

Community Medicaid Programs: Alternatives to Nursing Homes

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I. Introduction

Approximately one in ten people over the age of sixty-five and one in four people over the age of eighty will be cared for in a nursing home at some time in their lives. Many people, particularly aging adults, are frightened and anxious at the prospect of institutionalized care. Such long term care is extremely expensive and can drain a family's resources. People also want to live in the comfort of their own home and be surrounded by their families and loved ones.

Many low to medium income individuals, particularly elders, can rely on Medicaid (known as MassHealth for Massachusetts residents) to cover their health care, and particularly, long-term nursing home care. Sometimes the only option for elders is to enter long-term nursing home care because their needs may



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be too great to be cared for at home. MassHealth, however, offers an increasing multitude of publically funded programs to seniors who can be adequately cared for outside of a nursing home. Because of the extraordinary private pay cost of nursing home care and the toll it takes on the elders and their families, it is usually in everyone's best interest to provide care in the community if medically and financially possible. It is critical that all families are aware of the programs available to them and of the elder law attorneys who can assist them in obtaining eligibility and the right level of care.

II. Basic MassHealth Eligibility In the Community

There are basic eligibility requirements for MassHealth programs. The applicant must have a social security number and live in Massachusetts with the intent to live here indefinitely. There is no residency time limit if moving from another state. Applicants are also subject to asset and income limitations. Eligibility for the "community" level MassHealth program differs significantly from the "institutional" level program.

"Community" level MassHealth is any environment of care short of long-term care in a skilled nursing home or medical institution. There are several MassHealth programs for which eligibility can be obtained. For the "standard" program, for example, individuals over sixty-five years of age living in the community must have countable income less than 100% of the federal poverty level, which until February 2010 will be \$903, plus a \$20 a month disregard of "unearned" (pension or Social Security) income. For a couple, the income level is \$1,215 plus the \$20 per month unearned income disregard.

If the countable income exceeds that amount, the individual or couple can spend down the excess income on medical expenses each month, but once exceeded, the spend-down limit is \$522 for an individual and \$650 for a couple. Individuals under age 65 have different income criteria and an unlimited asset allowance. There are also community MassHealth "waiver"

programs, such as “Frail Elders” for individuals at risk for institutional care that allow even greater levels of income.

III. Programs for Elders Who Could Be Institutionalized but Remain in the Community

MassHealth supports several community residency based service programs. Many programs use MassHealth eligibility as its gateway to services. Most are based on managed care models. For example, the PACE Program, also called an Elder Service Plan, is administered by agencies that use MassHealth coverage to provide “soup to nuts” care. Group Adult Foster Care (GAFC) for group living and Senior Care Organizations (SCO) for at home and assisted living are other models of community care based upon MassHealth eligibility. This article is not a complete list of all of the programs available.

A. Home and Community-Based Services Waiver

The Home and Community Services-Based (HCSB) Waiver is a MassHealth eligibility procedure that allows for higher income and other expanded eligibility criteria for individuals who might otherwise end up in an institution without the care. Waiver programs exist for older individuals, the mentally retarded, and younger children with autism.

For the “Frail Elders” MassHealth waiver program, an applicant must be at least sixty years of age or meet disability criteria under age 65, require basic care services based upon medical need, be at risk for nursing home care, and meet the waiver’s income and asset limitations. For individuals, the 2009 Frail Elders countable income limit is \$2,022, and asset limit is \$2,000. For couples, the income and assets of the healthy spouse are not counted. The assets of the ill spouse can be transferred to the healthy spouse without penalty.

All waiver programs require a need for assistance in “activities of daily living” (ADLs)¹ and the individual must be medically at risk for nursing facility care. To meet these criteria, the applicant must require at least one skilled nursing or therapist daily or require a nursing service at least three times per week plus two other services for ADLs. For some programs, Aging Services Access Point (ASAP) agencies determine if the applicant is medically eligible and a care plan must be drawn up and budgeted for feasibility.

B. Community Choice

Community Choice is a more care-intensive program for needier frail elder community waiver members. To be eligible for Community Choice, the individual must already be enrolled in or eligible for the waiver.

