

Medical Assistance Eligibility and the Long Term Care Partnership Program in Minnesota

Disclaimer

This document is intended to help readers understand:

- General eligibility policy relating to Medical Assistance payment of long-term care services in Minnesota
and
- The interaction between Medical Assistance eligibility policy and the Long Term Care Partnership Program in Minnesota.

Insurance Producers: To sell Long Term Care Partnership policies in Minnesota, insurance producers must successfully complete training that has been approved by the Minnesota Department of Commerce. The training must include basic information about Medical Assistance (MA) eligibility and asset protection as it relates to the Long Term Care Partnership Program.

Medical Assistance eligibility policy is very complex. It incorporates special regulations and exceptions for various situations, and changes frequently due to legislative regulations. As a result, this document provides general eligibility information, but not enough for readers to determine if someone may be eligible for MA benefits in Minnesota.

To see how MA eligibility policy would be applied to someone's particular circumstances, the person must submit an application to the county agency and provide all information and verifications necessary to determine eligibility. Inquiries about the MA status of current enrollees must be requested by enrollees or their authorized representatives, or third parties with written consent.

Training curriculum developers: Information provided in this document may be used as a guide when developing the MA portion of the Long Term Care insurance producer training. It is not necessary to use this information verbatim, but the training should address the basic elements contained in the attached document.

This document provides information on one of the subjects that must be included in the training required of individuals seeking approval to sell long-term care insurance policies in Minnesota. Training courses must include all of the topics listed in MS 60K.365.

Information in this document is up-to-date as of October 10, 2007.

Introduction to the Long Term Care Partnership Program

The Long Term Care Partnership (LTCP) Program is a joint effort between the federal Medicaid Program and LTC insurers. The Long Term Care Partnership was developed to encourage people to plan for their future Long-Term Care (LTC) needs, such as residing in a nursing facility or receiving LTC waived services in a home or community-based setting.

The LTCP involves private LTC insurers, LTC insurance producers (agents and brokers), the Department of Human Services (DHS) and the Department of Commerce. Although the Partnership is overseen by the federal Centers for Medicare and Medicaid Services (CMS), each state has a great deal of autonomy in its administration. In Minnesota, qualified LTCP policies must provide a specific amount of inflation protection based on the person's age when the policy is purchased and must meet other requirements determined by the Department of Commerce.

Medical Assistance is Minnesota's name for the federal Medicaid program. A person who requests MA payment of LTC services after exhausting all benefits of a qualified LTCP policy may protect assets equal to the amount paid by the policy. Designated protected assets:

- Are not counted when the person's MA eligibility is determined and/or
- Cannot be recovered during estate recovery when the person dies.

More detailed information will be provided about the relationship between MA asset eligibility and how assets can be protected by an LTCP policy.

The following pages will provide you with information about:

- General criteria for MA eligibility and for payment of LTC services
 - Income eligibility criteria for people requesting MA payment of LTC services
 - Asset eligibility criteria for people requesting MA payment of LTC services
 - The interaction between MA eligibility and the Minnesota LTCP Program
 - The interaction between LTCP asset protection and other MA rules
 - The application process for Minnesota Health Care Programs.
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General Criteria for MA Eligibility

To be eligible for MA, a person must fit into an eligibility group and meet specific requirements relating to residency, citizenship, immigration status, third party liability, income and asset guidelines. General information about each item is included below, with special emphasis on people who reside in a long-term care facility (LTCF) or receive home and community-based services through a waiver program.

MA eligibility groups in Minnesota include the following:

- Children under the age of 21
- Parents or relative caretakers of dependent children
- Pregnant women
- People age 65 or older
- People who are blind
- People with a certified disability
- Women in need of treatment for certain cancers.

People living in a LTCF or receiving home or community-based waived services are generally either certified as disabled or are age 65 or over.

MA Residency rules require that a person be a resident of Minnesota and intend to remain in Minnesota. The state of residency for someone in a LTCF is the state in which the person is physically present on the date of application - with some exceptions. Minnesota is not considered the state of residence for:

- A child under 18 whose parent or legal guardian lives in another state
- A person of any age placed in the facility by another state
- A person who resided in North Dakota prior to nursing home admission. (Per an agreement between the two states, the person remains a North Dakota resident for the first 2 years in a Minnesota nursing facility.)

