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Dramatic Changes to NY Medicaid Coming October 1, 2020

- 30-month “look back” for Community Medicaid
- New restrictions on access to personal care services
- Independent physician selected or approved by Department of Health must prescribe services
- And more

Mom's Financial Position

- Home: Rental
- Savings: \$220,000
- Income: \$2,895 per month

Medicaid Requirements for Nursing Home Care

- Eligibility based on “Resources” --
No more than \$15,750
- Income --
 - (a) Personal needs allowance of \$50 per month
 - (b) Balance is “Net Available Monthly Income” (NAMI), paid to nursing home

“Look Back” and “Penalty Period”

- “Look Back” -- 5 years from date of Medicaid application
- “Penalty Period” -- \$ amount of transfer, divided by Medicaid Regional Rate, equals the number of months of ineligibility
- Regional Rate varies:
 - NYC = \$12,844
 - Nassau – Suffolk = \$13,407
 - Westchester = \$12,805

Example: Calculating the Penalty Period

- Mom transfers \$205,000 to a trust in May 2018.
- Mom enters nursing home May 2020. She is Medicaid eligible except for the transfer.
- Mom's transfer was within the 5-year "look back" and results in a penalty (ineligibility) period.
- Penalty period: $\$205,000 / \$12,805 = 16$ months of ineligibility (Westchester resident).

Community Medicaid

- Home Care
- Adult Day Care
- Assisted Living (ALP)
- Special needs programs, e.g., Traumatic Brain Injury
- Hospital and Medical Care
- PT and OT
- Prescription Drugs

Medicaid Requirements for Home Care

- Eligibility based on “Resources” – maximum \$15,750
- Income - limited to \$895 per month. If greater,
 - a) contribute surplus to cost of care, or
 - b) deposit surplus into a Pooled Income Trust

Qualifying Mom for Medicaid Home Care

- Now: No “look back” -- transfer assets to an irrevocable trust, or to family members. Mom becomes eligible without delay.
- Beginning October 1: 30-month “look back” -- transfers within the “look back” will result in a “penalty period.”
- Consider an exempt transfer, if available.

Method for Calculating the Penalty Still to be Determined

Medicaid has not yet established rules for calculating the penalty (ineligibility) period for Community Medicaid. Possibilities:

- “Regional Rate” same as Nursing Home rate.
- “Regional Rate” equal to MLTC partial capitation rate.
- Penalty based on services / number of hours provided to the Medicaid recipient.

Calculating Mom's Home Care Penalty Period

- Note: as of the date of this presentation, no rules or guidance exist for method of calculation. This example uses two different possibilities.
- Mom needs Home Care in October 2020
- Mom transfers \$205,000 in order to become Medicaid eligible. Her transfer is within the 30-month "look back."
- $\$205,000 / \$12,805 = 16$ months of ineligibility
- $\$205,000 / \$4,000 = 51$ months of ineligibility

Protecting Mom's Income (Unchanged)

Income: \$2,895 per month

Minus the Medicaid Limit: - 895 per month

“Surplus Income” = \$2,000 per month

Options for Surplus Income:

- Contribute it to the cost of care
- Protect it in a Pooled Income Trust

Evaluation by MLTC or for CDPAP

- Under current rules, need assistance with 2 or more ADLs
- Under new rules, will need assistance with 3 or more ADLs
- Alzheimer's patients will continue to need assistance with 2 or more ADLs

Physician's Prescription

- Under current rules, the patient's own physician may prescribe Home Care
- Under new rules, only a physician selected or approved by the Department of Health will be able to prescribe Home Care

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