This program provides extensive home and community-based services to elders who require nursing home level of care and exhibit additional criteria, including a minimum of one out of four indications of frailty and at least one out of five that demonstrate risk. Services include personal care, homemakers, skilled nursing, companions, chore assistance, delivered meals, grocery delivery, laundry, transportation, home based wander response system, transitional assistance, and adult day health.

C. Program for All-Inclusive Care for the Elderly (PACE) or Elder Service Plan (ESP)

The Pace program provides private agency-based coordinated living and health related services to persons age fifty-five and older who might otherwise require institutional care without community-based medical and social services. Individuals under sixty-five must meet the Social Security disability definition. PACE applicants usually have MassHealth coverage, which is often provided through the MassHealth Frail Elders waiver, although individuals can private pay for PACE services if they can afford it. MassHealth has a special exemption for Frail Elders criteria down to age fifty-five if enrolled in the PACE program. The recipient must agree to receive all services through the managed care program, which coordinates Medicare, MassHealth, and all other available medical providers. Once in the program, coverage continues even if the individual advances into an institution.

IV. Other Community Programs for Elders Supported By MassHealth

A. Home Care Program

Home care services are the traditional “a la carte” services for seniors who require some level of care but do not need or desire a full managed care community program. They are designed to ensure a level of independence and dignity for the elder with care choices. Home care services can be fully paid by individuals with enough income, but lower income individuals can get services that are partially subsidized through the Executive Office of Elder Affairs (EOEA)

or fully by MassHealth. Subsidized and MassHealth coverage have income limits, and the elder must demonstrate that he or she requires a need for services. This program may work with other home based programs, such as Caregiver Homes, described below.

To be eligible for the EOEA subsidized Home Care program, the individual must be at least sixty years of age and not residing in a nursing home or assisted living facility. The individual must also meet the financial eligibility guidelines and not be receiving services from all-inclusive programs such as PACE or Group Adult Foster Care. The individual must have been assessed by an ASAP case worker and found to be in need of services. For example, in 2009 the maximum gross annual income for the program is \$23,475 for a family size of one and \$33,217 for a family size of two. Services include medical assistance, Adult Day Health Services, homemaker services, laundry, transportation, companion services, food shopping, and other services. The program will also offer respite services to give the caregiver time off. If the elder requires additional help, he or she may be eligible for the Enhanced Community Options Program, described below.

B. Enhanced Community Options Program (ECOP)

Enhanced Community Options (ECOP) is a program within the Executive Office of Elder Affairs (EOEA) Home Care program that provides an enhanced level of care. Similar to other programs, the applicants must demonstrate that they are medically eligible for nursing facility care. ECOP members receive at least twice the amount of services as Home Care. In order to be medically eligible for ECOP, the applicant must require at least one skilled nursing or therapist daily or require a nursing service at least three times per week plus two other services for Activities of Daily Living. Seniors do not have to be eligible for MassHealth in order to be eligible for ECOP. Both the EOEA Home Care program and ECOP are administered locally by ASAPs.

C. Caregiver Homes

Caregiver Homes is a relatively new program that allows the elder to hire a live-in individual, either certain family members or any non-family member, to provide care-giving services to the elder. It works in a partnership with the PACE program and also works in conjunction with the Executive Office of Elder Affairs (EOEA) Home Care program. Caregiver Homes will

place seniors into other senior care programs, such as the PACE program, as they see fit.

An elder's spouse, parent, or legal guardian is ineligible to be paid as a caregiver under this program. However, the individual's children, unlike other programs, can be paid caregivers. The elder must meet the financial requirements of MassHealth. The elder must also require assistance with at least three Activities of Daily Living. The caregiver will provide 24-hour supervision by providing assistance with the daily activities and personal care services which other programs do not offer. MassHealth will pay a maximum of \$18,000.00 to an applicant caregiver per year.

In order to become a caregiver, an individual must be at least sixteen years old and interview with a placement coordinator. There is also a care management team that provides full support and supervision to the caregiver. Caregivers are required to take periodic days off, and during this time respite care will be provided.