MA Citizenship and Immigration Status rules require a person to be either a U.S. citizen or a non-citizen with a qualified immigration status. The following must be verified:

- U.S. citizenship and identity when a person declares that he or she is a U.S. citizen
- Immigration status when the person states that he or she has a non-citizen status. Sponsored non-citizens must also provide information about their sponsors.

MA Third Party Liability rules state that MA is the payor of last resort. People must provide information about possible payment sources, such as other health insurance, Medicare or a liable third party. The other payment source pays their portion of medical expenses before MA payments are made.

General Criteria for MA Payment of LTC Services

To be eligible for MA payment of LTC services, a person must:

Have a **Long Term Care Consultation (LTCC)** that determines a need for a level of care provided in one of these medical facilities:

Nursing facility

Intermediate care facility for people with mental retardation or related condition (ICF-MR)

Medical hospital

MA-covered bed in a psychiatric hospital or nursing home.

Or

Through one of these home and community-based services for elderly or disabled people:

Elderly Waiver (EW) program

Community Alternative Care (CAC)

Community Alternatives for Disabled Individuals (CADI)

Developmental Disabilities (DD) (formerly known as Mental Retardation and Related Conditions - MR/RC)

Traumatic Brain Injury (TBI).

- Reside in an MA-certified LTCF or receive services under an MA waived services program. This does **not** include placements in facilities that are not Medicaid-certified, such as a Veteran's Administration facility. People in non-MA-certified facilities are considered community residents for MA purposes.
 - Begin receiving LTC services within 60 days of the LTCC.
 - Have home equity of \$500,000 or less. (Note: Special rules apply when home equity is over \$500,000 or when the person or certain dependent family members do not live in the home.)
 - Disclose an interest in an annuity for self and spouse, if married. The state must be named as remainder beneficiary of annuities owned by the person or spouse.
 - Not be in a penalty period for an uncompensated transfer of income or assets. During a penalty period, MA will not pay the cost of LTC services.

Penalty periods are caused when a person or spouse makes an uncompensated transfer while receiving MA or during a time period before an MA application (a lookback period). The lookback period is currently 36 months for most uncompensated transfers. Due to the Federal Deficit Reduction Act of 2005 (DRA), the lookback period for all transfers will be increased to 60 months by January 2011.

County workers use a specific formula to determine the length of a penalty period. The penalty period begin date depends on when the transfer was made. For transfers made before 2/8/06, the penalty begins the month after the month of the transfer. For transfers made on or after 2/8/06, the penalty begins when the person applies for MA payment of LTC services and would have been eligible if it were not for the penalty.
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Income Eligibility Criteria for People Requesting MA Payment of LTC Services

A person's MA eligibility group (such as certified disabled or being age 65 or over) determines income and budgeting considerations for that person, including:

- Income limits (which are adjusted annually)
- Income which is counted for MA eligibility and that which is excluded
- Deductions allowed from total gross countable income
- Potential MA eligibility if the person's income is over the allowable limit.

Basic budgeting information provided relates specifically to someone in an LTCF or receiving EW services. People who receive home and community-based services through other waiver programs (such as CAC, CADI, DD or TBI) may be eligible for the Partnership, but will have different eligibility rules not addressed in this document. It is recommended that they contact their county agencies for information relating to their specific situations.

When looking at MA eligibility, income of just the LTC or EW person is counted in his or her MA-LTC budget. Income of that person's spouse or parent is not counted.

Deductions allowed for the LTCF or EW person depend on his or her specific situation. Every deduction is not allowed for each person. General LTC or EW deductions include:

- Medicare premiums and health insurance premiums not paid by MA
- An income allocation to a spouse who is living in community and not receiving LTC services if it is determined that the spouse has a financial need
- An income allocation to certain other family members (subject to specific limitations)
- Personal needs (an amount which changes annually)
- Home maintenance if the person is expected to return to the home
- Health care expenses not paid by MA or a third party.

After allowing applicable deductions, the result is the amount a person must contribute toward the cost of his or her monthly LTC services and is typically paid to the LTCF or EW provider. MA will pay for all other covered services received by the person.

