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PUBLIC ASSISTANCE FOR LONG TERM NURSING CARE IN ARIZONA

Is your spouse or loved one in need of long term nursing care? Are you concerned about the high cost of providing this care, either in an institution or in your own home? Did you know that approximately 40% of nursing home costs are paid by families directly, without any form of government or insurance assistance?

Medicare will only pay for long term nursing costs if:

- You were in the hospital at least 3 days
- You need **skilled care**, not just custodial care
- The maximum coverage period is only 100 days

Private long term care insurance may be an answer, if you can afford it. Also it must be purchased before you are ill. The VA Aid & Attendance Program can provide help for some, but may not fully cover care home costs.

The primary source of payment for long term nursing services, especially institutional care, is **Medicaid**, which covers as much as 60% of the costs nationwide. Arizona's version of Medicaid is called **ALTCS**, the Arizona Long Term Care System, which is a part of the Arizona Health Care Cost Containment System (AHCCCS). ALTCS will pay for long term nursing care, and sometimes home and community-based services (HCBS), for applicants who meet three eligibility tests: 1) **medical** eligibility, 2) gross **income**, and 3) liquid **resources**.

MEDICAL ELIGIBILITY

To be medically eligible a client must need either skilled or custodial long term care. This is determined by a point system on an evaluation tool called the Pre-Admission Screen (PAS). An ALTCS nurse will evaluate the patient, meet with caregivers and family, and review medical records. The patient assessment is based upon medical problems, ability to perform activities of daily living, mental competency, etc.

INCOME ELIGIBILITY

An individual, either single or married, will be income-eligible if he or she has gross income in his or her name of less than \$2,022 per month for 2010. A married individual with gross income of more than \$2,022 will still be eligible if the married couple's total gross income is less than double that limit (\$4,044). All income is counted including Social Security, private pensions, interest and dividend income, rental income, etc. Furthermore, gross, not net, income is considered; there are no deductions for taxes, insurance premiums, or any other items which may be withheld. If the potential applicant's income exceeds the limit, it is often still possible to qualify for ALTCS by using an Income Cap Trust, which is a form of "Special Treatment Trust" now recognized by ALTCS. This type of trust is also known as a "Miller Trust."

RESOURCE ELIGIBILITY

Resource eligibility is a bit more complicated. A single individual is limited to no more than \$2,000 in countable resources. Certain items are excluded such as a home, a car, household belongings and jewelry, a cemetery plot, headstone and casket, and up to \$1,500 in a separately identified burial fund.

Different resource eligibility rules apply to married couples. To minimize "spousal impoverishment" the non-institutionalized spouse is permitted to keep a community spouse resource deduction (CSRD) equal to one-half of the couple's countable liquid resources. The CSRD is limited to a minimum of \$21,912 and a maximum of \$109,560 (2010 figures). The CSRD is computed at the time one spouse goes into a hospital or nursing home (for more than 30 consecutive days) or first receives medical services at home to prevent institutionalization. This is also known as the "snapshot" of assets.

Consider this example: Tom entered a nursing home on September 1, 2009. At that time he and his wife Mary owned a home, a car, various household and personal belongings, and had liquid assets (bank accounts, CDs, stocks and bonds, cash value of life insurance, etc.) totaling \$100,000. The home, one car, and unlimited household and personal belongings would be exempt from ALTCS consideration for either calculation of the CSRD or determining eligibility. Mary's CSRD is one-half of the liquid assets, or \$50,000. In addition, Tom would still have his individual liquid asset limit of \$2,000, making the family's ALTCS eligibility threshold \$52,000. Before ALTCS will help with Tom's nursing care expenses, the family's liquid resources will have to be reduced to less than \$52,000.

This resource spend down (\$48,000 in the above example) could be accomplished in a number of ways:

SPEND THE MONEY for family living expenses, including Tom's nursing home bills. Spending could also include paying for family vacations, paying off outstanding debts, or prepaying certain expenses such as insurance, home maintenance, legal fees, etc.

CONVERT THE MONEY into a non-countable form. This would include purchasing excluded items such as cemetery plots, burial funds, paying off a home mortgage or purchasing a new home, remodeling or improving an existing home, or purchasing a new car.

