Understanding the Medicaid Look-Back Period: 5 Key Questions, Answered

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You may have heard of the Medicaid "look-back period," but if you aren't sure how it would affect your loved one's ability to qualify for Medicaid or pay for senior care, we can help. Understanding the ins and outs of the look-back period and its potential resulting penalties can make a huge financial difference and help you plan for your future. Here's what you need to know about Medicaid, what the look-back period entails, and how to avoid penalties so that your loved one can pay for the care they need.

Key Takeaways

1. **You should start your parents/grandparents planning for the look-back period at least 5 years before they need to apply for Medicaid.**
2. **Certain types of spending during the look-back period can lead to a Medicaid penalty period, during which your loved one will be ineligible for needed long-term care services.**
3. **There are ways to minimize assets without incurring a penalty.** These include moving assets into an irrevocable or revocable trust, or purchasing a Medicaid-compliant annuity.
4. **Families have to pay for care independently during a penalty period.** Various long-term care options and other resources exist for senior living and the penalty period ends.

What is Medicaid?

Medicaid is an insurance program funded jointly by the federal government and individual states. It's designed to provide health care coverage to low-income Americans who can't afford the care they need on their own, as well as those who have disabilities or are blind. Medicaid is the largest source of medical coverage in the United States, covering about 1 in every 5 Americans in the U.S. [1,2]

Medicaid eligibility requirements and coverage are greatly from state to state, so where your loved one lives can affect their Medicaid eligibility, the benefits they'll receive, and the potential penalty periods discussed below.

Who qualifies for Medicaid?

To qualify for Medicaid, a senior must meet several requirements: Their income has to fall below a state-specific income limit, or their medical-related costs must exceed their income.

- They must live in the state where they receive benefits.
- They must have a qualified medical need.
- Their countable assets have to fall within the range determined by their state.

Because each state has its own requirements, it's important to contact your state's medical assistance office for more details, or to speak with an elder law attorney who can walk you through the nuances of your state's unique program and application process.

What are the financial eligibility requirements for Medicaid?

In addition to meeting medical criteria, senior applicants must adhere to strict financial eligibility requirements both before applying for Medicaid and after they have qualified.

Even if a senior has limited resources and wouldn't be able to pay for senior living or nursing home care out of pocket, they may have countable assets or income that exceeds their Medicaid financial requirements. The income limit for Medicaid eligibility is typically 300% of the federal SSI benefit rate (currently[3] [4]), the poverty line in your state is calculated at $12,880 annual income, your income would need to be less than $35,556 to qualify for Medicaid.

Causes of Medicaid financial ineligibility

There are two main reasons seniors don't financially qualify for Medicaid: their income or their assets (or a combination of the two). To meet the financial requirements, a person must carefully minimize or "spend down" income and assets.

If your loved ear's income is too high, Some states offer spend down programs that allow seniors to qualify for Medicaid by using their income to pay private-subject their non-covered medical expenses — prescription drugs, health insurance premiums, deductibles, and doctor and dentist visits — from their monthly income. Once the senior has spent the amount of income that exceeds their state's limit, and they can show receipts for their costs to six months.[5]

If your loved ear's assets are too high, Medicaid recipients can't have more than $2,000 in assets and immediately qualify for long-term care, they might even on the a house, land, or large amount of money, the value of money or income can't be part of a senior's plan to qualify for Medicaid.

To make sure seniors don't simply give their assets away to family and friends, the Centers for Medicare and Medicaid Services (CMS) reviews applicant's financial histories over a "look-back period" of five years.

What is the Medicaid look-back period?

The Medicaid look-back period is a window encompassing the 60 months (or five a senior applies for Medicaid. During this period, the applicant can have gifted money or assets over a certain value to friends or family. If any gifting occurs during the look-back period, the applicant will be subject to a penalty period of Medicaid ineligibility.[6]

For example, if a senior applies for Medicaid on Jan. 1, 2016, they must not have gifted money or assets since Jan. 1, 2011, to be eligible.

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What is a Medicaid penalty period?

