouse Income Allowance” (CSIA). For 2004, the CSIA will range from roughly \$1,500 to \$2,300, depending upon your client’s state of residency.

The community spouse, who is defined as someone who is the spouse of an institutionalized Medicaid recipient, is also allowed a Community Spouse Resource Allowance (CSRA). For 2004, the CSRA will be approximately \$18,000 to \$90,000, again, depending upon the client’s residency.

Summary

As the advisor, you will need to decide whether or not planning strategies such as the timing of transferring assets from one spouse to another, reverse mortgages, or trusts are appropriate. Purchasing an immediate lifetime annuity may be an appropriate course of action that can benefit you and the client.

Regardless of the strategies used, it is important for your older clients to seek out your Medicaid advice for the following reasons: (1) to help determine eligibility, (2) avoid the remote chance of criminal prosecution if the application is not filled out correctly, (3) avoid delays (if the application is filled out incorrectly), (4) receive input as to planning devices that may shelter additional assets from Medicaid, and (5) minimize confusion and headaches.