

# PENNSYLVANIA MEDICAID PLANNING – WHAT CAN A HEALTHY SPOUSE KEEP?

*“Medicaid is important to many seniors who were qualified for Medicare, because Medicaid will pay for long-term care. There are asset and income limits that govern eligibility, but the healthy spouse is entitled to certain property rights.”*



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Serious minded people who want to be fully prepared for the eventualities of aging should carefully consider the implications of elder care. As you are going through life taking care of your business, it can be hard to imagine a time when you may need help with your day-to-day needs. However, when you look at the relevant data, you find that most elders are going to need living assistance at some point in time.

In fact, according to the United States Department of Health and Human Services, 70 percent of people who are reaching the age of 65 will eventually need assistance with their activities of daily living.

## MEDICARE GAP

If you work and pay your taxes throughout your life, you will qualify for Medicare coverage. At the present time, the age of eligibility is 65.

Though Medicare will certainly help with covered health care costs, the program will not pay for custodial care. This is the form of care that you would receive in a



nursing home or assisted living community. Medicare will pay for up to 100 days of convalescent care after surgery, but custodial care is not covered at all.

Paying for long-term care out-of-pocket is simply not a

comfortable option for most people. The national average charge for a year in a private room in a nursing home is in excess of \$90,000. A government survey that was conducted not long ago stated that the average length of stay was around two years and three months.

## MEDICAID PLANNING

Medicaid is a jointly administered federal/state government health insurance

program. Though it is intended for people with financial need, Medicaid pays for most of the nursing home care that is received by seniors in the United States. Many of these people entered retirement with significant resources. Since Medicaid is a need-based program, there is a \$2000 limit on countable assets. As a result, people often spend down so that they can qualify for Medicaid. When you spend down, you maintain ownership of assets that are not countable



for Medicaid purposes, and you give loved ones the assets that are in fact countable.

Spending down can sound like a rather simple, risk-free endeavor. If you ever find out that you need long-term care, you could give your children your countable assets and immediately qualify for Medicaid, right?

Unfortunately, things are not quite that simple. There is a 60 month look-back period. You are penalized and your eligibility is delayed if you give away assets within five years of applying for coverage. As a result, you have to think ahead and act in advance if you want to be optimally prepared.

## RIGHTS OF HEALTHY SPOUSE

Now that we have provided the necessary background information that explains why Medicaid may be relevant to you, we can look at the property rights of the

healthy spouse.

If you are entering a nursing home while your spouse is still staying at home, your spouse can keep half of the assets that are considered to be countable by Medicaid evaluators. However, there is a limit. We practice law in Pennsylvania, and in our state, this limit is \$119,220 in 2015. The minimum amount that a healthy spouse can keep is \$23,844, even if this is more than half of the shared countable assets.

The healthy spouse is also entitled to a Monthly Maintenance Needs Allowance. Income that is earned by the spouse that is entering an assisted living facility must be contributed toward the costs that are being incurred, unless the healthy spouse is relying on this income. If the healthy spouse is relying on the income, he or she is eligible to receive a Monthly Maintenance Needs Allowance.



In Pennsylvania, the maximum allowance during the current calendar year is

\$2,980.50, and the minimum is \$1,966.25.

The home that is owned by a couple is not considered to be countable, but there is an equity limit of \$552,000 in Pennsylvania 2015. However, there is no equity limit at all if the healthy spouse is remaining in the home.

## SUMMARY

Medicaid is important to many seniors who were qualified for Medicare, because Medicaid will pay for long-term care. There are asset and income limits that govern eligibility, but the healthy spouse is entitled to certain property rights.

To get all the facts, schedule a consultation with a licensed elder law attorney.

## REFERENCES

LongTermCare.gov  
<http://longtermcare.gov/>

Nolo  
<http://www.elderlawanswers.com/key-medicaid-information-for-pennsylvania-for-2015-12222>

## About Flood & Masiuk, LLC



### **Marianne Flood**

As the founder and managing partner of the Southampton, Pennsylvania law firm of Flood & Masiuk, LLC, Marianne Flood oversees a practice devoted to providing clients with personalized service and counsel in all aspects of estate planning.

Because of Ms. Flood's deep commitment to the specialty of estate planning, she became a member of the American Academy of Estate Planning Attorneys in April, 2000. Her entire private practice has been devoted to helping families of

all ages and backgrounds.

### **Joe Masiuk**

As a partner in the law firm of Flood & Masiuk, LLC, Joseph Masiuk is committed to, a practice which provides people of all ages and walks of life with thoughtful and comprehensive solutions in Estate Planning, which includes Elder Care, Medicaid and Special Needs Planning.

Today, Mr. Masiuk is a widely noted speaker, author and seminar leader on topics ranging from estate and Medicaid planning to asset protection for traditional and GLBT couples and families.

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