The look-back period is often confused with the penalty period, which varies from state to state and depends on the amount of money gifted. As Rebecca Abramski, author of the book *Home on Mount Pleasant: Family Issues Pertaining Nursing Home Care, Medicaid Secrets*, a comprehensive guide to Medicaid eligibility, putting

A penalty period occurs if a senior applies for Medicaid and is otherwise ineligible because of the amount of money gifted during the look-back period. If within the 60-month look-back period, meaning they'll be disqualified from receiving Medicaid benefits for an amount of time calculated based on the value of the assets or money gifted or sold under the applicable state.

The length of the penalty period is the same no matter which type of senior care your loved ear relies on: Medicaid covers in-home care, assisted living, and the only type of senior living facility entirely paid for by Medicaid, the Medicaid nursing home. Medicaid covers nursing home care, but it doesn't cover in-patient care, but the amount of time

When does the penalty period start, and how long is it?

The penalty period doesn't start on the date of the gift — it starts on the date the senior applies for Medicaid. Medicaid, the penalty period begins on Jan. 1, 2021, and applies for Medicaid on Jan. 1, 2021, even though the gift years have passed, their penalty period begins on the application date.

Sometimes, people will front years in advance, if they know their loving home care sooner rather than later, so it's incredibly important to know when gifts were made," says Mirsky. "It may be better financially to wait to apply for Medicaid until the five years are up than to apply and incur a lengthy penalty period."

The length of a penalty period is determined by the state's "penalty divisor," which is explained in the following section.

What is a penalty divisor? How is it calculated?

The penalty divisor varies greatly from state to state, and it's calculated using the average cost of long-term care in a senior's place of residence. It's used to determine the number of months of disqualification from receiving Medicaid.

The divisor is set by the state government and Medicaid agency, and it's tied to the average nursing home cost in your loved ear's state or county.

The length of a penalty period is calculated using a formula: Gifted amount / Average cost of care = Number of months. Dividing the total gifted amount by the average cost of care

For example: In Alabama, the average cost of a nursing home is $6,267 per month.[7] That number represents the penalty divisor.

If your aging parent who lives in Alabama gifted you $150,000 in January 2015, but they chose to apply for Medicaid on Jan. 1, 2021, the resulting penalty period would be 23.93 (150,000 / $6,267 = 23.93).

Thus, the penalty period would be 24 months, and your loved one would be ineligible for Medicaid benefits until Jan. 1, 2023. Because the Medicaid gifts put down your loved ear before the Medicaid application was submitted, and the penalty period is over a year, your parent would have actually had to spend the cost of gifted for nursing home care if they had waited, rather than

Is it possible to reverse or undo a Medicaid gift penalty?

In certain cases, yes.

"In some states, in such a penalty, all gifted assets have to be returned to the Medicaid applicant. In others, returning part of the gift can reduce the penalty period," Abramski explains.

Understandably, returning the value of a gift may not be possible. The recipient may have already spent the money or may not want to return the assets in question.

Also, even if returning funds eliminates the penalty period, it often results in the Medicaid applicant having too many resources to qualify for Medicaid in the first place. Abramski, it can give the senior the chance to spend down the assets properly while paying for care out of pocket.

"They can use part of the money to pay for a nursing home while spending down the rest," says Mirsky.

Is it possible to incur a Medicaid penalty once your loved one is already in a nursing home?

It's rare, but possible, to become ineligible for Medicaid benefits after a senior has gifted the special circumstances again — even if they have already qualified and used Medicaid funds to pay for nursing home care.

For example, this could happen if a loved one, after the initial gift, dies, the beneficiary of a large asset or sum of money to the will. In this case, your loved ear would have to pay for care out of pocket or another resource until the spend down was complete.[8]

Nursing homes and Medicaid coverage can be complicated. You may want to consult with a qualified elder law attorney when you have questions.

How can your loved one avoid Medicaid penalties?

The first step in avoiding penalties is knowing how they're incurred. Understand which types of transactions cause penalties during the look-back period and Medicaid, and ask ways to spend down without affecting Medicaid eligibility.

What transactions cause penalties during the look-back period? Which transactions don't?

When seniors apply for Medicaid, they have to fill out a form that includes disclosure of any gifts over the past 60 months.

"Any gift more than a nominal value must be reported on the Medicaid application form and will result in a period of disqualification," says Mirsky.

