The following article appeared in the MinnPost Monday, July 14, 2008. Correction: the references to a $2000 asset limi t are $3000 in MN.

Comments: Community Voices

Housing assets should help finance long-term care

By Peter Nelson

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In May, the Minnesota Supreme Court ruled that federal law bars the state from recovering money from the estate of a husband for what Medicaid had paid for his wife's long-term care.

The ruling validates what most attorneys advise their clients: Married people can protect a substantial amount of assets in home equity for their heirs and still qualify for Medicaid long-term-care benefits. Depending on the state, a single person can often do the same.

Not recovering a Medicaid recipient's home equity to repay the government for the recipient's benefits only increases the financial burden on taxpayers. Worse, it limits the availability of Medicaid funding for more needy seniors, which, not incidentally, leads to lower quality care.

Lawmakers have long worried that middle-income people game the system to qualify for Medicaid benefits.

Benefits limited to those with less than $2,000
State Medicaid programs apply an asset test that limits long-term-care benefits to people who have less than $2,000. Gaming revolves primarily around strategies to meet this asset test without actually depleting one's personal assets.

Most studies suggest that gaming is not a widespread problem, but nearly all of them focus on whether people transfer assets to family members in order to artificially impoverish themselves so as to meet Medicaid's asset test. But this is just one way to game the system.

A more effective way is to convert assets from "available" to "unavailable." Assets deemed unavailable, most notably one's home, do not count toward the asset test calculation. Thus, a person can often qualify for Medicaid, without actually reducing assets, by simply converting an available asset to an unavailable asset. For instance, if someone had $32,000 in the bank, he could use that cash to pay down his home mortgage by $30,000, effectively reducing his available cash assets to $2,000 — low enough to qualify for Medicaid.

Most people don't even need to play the transfer or conversion game because their net worth is almost entirely tied to an unavailable asset, their home.

Efforts to recover assets
A home, however, does not offer complete protection. After a Medicaid recipient dies, federal law requires states to make efforts to recover assets from his or her estate to repay Medicaid benefits. Yet as the Minnesota case demonstrates, federal law can also bar recovery.

Making matters worse, most states do not make a serious effort to recover assets even when they can make a claim. Confiscating a family home immediately after someone's dear mother dies isn't exactly a way to win popularity contests. As a result, housing assets remain a largely untapped source of long-term-care funding.

The facts of the Minnesota case demonstrate how much home-equity wealth Medicaid can leave on the table in the case of the average married couple.

When Dolores Barg qualified for Medicaid benefits, she and her husband, Francis, owned $137,000 in combined assets, including their home. Medicaid spousal impoverishment rules allowed Francis to retain nearly all the assets. Within months, Francis re-titled the assets solely in his name and removed Dolores from his will. Dolores died three years later, after receiving $108,000 in Medicaid benefits. Francis survived Dolores by only six months. At his death, Francis owned their home, valued at $121,000, as well as two cars worth $9,000, and other financial assets of an undisclosed value.

Average finances for an elderly household

It would be hard to invent a better example of average finances for an elderly household. According to the Federal Reserve, of households where at least one member was 75 years of age or older and in which either a car or home was owned in 2004 (the year Francis died), the median value of holdings in the former was $8,400 and the median value of the latter was $125,000 — almost identical to what the Bargs left their children.

Thus, Dolores — an eminently average American — qualified for Medicaid benefits, even though her share of marital assets came close to $70,000. And after a perfectly legal and well-advised re-titling of her home, she avoided paying back anything in return for the Medicaid benefits she received.

With about 900,000 nursing-home residents relying on Medicaid, it doesn't take many situations like Dolores' for the dollars to start adding up. Unfortunately, very little research even hints at how much money Medicaid actually foregoes in unrecovered housing assets.

Two things are certain, though. First, the number of seniors who qualify for Medicaid long-term-care benefits will increase markedly as baby boomers retire. And second, fewer taxpayers per retiree will be left in the working ranks to foot the bill.

Congress must fundamentally transform Medicaid in light of all the baby boomers in the wings, just waiting to overload Medicaid budgets. To start it needs to eliminate housing and other loopholes so that non-poor recipients pay their fair share, thereby keeping Medicaid strong and solvent for those who are truly needy.

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