

Should You Prepare a Medicaid Application Yourself?

Whether you should prepare and file a Medicaid application by yourself or should hire help depends on answers to the following questions:

- How old is the applicant?
- How complicated is the applicant's financial situation?
- Is the individual applying for community or nursing home benefits?
- How much time do you have available?
- How organized are you?

Medicaid is the health care program for individuals who do not have another form of insurance or whose insurance does not cover what they need, such as long-term care. Many people rely on Medicaid for assistance in paying for care at home or in nursing homes.

For people under age 65 and not in need of long-term care, eligibility is based largely on income and the application process is not very complicated. Most people can apply on their own without assistance.

Matters get a bit more complicated for applicants age 65 and above and especially for those of any age who need nursing home or other long-term care coverage. In these cases, availing yourself of the services of an attorney is practically essential.

Medicaid applicants over age 65 are limited to \$2,000 in countable assets (in most states). It's possible to transfer assets over this amount in order to become eligible, but seniors need to be careful in doing so because they may need the funds in the future and if they move to a nursing home, the transfer could make them ineligible for benefits for five

years. Professional advice is also crucial because there is a confusing array of different Medicaid programs that may be of assistance in providing home care, each with its own rules.

All of that said, the application process itself is not so complicated for community benefits (care that takes place outside of an institutional setting, such as in the beneficiary's home). In short, those over 65 in many cases will need to consult with an elder law attorney for planning purposes, but they or their families may be able to prepare and submit the Medicaid application themselves.

But submitting an application for nursing home benefits without an attorney's help is not a good idea. This is because Medicaid officials subject such applications to enhanced scrutiny, requiring up to five years of financial records and documentation of every fact. Any unexplained expense may be treated as a disqualifying transfer of assets, and many planning steps – such as trusts, transfers to family members, and family care agreements – are viewed as suspect unless properly explained. Finally, the process generally takes several months as Medicaid keeps asking questions and demanding further documentation for the answers provided.

Many elder law attorneys offer assistance with Medicaid applications as part of their services. This has several advantages, including expert advice on how best to qualify for benefits as early as possible, experience in dealing with the more difficult eligibility questions that often arise, and a high level of service through a long, grueling process. The one drawback of using an attorney rather than a lay service is that the fee is typically substantially higher. However, given the high cost of nursing homes, if the law firm's assistance can accelerate eligibility by even one month that will generally cover the fee. In addition, the payments to the attorney are generally with funds that would otherwise be paid to the nursing home – in other words, the funds will have to be spent in any event, whether for nursing home or for legal

fees.

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