Asset Eligibility Criteria for People Requesting MA Payment of LTC Services

A person's eligibility group and household size determine his or her asset limit for MA. A resident of an LTCF or someone receiving EW services is considered a household size of one. He or she has an asset limit of \$3,000 in countable assets.

Countable assets are those which are available to the person and are not specifically excluded by the MA program. Examples of countable assets include cash, bank accounts, stocks, bonds, non-homestead real property, property agreements like contracts-for-deed, life estate interests, and other liquid assets.

Excluded assets are not counted toward a person's asset limit. Examples of excluded assets include homestead property in which the person or spouse or certain other family members live, some trusts, certain funds set aside for burial expenses, one vehicle, some federal payments, household goods and personal items (such as clothing and jewelry).

The county agency will review all verified assets and determine which ones are:

- Counted toward MA eligibility
- Excluded and not counted toward MA eligibility
- Determined to be protected for the community spouse, if married
- Protected because benefits of an LTCP policy have been exhausted. (explained later)

The county will also determine if a person needs to reduce assets to the \$3,000 asset limit allowed for someone residing in an LTCF or receiving home and community-based waived services.

Assets of Married Couples

A person residing in an LTCF or receiving EW services is considered a household of one and has an asset limit of \$3,000, whether the person is married or unmarried. However, evaluating assets of the married person is more complicated and several questions need to be addressed.

- Is the spouse also receiving or requesting MA payment of LTC services? If yes, then each one is treated as a single individual for purposes of the MA eligibility and each has an asset limit of \$3,000 in countable assets.
- Is the spouse living independently in the community and is not requesting or receiving MA payment of LTC services? If yes, then that spouse is considered a **community spouse** and the county must consider special rules of spousal impoverishment.

Spousal impoverishment regulations require that the couple (the LTC spouse and the community spouse) complete an **asset assessment** of their total marital assets. This should be done as soon as one spouse requires LTC services that are expected to last at least 30 days, even though they may not request MA payment at that time.

In an asset assessment, the married couple reports all assets owned by either spouse individually and by both spouses jointly. The county then evaluates the reported assets to determine:

- The amount of countable assets that can be kept by the community spouse and not counted towards the LTC spouse's MA eligibility and
- When the LTC spouse may possibly be eligible to receive MA payment for LTC services.

A community spouse is allowed to keep the minimum asset allowance or one-half the total countable marital assets (up to a maximum amount), whichever is greater. The minimum and maximum amounts are adjusted annually. Because this figure is used every time the LTC spouse applies for MA payment of LTC services, all assets should be reported for the assessment. This also ensures that more assets can be protected for the community spouse.

Example

Pablo and Tasha are married. Pablo moves into a LTCF on December 1, 2006, and is expected to stay there for more than 30 consecutive days. They ask the county agency to conduct an asset assessment and complete the required form, reporting all assets in which Pablo and/or Tasha had and ownership interest on the day he entered the LTCF.

The county worker completes the asset assessment calculation and determines that they owned \$60,000 in countable assets on December 1, 2006 (Pablo's first day of 30+ days in the LTCF). It is estimated that \$30,000 (one-half of their marital assets) will be protected for Tasha whenever Pablo applies for MA payment of LTC services in the future.

Pablo therefore privately pays for the first three months of his stay in the LTCF. On March 8, 2007, he applies for MA payment of LTC services and they verify that they own \$35,000 of countable assets at that time.

Of the \$35,000:

- Tasha, the community spouse, may keep \$30,000 (the amount calculated on the date of the asset assessment - December 1, 2006).
 - Pablo, the LTC spouse, has \$5,000 in assets available to meet his needs. He must spend \$2,000 in order to meet his \$3,000 MA asset limit. The county worker can suggest ways he can spend that amount without creating an uncompensated transfer.
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Interaction between the LTCP Program and MA Eligibility

How Asset Protection Works under the LTCP Program

An **LTCP participant** in Minnesota is someone who either:

- Requests MA payment of LTC services after exhausting all benefits of a qualified LTCP policy
or
- Exhausts all benefits of an LTCP policy while receiving MA payment of LTC services
or
- Receives MA payment of LTC services and dies before the LTCP policy benefits are exhausted.

