Trust Can Help Some Qualify for Nursing-Home Medicaid

By Wesley E. Wright and Molly Dear Abshire, as published in the Houston Chronicle Senior Living Section on August 15, 2012.

Elder law attorneys are often asked this question: I applied for long-term care Medicaid benefits for my mother, who does not own any assets and lives on her monthly teachers retirement check. This is the only money she has, and it pays for her care. Why was she denied eligibility?

A common reason for denial of long-term care Medicaid benefits is too much monthly income.

Unlike Medicare, Medicaid is a means tested program that considers assets as well as income. Basic categorical requirements for Medicaid eligibility include, being a US citizen or resident alien, 65 years of age, blind or disabled, and having a medical necessity for daily nursing care. Medicaid imposes strict asset limits for single and married applicants, and it puts a cap on the amount of gross monthly income an applicant may receive.

To qualify for nursing home Medicaid, the applicant's gross monthly income from all sources must not exceed $2,094 per month (as of January 1, 2012). One dollar over this cap could result in a denial of eligibility. For example, if the applicant meets all other requirements but receives $1,500 a month from teachers retirement and $800 a month from an oil and gas royalty check, the applicant will be denied eligibility because her income is $206 over the cap.

Fortunately for people whose income is the only thing disqualifying them for Medicaid, there is the "Miller Trust," also referred to as a Qualified Income Trust or QIT. It helps solve the problem of excess income by sheltering it from Medicaid eligibility requirements, a legal method created by our court system and later by Congress.

Once a Miller Trust is established, monthly income from all sources must be deposited into the trust. The trustee makes certain authorized distributions from the trust, such as a personal needs allowance of $60, applied income paid to the nursing home, allowance to the community spouse if applicable, insurance co-payments, personal care items and expenses not covered by Medicaid.

Although it helps overcome the income hurdle and attain Medicaid eligibility, establishing and managing the Miller Trust can be complicated. It is important to have the trust drafted by an experienced elder law attorney who can advise how to set up the trust and manage it properly. This will ensure that the applicant will not lose eligibility because of a simple error made by the trustee.

The average cost of long-term care is over $5,000 a month for 24-hour care. A majority of nursing home residents receive Medicaid benefits because they exhausted their own assets on their care. An elder law attorney can help you wade through the intricacies of Medicaid requirements, including establishing a Miller Trust, and obtain eligibility for your loved one at the earliest possible date and preserve their hard-earned life savings.