ASSET TRANSFERS - Under prior law it used to be possible to transfer money or other assets to children or other persons, wait a specified period, and then be eligible for ALTCS. Significant changes in the federal law relating to asset transfers became effective July 1, 2006. First, the look back period will be gradually extended from three years to five years. For transfers made between July 1, 2003, and July 1, 2006, the waiting period (**beginning in the month the transfer was made**) is one month for each \$5,942.65 transferred (2010 figure for Pima, Pinal and Maricopa counties). But the most significant change in the law is that for transfers made after July 1, 2006, **the waiting period doesn't begin until the applicant is "otherwise eligible" for ALTCS benefits**. The applicant must be medically in need of long term care services, residing in an ALTCS-approved placement, and under the countable asset limit (\$2,000 for single persons, \$2,000 plus the CSRD for married persons) before the waiting period even starts. This new rule will severely limit the ability of individuals to give assets to their children, to their church, or to anyone else, if they ever hope to be able to qualify for ALTCS benefits. Now more than ever, transfers involve a high degree of risk; experienced legal counsel is essential. An applicant must also consider what could happen if the donee were to die, get divorced, be sued, or spend the money contrary to the applicant's wishes. The potential step-up in basis of highly appreciated assets at death will also be lost in the event of a transfer to the children.

SAMPLE CALCULATIONS

Example 1: Assume that Tom's care in a nursing home costs \$5,000 per month and that Mary's living expenses at home are \$1,000 per month. If their combined income is \$2,500 per month, there is a \$3,500 shortfall each month. Considering only this rate of **spending**, the \$48,000 in "excess assets" would be gone in 14 months, and then Tom would be eligible for ALTCS.

Example 2: If Tom and Mary had a home mortgage of \$48,000, and Mary paid it off, she would immediately **convert** countable assets into a non-countable form. They would be immediately "spent down" and Tom would be eligible for ALTCS the very next month, without any waiting period.

Example 3: Consider this example which combines **spending** and **converting**:

Purchase a new car	\$19,000
Buy new furniture	2,000
Mary's vacation	1,000
Home repairs (new roof)	3,000
Pay off debts (Mastercard)	2,000
Pay for Tom's nursing care/Mary's living expenses for 6 months - shortfall of \$3,500 per month	<u>21,000</u>
TOTAL	\$48,000

In all of these examples, Mary is left with the home, one car, household belongings, and an additional \$50,000 in liquid assets. Up to \$2,000 can also be retained in Tom's name. As demonstrated above, getting to this point could include payoff of debts, remodeling or replacement of assets, and self-enrichment items such as a vacation or education. In certain cases other techniques, including transferring assets, may be available; your plan should be tailored to the specific needs of your family.

YOUR RESIDENCE

A residence is a special asset. As long as the applicant or the spouse resides there it is an **exempt asset for ALTCS eligibility purposes**. If a single applicant requires care in a nursing home, hospital or boarding home, the residence can still be an exempt asset as long as he or she "intends to return home." However, if an applicant is unmarried at the time of death, the AHCCCS agency will have a claim against the decedent's estate, which may include the home, to recover the costs of any care provided. A residence titled in the name of an ALTCS-eligible individual will be subject to "estate recovery" upon that person's death. Also, beginning in 2005, AHCCCS has begun placing liens on the residences of institutionalized ALTCS recipients over age 55, as a means of enforcing the estate recovery claim.

SHARE OF COST

Once an applicant has become eligible for ALTCS assistance, the applicant's "share-of-cost" must be computed. This will determine the amount of the applicant's income which must be turned over to the nursing home each month. For a single individual, the share-of-cost will generally be the applicant's total income less a personal needs allowance of \$101.10 (2010 figure) per month. There may also be deductions for medical insurance premiums and possibly a home maintenance allowance. For a married couple, the community spouse will also be entitled to an allowance from the applicant's income (CSMIA) to raise her own income up to at least \$1,822 per month (2010 figure). The balance of the applicant's income, if any, must be turned over to the nursing home. ALTCS will pay the rest of the nursing home bill.

Bogutz & Gordon is available for consultation in all phases of financial and medical planning for elders and their families, including ALTCS planning.