While federal law allowed individuals to gift up to $15,000 a year without having to pay a gift tax as of 2022, Medicaid would still consider that gift a transfer for of assets.[9]

Disqualifying gifts include:

- Significant sums of money
- A senior's home
- Cars
- Stocks in land
- Expensive possessions that could be considered investments, such as highly valuable jewelry either gifted or sold for less than their fair market value
- A large charitable donation

Gifts of a nominal value include:

- Birthday, wedding, or holiday presents
- Gifts of already owned items

What transfers or gifts are exempt?

"There are several unique situations in which a transfer is exempt," according to Mirsky. "There are circumstances where you can transfer a home, and it wouldn't count as considered penalty, you can also gift assets to a spouse."

Both before and after entering a nursing home, seniors can transfer financial assets to those individuals without incurring a penalty period of Medicaid ineligibility:[10]

- A spouse or, in some states, a domestic partner
- A trust for the benefit of a senior's child who is blind or permanently disabled, per Medicaid's definition
- A trust for the sole benefit of anyone under age 65 who is permanently disabled, per Medicaid's definition.

Some exceptions apply to the transfer of a home, as well. In addition to the individuals listed above, a home can be gifted to:

- A senior's child under the age of 21
- A child who is blind or disabled, even if the home isn't a trust
- A sibling or relative who already holds an equity interest in the home, and has lived in the home within the year before Medicaid application
- A "caretaker child," meaning a child who lived in the home caring for their aging loved one for at least two years before the date of Medicaid application

How can your loved one spend down "excess" countable assets without violating the rules of the look-back period?

There are ways the senior aging parent or grandparent can spend down assets without violating the look-back period. Some are legal, unethical, while others are more complicated.

"Talk with a financial advisor or an elder law attorney," says Mirsky. "Every family's circumstances vary, and you can save a lot of money and time working with an expert in your area. Mistakes can have a long-term effect on your family's finances."

In his book, Heiser outlines many available legal strategies families can pursue to spend down assets without incurring penalties. These include:

- Using funds to upgrade a home or pay for home renovations
- Buying a new car or trading in your old one
- Prepaying funeral or burial expenses ("This not only saves a considerable amount of money, it also relieves the burden on the family to not have to worry about planning and executing a funeral," says Heiser.)
- Purchasing items for the home that wouldn't count as investments (For example, buying a $20,000 diamond would count as an asset, while purchasing one, reasonably priced furniture wouldn't.)
- Creating a personal service contract or "life care contract" that prepays for future caregiving work
- Purchasing a Medicaid-friendly annuity (This can be done at any time.)
- Creating and funding an irrevocable trust (You must wait five years before applying for Medicaid.)
- Transferring a home using a "life lease deed," which is a life estate deed that allows the owner to maintain control of a property and they die, at which point the property automatically transfers to their chosen beneficiary without going through probate (This option is only available in some states.)

Who pays for a nursing home during the penalty period?

Put simply, because a senior doesn't qualify for Medicaid benefits until the end of the penalty period, your family will have to find alternate ways to pay for nursing home care during the penalty period.

The median U.S. cost of a private room in a nursing home was $9,034 a month in 2020, according to the Genworth Cost of Care Survey. Medicare doesn't usually cover long-term care,[11] Nursing homes are generally the most expensive housing option because of the high level of care they provide. That's so also the only senior housing type Medicaid covers fully.

It's normal to feel overwhelmed when looking at the cost of long-term care. There are several programs and options your loved ear can use to fund nursing home care costs, including:

- **Private funds.** Your family may have to pay for nursing home care out of pocket, using income, savings, retirement payments, or home equity.
- **Medicare.** In some instances, Medicare may cover up to 100 days of a rehabilitation stay in a nursing home. However, a senior must meet specific requirements to qualify. Outside those circumstances, Medicare doesn't cover long-term nursing home care. Medicare's portions of daily living (ADLs) in a nursing home. Medicare's stay pay for certain aspects of medical care, such as injections, wound care, and medications.
- **Veterans benefits.** The Department of Veterans Affairs (VA) and Veterans Health Administration offer VA benefits and other programs that can help qualifying veterans and their families pay for nursing home care.
- **Social security.** Just like any other money, these benefits can be used to pay for nursing home care. Supplemental Security Income (SSI) provides monthly cash-flow payments.

If your loved ones is no longer able to age at home safely and you're considering senior living options, reach out to one of a Five-Star Senior Living Consultants. They can offer safety, lifestyle, and cost-saving options based on the case options in your family's budget and needs — all at no cost to you.

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