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Full Wallets, but Using Health Program for Poor

By ANEMONA HARTOCOLLIS



Last year, more than 1,200 people in New York City officially turned their backs on their husbands and wives to qualify for Medicaid, triple the number of people five years ago.

Lawyers generally advise that even with the potential of being sued, spousal refusal makes sense because Medicaid pays less for nursing home care than private clients do.

FEARS LAWSUIT A Florida man resorted to “spousal refusal” so that his ailing wife's care would be paid for.

December 12, 2010 Readers' Comments

The primary reason Medicaid applicants are denied benefits are due to their assets levels exceeding the approximate \$2,000 maximum exemption limit.

Fortunately, most states have adopted Long Term Care Partnership Programs. Those who purchase long term care insurance policies certified under their state's Term Care Partnership Program can protect their assets beyond the \$2,000 exemption and force Medicaid to pay for their care. Furthermore, the federal government provides tax deductions and most states provide tax deductions or tax credits as incentives to purchase long term care insurance. For example, New York State provides a 20% tax credit.

Most states have adopted “Dollar for Dollar” Long Term Care Partnership Programs. These programs allow you to purchase Partnership Program certified policies that protect your assets away from Medicaid. For example, if your policy pays out \$500,000 worth of benefits, \$500,000 of your assets will be protected away from Medicaid.

Some states, such as New York, have adopted “Unlimited Asset Protection” Long Term Care Partnership Programs. These programs allow you to purchase Partnership Program certified policies that protect all of your assets away from Medicaid. For example, if your policy pays out \$250,000 worth of benefits, \$4,000,000 (or \$25,000,000, for that matter) of your assets will be protected away from Medicaid.

In addition, assets can be transferred to a spouse or children, subject to specific rules. However, your income is considered in determining your eligibility for Medicaid. Community spouses (the spouse not receiving care) can refuse to contribute income through “spousal refusal” and run the risk of being sued by Medicaid for the costs Medicaid incurred (which are generally less than what you would pay on your own to begin with). Or, community spouses can contribute up to the required 25% above their monthly income exemption of \$2,739 (unless a greater amount is established by fair hearing or court order, in 2010).

Note: “monthly income” means monthly income. If tenants pay you once a year, you may be ineligible for Medicaid benefits that one month of the year and eligible for Medicaid benefits the other 11 months of the year.

There is no need to question your ethics when you force Medicaid to pay for your long term care. The involuntary federal and state taxes you pay over the course of your lifetime fund the Medicaid programs you should utilize. You are not sticking Medicaid with your tab – you earned it, you deserve it.

Aaron Skloff, AIF, CFA, MBA
CEO – Skloff Financial Group
<http://www.skloff.com/services-ltci.htm>

Aaron Skloff, Accredited Investment Fiduciary (AIF), Chartered Financial Analyst (CFA), Master of Business Administration (MBA), is the Chief Executive Officer of Skloff Financial Group, a NJ based Registered Investment Advisory firm. The firm specializes in financial planning and investment management services for high net worth individuals and benefits for small to middle sized companies. He can be contacted at www.skloff.com or 908-464-3060.