An LTCP participant receives the following benefits during his or her lifetime:

- Assets may be designated for protection in an amount equal to the total amount of LTC services paid by the qualified LTCP policy
- Designated assets are not counted toward the MA asset limit
- The designated assets may be transferred to any other person without penalty.

After the LTCP participant is deceased:

- Assets which were designated as protected during the person's lifetime are also protected from estate recovery
- When the amount of assets protected during the person's lifetime was less than total benefits paid by the LTCP policy, additional assets may be protected in the estate recovery process - up to the total amount paid by the LTCP policy
- If no assets were protected during the person's lifetime, the personal representative may designate assets to protect from estate recovery equal to the total amount paid by the LTCP policy - even if LTCP policy benefits were not completely exhausted.

Two types of assets cannot be protected under the LTCP Program. Federal Medicaid rules require that when a person dies, the following assets must be available to reimburse DHS for the amount of MA benefits paid during his or her lifetime:

- Resources in a Special Needs Trust or a Pooled Trust and
- Annuity interests in which Minnesota must be named as a preferred remainder beneficiary.

The following pages provide more detailed explanations and examples about the interaction between LTCP and MA eligibility.

LTCP Policy Benefits have been Exhausted When a Person Requests MA Payment of LTC Services

The person requesting MA payment of LTC services may designate assets that will not count toward the MA asset limit up to the full amount of benefits paid by the LTCP policy. Protected asset(s) will be listed on a form provided by the county agency and the value of designated assets must be verified.

After an asset is designated, the person:

- May sell, transfer or convert the asset
- Must report any sale, transfer or conversion of the asset and verify the value of the designated asset as of the transaction date
- Document and verify any designated asset still owned at the time of each renewal that is required when someone receives MA payment of LTC services.

People whose countable assets are less than the amount they could protect will have an unused balance to their allowable protected amount when they apply for MA payment of LTC services. While receiving MA-LTC benefits, they will be allowed to designate additional protected assets up to the value of the unused balance, as explained in the next section.

Ruth Example

Ruth is a resident of the Happy Home LTCF. Her qualified \$90,000 LTCP policy has been paying for her care. When Ruth applies for MA payment of LTC services, she verifies that the benefits of her qualified LTCP policy have been exhausted and she has utilized the full \$90,000 in policy benefits.

Ruth owns the following countable assets:

- \$6,000 savings account
- \$6,500 checking account
- \$80,000 equity value in recreational lakeshore property.

The worker determines that Ruth's total countable assets equal \$92,500 (\$6,000 + \$6,500 + \$80,000). Her MA asset limit is \$3,000.

Because Ruth has fully utilized the \$90,000 LTCP policy benefit, she may designate \$90,000 of her countable assets as protected. Protected assets do not count toward her \$3,000 MA asset limit.

Ruth designates the \$80,000 equity in her lakeshore property, her \$6,500 savings account and \$3,500 of her checking account. This leaves Ruth with \$2,500 in assets that are counted for MA eligibility.

LTCP Policy Benefits Exhausted While a Person is Receiving MA Payment of LTC Services

Someone may request MA payment of LTC services before LTCP benefits are exhausted when:

- The LTCP policy doesn't cover all LTC needs
- and**
- The person's resources are not sufficient to supplement monthly benefits of the policy.

This person may receive the following benefits from participating in the LTCP Program:

- Although countable assets may have already been reduced to the \$3,000 MA asset limit, the person may own an excluded asset (such as a home) that can be protected from estate recovery
- An acquired asset (such as an inheritance) that would normally be counted for MA can be protected due to the LTCP
- An excluded asset that would normally become a countable asset (such as proceeds from the sale of an asset) can be protected due to the LTCP.

Gladys and Mildred Examples

Gladys and Mildred have similar stories. Both women receive home care services that are partially covered by a qualified \$20,000 LTCP policy. They have both used \$10,000 of their policy benefits and have approximately \$3,000 in a savings account. Neither one has sufficient funds to pay for daily services not covered by the LTCP policy. Gladys and Mildred both apply for and are found eligible for MA payment of LTC services through the Elderly Waiver (EW) program. Their LTCP policies are treated as third party liability and MA pays for services not covered by the LTCP policies.