D. Personal Care Attendant Program (PCA)

The PCA program is completely funded by MassHealth. An elder can qualify if the individual meets the financial criteria and needs assistance with at least two Activities of Daily Living. The individual would be in charge of hiring his or her own caregivers but cannot hire a child, parent, spouse, or guardian. The elder is not responsible for the burden of payroll and taxes because it is handled by an outside agency. This program is different than the previously mentioned home health care programs because the elder is responsible for the hiring of the PCA, as opposed to an agency. It gives the elder a greater sense of control.

The elder must be enrolled in MassHealth in order to be eligible. This program can take a few months to implement because a nurse occupational therapy team performs a formal evaluation to determine the needs of the elder, and they would send the evaluation to MassHealth for approval.

E. Group Adult Foster Care (GAFC) and SSI-G

Group Adult Foster Care is a MassHealth program that pays for care and services for seniors and disabled individuals who live in GAFC approved homes. GAFC homes typically are assisted living facilities but also include group housing. GAFC is designed, like other programs, to keep seniors in the community who are in imminent risk of institutional-

ization at a nursing facility. There are now over eighty facilities in Massachusetts that offer GAFC services.

An individual must be at least sixty years of age, eligible for MassHealth, and require assistance with at least one Activity of Daily Living. The senior will need clinical approval from an Aging Service Access Point (ASAP). The senior will receive an individual care plan developed by a registered nurse and a case manager, personal care services in the home, medication management, and two days of adult health services or eight hours of home health aide services. MassHealth pays a per diem care rate, but they will not pay for room and board. If the individual is also financially eligible for the Social Security needs-based program for assisted living called Supplemental Security Income in the “group living” category (SSI-G), then the facility will accept the individual’s other income, GAFC, and SSI-G as the total cost of care including room and board.

To obtain SSI-G, the individual must live in a certified assisted living facility, be eligible for or participate in GAFC, have countable unearned (fixed) income less than \$1,148 per month (in 2009), and assets under \$2,000 a month. Although an individual or couple must be eligible for GAFC in order to be eligible for SSI-G, SSI-G is not required for GAFC eligibility.

IV. Veteran’s Affairs “Aid and Attendance Program”

A non-service connected disability pension under the Veterans Administration referred to often as “Aid and Attendance” is a benefit that falls outside of Medicaid but may serve as a valuable tool in assisting veterans and their spouses or their widows to pay for medical costs. The monthly pension is not countable as income or an asset for Community Medicaid, so an elder can receive the pension and also still be eligible for Community MassHealth, including programs such as PACE. Aid and Attendance can provide additional income to a disabled veteran to assist them in securing a comfortable environment. The pension is also tax free. Certain service criteria, as well as specific income and asset limitations, apply so it is best to consult with an elder law attorney before filing an application. Eligible individuals must file an application for the pension with the Veterans Benefit Administration.

A single veteran may be eligible for up to \$1,644 per month, while a surviving spouse is eligible

for up to \$1,056 a month. A veteran and the veteran’s surviving spouse is eligible for up to \$1,949 a month. An applicant’s assets are applied to an age vs. asset test in which it is subjectively evaluated whether or not applicants have sufficient funds based upon their age and expenses to live without the pension for their life expectancy. Eligibility for a ninety-nine year old with the same assets as a seventy year old will likely be determined differently. The asset test does not include a primary residence home or a car.

The program is also driven by a formula between income and the cost of the assistance the individual is in need of, whether at home, assisted living, or a nursing home. For example the rent for assisted living or a nursing home can be deducted against an individual’s income to possibly qualify them for the full benefit they are eligible to receive. Note that only “out of pocket” expenses are counted towards the medical expenses figure. A child caretaker contract may also be used as a medical expense for an elder to assist in making them eligible for the pension. These and other planning strategies may be available for an elder in planning for this pension but should only be pursued upon consulting with a knowledgeable attorney who is certified by the VA.

Visit Moschella & Winston, LLP at www.moschellawinston.com to review detailed resource guides on these and other topics. See the MBA Elder Law monthly resource guide at the MBA Elder Law Education Program at www.massbar.org/for-the-public/public-information/elder-law-education-program.

End Notes

1. Activities of daily living include such basic necessary self support activities as bathing, toileting, dressing, walking, eating, or getting in or out of a bed or chair.

