



# Protecting the Spouse of a Client Needing Long-Term Care

Medicaid may help prevent all of a couple's assets from being expended on the first spouse to need LTC.

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When one spouse is facing a long-term care (LTC) need, a couple's initial focus is generally on his health needs (the institutionalized spouse [IS]); yet, once the care needs have been determined and placement or home care is secured, the focus turns toward the needs of the healthier spouse (the community spouse [CS]). Without planning or education, it's possible for all funds, including income and savings, to be expended on the IS, leaving the CS with little or nothing. As an advisor, you can help your clients avoid this outcome.

## Consider Medicaid

Individuals needing LTC have a number of ways to pay for it, all of which should be considered when facing such a large expense. Should one spouse need LTC nursing, then it's wise to consider Medicaid as an option to assist in paying for care. Many have misconceptions about the Medicaid program, and there are numerous myths about Medicaid and nursing care. The reality for many is that Medicaid payment of nursing care expenses is the only way that both an IS and a CS can be cared for both physically and financially. Most important for married couples, federal Medicaid policy takes the needs of a spouse into account and offers financial protections specifically for the CS.

## Eligibility Requirements

There are a number of requirements for Medicaid eligibility, but of most concern are the income and asset requirements. Practically speaking, income is considered to be amounts paid regularly to the applicant, such as Social Security, retirement pensions or annuity payments. While the definition of income can be much more complex than described here, generally, so long as the applicant's monthly income is less than the private pay rate of the nursing facility, then the applicant meets the income requirement for Medicaid. For example, in Virginia and North Carolina, if the individual takes advantage of Medicaid's home and community-based waiver services, then the income in Virginia is \$2,313 and in North Carolina is \$1,012. Note that, for purposes of eligibility, only the income of the spouse applying for benefits is relevant. Therefore, if the CS has income that exceeds either the private pay rate of the nursing facility or the above-waiver limits, then the applicant still meets the income requirements. Unfortunately, often the IS has the greater income. While the CS's income isn't considered for eligibility, it's taken into account when looking at what the IS may need to contribute toward his cost of care. Federal Medicaid policy requires that each state create a minimum monthly maintenance needs allowance (MMMNA) and, if the CS's income falls below the MMMNA amount, then the IS will be directed to contribute an amount from his income to the CS to provide that the CS has income of at least the MMMNA. In addition, there are circumstances in which an even greater contribution from the IS may be allowed if the CS can demonstrate a need. For example, currently the MMMNA for Virginia is \$2,057.50 and for North Carolina it is \$2,058.

Even more concerning than monthly income, is often what happens to a couple's assets if one spouse has a LTC nursing need. As with income, federal Medicaid policy includes protections for a couple's assets, ensuring that the CS may continue to have assets to use for his needs. Unlike with the income requirement for eligibility, Medicaid policy does consider the assets of both spouses for eligibility purposes. However, there are two key factors that protect the CS. The first is that certain assets are excluded when reviewing eligibility requirements; essentially, some assets just don't count. A prime example and of great importance is the couple's primary residence. Examples of other assets that don't count are funerals or burial arrangements, the value of one vehicle, term life insurance, certain annuity contracts and certain loan arrangements. In addition to allowing certain assets to not count, the CS is allowed to keep a percentage of the couple's combined countable assets up to a maximum of \$126,420. There was some concern toward the end of last year that this community spouse resource allowance (CSRA) would no longer apply to home and community-based services; however, Congress

has agreed to continue to make allowances for the CSRA even in a home setting. Therefore, Medicaid policy allows a CS to continue to maintain countable assets up to the CSRA in addition to an unlimited amount of no countable assets.

Thus, a CS can be financially protected, even if his spouse needs nursing care. Unfortunately, many couples fear financial ruin from chronic illness and have considered drastic measures such as gifting away their property or getting a divorce; or, they mistakenly think that this type of planning needs to be done five years before nursing home placement. However, this advance planning isn't necessary, and no such extreme measures are required to protect a CS.