When applying for and while receiving MA, they each own the following assets:

- \$3,000 savings account
- House with an equity value of \$50,000
- Prepaid burial trust.

The savings account is the only countable asset. The home and burial trust are excluded for MA.

Now their stories become different.

Gladys dies after using another \$5,000 of LTCP benefits, for a total expenditure of \$15,000. Although she did not benefit from the full value of the policy, the policy is considered to be exhausted and she may protect \$15,000 of assets from estate recovery. Since Gladys' home is the only asset in her estate, her personal representative protects \$15,000 of the home value from estate recovery.

Mildred exhausts the remaining \$10,000 of her LTCP policy benefits during her first six months of receiving MA payment of LTC services. Because the full \$20,000 of her LTCP benefits have been exhausted, MA begins to pay for services previously covered by the Partnership policy. Since Mildred has few countable assets, she does not designate any as being protected at that time.

A few months later Mildred's brother dies, leaving her a \$10,000 inheritance. Adding her \$3,000 savings account to the inheritance gives her countable assets of \$13,000. Because Mildred is allowed to have \$3,000 countable assets for MA, she designates the \$10,000 inheritance as protected under the LTCP Program. Since it is not counted towards her asset limit, Mildred remains eligible for MA payment of LTC services.

One year later she gives the \$10,000 protected amount to her granddaughter for college tuition. There is no uncompensated transfer because the \$10,000 was an LTCP protected asset.

When Mildred dies two years later, only her home remains in her estate. Because Mildred had a qualified \$20,000 LTCP policy:

- \$10,000 of assets were protected during her lifetime after policy benefits were exhausted **and**
- \$10,000 of the home's value is designated as protected in the estate recovery process following her death.

Interaction of the LTCP Program with Other MA Rules

As demonstrated above, the LTCP Program affects the following MA regulations:

- **Third party liability:** Benefits received from an LTCP policy while receiving MA payment of LTC services are treated as third party liability. MA is the payor of last resort.
 - **Asset division under spousal impoverishment rules:** A married couple's asset assessment must be completed before assets are protected under the LTCP Program. This allows the couple to protect only assets considered available to the LTC spouse, and does not consider those assets determined to be owned by the community spouse.
 - **Uncompensated transfers:** People who transfer assets protected under the LTCP Program are not subject to a penalty period.
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How to Apply for Minnesota Health Care Programs

A person may apply for any of the Minnesota health care programs by completing a Minnesota Health Care Programs Application, also known as the HCAPP (Form DHS-3417).

- The HCAPP allows people to apply for any or all of Minnesota Health Care Programs on one form.
- People may request an application form by:
 - Calling the Department of Human Services (DHS) at (651) 431-2670 or (800) 657-3739.
 - Visiting or calling their county office. Agency addresses and phone numbers are listed in the application.
- A complete signed and dated HCAPP can be faxed or mailed to the county agency. Agency addresses are listed in the application.
- People may ask the county agency to help them complete the application and contact third parties for required information and/or verifications.
- Health Care coverage generally begins in the month that the county receives a completed, signed and dated application.
- People may ask that Medical Assistance coverage begin up to three months before the date they apply.

Summary

This document is intended to help readers understand:

- General eligibility policy relating to Medical Assistance payment of long term care services in Minnesota and
- The interaction between Medical Assistance eligibility policy and the Long Term Care Partnership Program in Minnesota.

Medical Assistance eligibility policy is very complex, and incorporates special regulations and exceptions for various situations. This document provides general MA information with a special focus on the person with an LTC Partnership policy who resides in an LTCF or receives EW services. It is recommended that county agencies be contacted for information regarding MA regulations that apply to other situations.

This Long Term Care Partnership Program training document is available online at { [HYPERLINK "www.mnltcpartnership.org"](http://www.mnltcpartnership.org) }

Questions can be emailed to { [HYPERLINK "mailto:dhs.ltc.partnership@state.mn.us"](mailto:dhs.ltc.partnership@state.mn.us) }
