

# NEWS

## The Basics

### Feds target Grandma's Medicaid

**Congress is making it a lot tougher to shield assets in order to qualify for government nursing-home coverage. That means more families could face huge bills and wiped-out inheritances.**

By Liz Pulliam Weston

Congress seems determined to wipe out "welfare for the well-to-do" -- the practice of seniors artificially impoverishing themselves so they can qualify for government help with nursing-home expenses.

More than 40% of people over 65 are expected to spend some time in a nursing home, according to the U.S. Department of Health and Human Services. Most won't stay long-- more than half of nursing-home stays last six months or less -- but the price can still be steep: an average of \$5,353 a month for a semi-private room, according to a recent MetLife survey. And 10% of seniors will stay for five years or more.

But lawmakers' latest effort to crack down on what's known as Medicaid planning is likely to snare a lot of unsuspecting older folks, their families and the nursing homes that serve them.

"These changes make no sense for families who need long-term care," protests Medicaid planning expert Vincent Russo, former president of the National Academy of Elder Law Attorneys. "Everyone who is a senior and every older baby boomer is going to have to think differently about long-term care planning."

The changes in the Medicaid eligibility rules are complex, but the bottom line could be devastating for many families:

- A senior who makes a charitable contribution or helps a grandchild pay for college could inadvertently delay her eligibility for months or even years.

- Someone who owns a home that has increased sharply in value could find himself unable to qualify at all, even if the house is his only asset.
- People who bought annuities to protect their assets might instead lose everything to their state's Medicaid recovery efforts.

The changes are part of the \$40 billion budget-cutting bill that the House recently approved, and President Bush is expected to sign. Senior advocates, including the AARP, are trying to block the legislation but concede their efforts are probably in vain.

There's some chance the most onerous provisions could be modified or even repealed in the future, but -- as with all things legislative -- nothing is certain.

### **How Medicaid works**

To understand what's happening, you need to know something about how Medicaid works.

Here are three key points:

- Medicaid is the government program designed to cover health-care costs for the poor. That distinguishes it from Medicare, the government health program for Americans 65 and over.
- Medicare typically doesn't cover nursing-home costs, but Medicaid does. In fact, about half the nation's nursing-home bills are paid by Medicaid.
- To qualify for Medicaid's help, seniors typically can't own much. So a whole Medicaid planning industry has sprung up to help older people use -- some say take advantage of -- Medicaid rules so they can qualify for help faster and perhaps preserve some of their assets for their heirs.

How much Medicaid planning is actually going on is a topic of hot debate. Some opponents of the practice, including Stephen Moses of the Center for Long-Term Care Reform point to attorney advertisements boasting that huge amounts of wealth can be hidden or transferred legally to heirs with the right tricks.

Others, like researcher Ellen O'Brien of Georgetown University's Long-Term Care Financing Project, think the issue is overblown. O'Brien said her review of empirical research found "no evidence" that large numbers of seniors were transferring assets to make themselves eligible for Medicaid and "little evidence" that those who transferred assets actually gained access to Medicaid.

Still, the idea that seniors with money to pay for care would snatch benefits meant for the

indigent -- especially as states are straining to cover health care for those poor men, women and children -- rankles many. Hence the efforts to change the law in several significant ways:

**Transfers would be counted differently.** Current law requires states to examine any transfers of cash or assets the senior has made in the previous three years-- what's known as the "look-back" period. The new legislation extends that period to five years, but there's an even greater and more onerous change in how the penalty period works.

Let's say Grandma gives \$25,000 to her grandson to pay for college before she applies for Medicaid. Under the current formula, that amount would be divided by the average cost of nursing-home care in her area -- say, \$5,000 a month -- to determine how long she has to wait for coverage. The clock starts when the money is transferred. In this case, Grandma would have to wait five months to receive coverage.

Under the new law, the clock starts ticking the day she applies for Medicaid. Her gift to her grandson (and any other transfers she made during the previous five years) now means that Grandma would have to wait five months for coverage, even if she's broke.

That could have some severe financial repercussions for the nursing home providing her care.

"There's a reason we call it 'The Nursing Home Bankruptcy Act of 2006,' " Russo said. If the home kicks her out, it's "going to get sued for neglect. Besides, it would be a public-relations nightmare."

**Making home equity fair game.** People who own homes worth more than \$500,000-- or \$750,000 in states that choose the higher limit-- could be barred from Medicaid, even if they don't own any other assets. The amount of home equity that exceeds the limit would have to be spent before seniors could qualify for coverage.

The issue isn't likely to affect seniors in low-cost areas, but could devastate long-term residents of states like California and New York where housing prices have soared.

"If you happened to be in the right place, even if you didn't realize it when you bought (the house), you're going to pay," Russo said.

Russo envisions seniors in hospitals or nursing-home beds scrambling to apply for reverse mortgages to tap the extra equity -- cash that would likely wind up paying for care, since seniors aren't allowed to keep much of their income when on Medicaid. Selling the house could actually make the problem worse, since suddenly all the home's equity would be counted against the senior.

**Sucking the advantage out of some annuities.** The insurance industry jumped into Medicaid planning by offering immediate annuity contracts that, when properly structured, could turn countable assets into a non-countable stream of income.

Essentially, seniors would give a chunk of cash to an insurer in exchange for a stream of checks that would last until their death.

But some seniors wanted to leave money to their heirs, so insurers began selling "interest only" annuities, which made smaller payments during life and then allowed the original investment to pass to the heirs on the senior's death.

That infuriated Medicaid-planning opponents. Under the new rules, the state would have to be named beneficiary of any leftover funds.

There are enough other changes that anyone contemplating Medicaid planning -- or who has a plan in place -- should consult with a well-qualified, experienced elder-law attorney.

### **Things to consider**

Before you do, though, consider the following:

**Do you really want to end up on Medicaid?** Nursing homes aren't required to accept Medicaid, and many of the best ones don't. If you have money to pay for care, think about using it to finance the best-quality care you can get.

**What do you think of the ethics of Medicaid planning?** Elder-law attorneys and other proponents say they're making ethical use of a broken system that otherwise would exhaust the resources of seniors who have worked hard all of their lives. Opponents say Medicaid planning is increasingly untenable in an era when coverage of the truly poor is being slashed

**Is long-term care insurance an option?** These policies get pricier the longer you wait to buy, so a policy that might cost you \$1,400 a year in your 50s would cost nearly \$9,000 a year in your 80s. One way to trim costs is to opt for a shorter benefit period -- two, three or five years, rather than lifetime coverage, for example. (A three-year, bare-bones policy could bring the cost under \$1,000 annually for a 55-year-old and under \$6,000 annually for an 85-year-old.) You're gambling, of course, that you won't be one of the minority of seniors needing extended care.

Then again, even folks who might otherwise consider insurance too costly might reconsider under the new rules, said elder law attorney Harry Margolis. A senior could transfer a home to a trust, for example, then pay premiums for five years while waiting out the penalty period.

"It might be worthwhile to pay \$30,000 to protect a \$750,000 house," Margolis said.

#### **Note:**

**Liz Pulliam Weston's column appears every Monday and Thursday, exclusively on MSN Money. She also answers reader questions in the Your Money message board.**

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