

MEDI-CAL ASSISTANCE FOR SKILLED NURSING COSTS



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*Elder Law, Estate Planning, Special Needs,
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MEDI-CAL ASSISTANCE FOR SKILLED NURSING COSTS

Medi-Cal is an important public benefit that can assist in covering the high costs of long-term skilled nursing care in a facility if eligibility requirements are met. Skilled nursing care is 24-hour care provided by nurses under the direction of a doctor. Skilled nursing care is typically the costliest care option available to seniors, costing as much as \$10,000.00 per month. However, Medi-Cal does not cover expenses incurred in less costly options, such as assisted living facilities or board and care residences.

Medi-Cal is California's version of Medicaid and is funded by both federal and state funds. It is designed to provide benefits to the medical needy if their income and resources are within Medi-Cal limits. Medi-Cal is different from the federal insurance program, Medicare, which is paid out of Social Security deductions. All persons 65 or older, who have made Social Security contributions, can obtain Medicare, as can others with certain disabilities.

Medi-Cal may cover all or part of skilled nursing facility costs if it is determined that those services are "medically necessary." Services include such things as: some prescriptions, physician visits, adult day health services, some dental care, ambulance services, some home health, x-ray and lab costs, orthopedic devices, eye glasses, hearing aids, some medical equipment, etc. However, to qualify for Medi-Cal, a candidate must have limited resources available. Since January 1, 1989, the property limit for an individual is \$2,000.00. However, certain assets are considered "exempt" and do not count toward the \$2,000.00 limit in determining long term care Medi-Cal eligibility.

Exempt assets include the following:

- The home: The applicant must state "an intent to return home" when applying for Medi-Cal.
- Other real property: If used in whole or part as a business or means of self-support.
- Household goods and personal effects.
- Jewelry: For a single person it includes wedding and engagement rings, heirlooms and items with a net market value of \$100 or less. For spouses there is no limit in determining the ill spouse's eligibility.
- One car.
- Whole life insurance policies with a total face value of \$1,500 or less.

- Term life insurance.
- Burial plots.
- Prepaid irrevocable burial plan of any amount and \$1,500.00 in designated burial funds, kept separate from other accounts.
- IRAs and work-related pensions: If the account is in the applicant's name, and the applicant is receiving periodic payment of interest and principal, the balance cannot be counted as an available asset. However, the periodic distributions are considered income and are calculated in determining an applicant's share of cost, as discussed below.
- Non-work-related pensions: The balance of certain types of annuities may be exempt, but some may not be.
- \$35 per month: The applicant is allowed \$35.00 per month for personal maintenance needs.

The spouse of an applicant is allowed to keep \$123,600.00 in assets; this is called the Community Spouse Resource allowance (CSRA). The spouse is also allowed a monthly maintenance amount of \$3,090.00, which changes every year. If the well spouse has less than \$3,090.00 in income, then the ill spouse may be allowed to allocate some of the ill spouse's income to the well spouse.

Applicants who have a net monthly income higher than outlined may still qualify for Medi-Cal if they agree to pay what is called a "share of cost." In other words, the income, in excess of what the state allows to qualify for Medi-Cal, will go to pay part of the nursing home facility costs. Here is an example:

Marilyn is single and 65, lives alone, and has income from Social Security and a pension that totals \$1,500.00. She owns her home, one car and has \$1,999.00 in the bank. She needs skilled nursing care. While she meets the requirements regarding liquid assets (she has less than \$2,000.00), she has a monthly income that must go to pay her share of cost. The share of cost is based on the following:

$$\begin{aligned}
 & \$1,500.00 \text{ gross unearned income} \\
 & - \$35.00 \text{ monthly personal needs allowance} \\
 & = \$1,465.00 \text{ share of cost to be paid to nursing home}
 \end{aligned}$$

In addition to the monthly personal needs allowance, deductions may be taken for any monthly medical premiums, such as a Medicare part B premium.

For people who have assets far in excess of those allowed to qualify for Medi-Cal, they can “spend down” their assets to qualify for the public assistance. Resources have to be reduced to the \$2,000.00 mark for applicants, whether married or single spouses by the end of the month in which the applicant applies for Medi-Cal. A well spouse will have to spend down assets to the \$123,600.00 mark. The applicant and/or spouse can use assets to pay off debts or expenses, remodel or repair a home or convert non-exempt assets into exempt assets.

Non-exempt assets may also be gifted away (uncompensated transfer), but Medi-Cal will “look back” at all gifting in the 30 months prior to application and will likely impose penalties. Gifting assets may mean that you become ineligible for Medi-Cal benefits for a period of time, not to exceed 30 months. The length of the penalty period or disqualification period is determined by dividing the value of the gift by the average monthly cost of long-term care (at present that figure is \$8,841.) It is essential that a qualified elder law attorney be consulted to ascertain how to transfer and restructure assets to incur the shortest disqualification periods possible.

It is important to incorporate Medi-Cal planning into your estate plan before you ever need it. A carefully worded trust and/or power of attorney can make sure that if you cannot take care of Medi-Cal planning yourself, due to health concerns, a trustee or agent can do that for you. An experienced elder law attorney can also make sure that an applicant follows all the Medi-Cal rules and is not disqualified from benefits due to poor planning and/or execution and, at the same time, that the applicant’s assets are protected in the best way possible.

Each person’s matter is different and facts and circumstances should be evaluated by an attorney versed in estate planning. This informational packet is not legal advice.

For an appointment, please call the McNamara Law Firm, PC, at (661) 287-3260, or visit www.themcnamaralawfirm.com.