

Medicaid's Spousal Impoverishment Protections

The cost of long-term nursing home care can be financially devastating. At an average annual cost of more than \$70,000, nursing home care is beyond the reach of most lower- and even middle-income individuals and families, who would be unable to pay for care out of income and would quickly deplete accumulated savings.¹ Nursing home costs can create a special hardship for married couples and families who must balance the needs of the person needing care against the needs of a spouse or others who remain in the community.

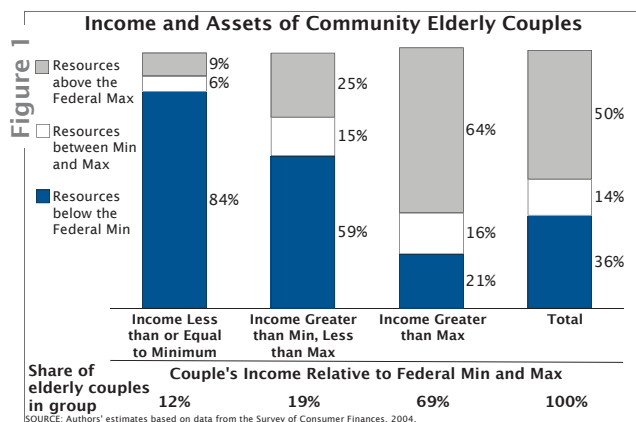
The federal-state Medicaid program provides assistance with long-term care costs to people who are poor or who deplete their resources paying for care. Medicaid begins to pay only once savings are nearly exhausted (nursing home patients must typically reduce their assets to \$2,000), and requires residents to contribute almost all of their available income toward the cost of their care. However, Medicaid has special eligibility rules for nursing home residents who are married—rules that are designed to assure that married residents make significant contributions toward the cost of their own care, while assuring that community spouses are not impoverished.

Background

Prior to 1989, Medicaid's restrictive eligibility rules often imposed significant hardships on married couples. When one spouse required nursing home care, nearly all of the couple's assets—jointly or individually held—were considered available to pay for nursing home care (a community spouse could keep assets of up to \$2,000). The institutionalized spouse's income was also considered fully available for his or her care. Although income could be transferred to the community spouse, states usually set the protected income amount significantly below the federal poverty line (at the Supplemental Security Income (SSI) benefit level).² Not infrequently, couples married for decades pursued divorce as a means of protecting modest savings for the community spouse while attaining Medicaid eligibility for the spouse in need of nursing home care. To address this problem, Congress added spousal impoverishment protections to Medicaid in the 1988 Medicare Catastrophic Coverage Act.

What are the spousal impoverishment protections?

The Medicaid spousal impoverishment rules are a set of federal standards that states must use to determine eligibility for nursing home residents who are married. States have latitude to set income and asset eligibility



levels within federally determined floors and ceilings (which are adjusted annually for inflation). States may extend spousal impoverishment protections to people receiving long-term care in the community, but they are not required to do so.

Rules regarding income. Rather than requiring a couple to reduce their joint income to the SSI level, federal law permits the community spouse to maintain a higher income for his or her support—a so-called minimum monthly maintenance needs allowance. In 2007, states must allow a community spouse to keep at least \$1,650 in monthly income (\$19,800 on an annualized basis); states can set the spousal income allowance as high as \$2,541 (an annual income of \$30,492).³ The federal poverty level for a single individual in 2007 is \$850.83 per month (annual income of \$10,210). Thus, these protections allow a community spouse to maintain a monthly income (assuming they have it) that is, roughly, between 200% and 300% of the federal poverty level.

The state-set maintenance needs allowance establishes a floor of protection, but a "name-on-the-check" rule allows a community spouse to retain any and all income in his or her own name—Social Security benefits or pension income, for example. Consequently, a community spouse's income could far exceed the guaranteed minimum. If, however, the minimum allowance cannot be reached with the community spouse's own income—which is often the case when the husband is the institutionalized spouse and the wife, who may have been a homemaker during most of her lifetime, is the community spouse—then states must allow the institutionalized spouse to transfer income to the community spouse to close that gap. In addition, the income allowance can be raised above the cap in cases of severe hardship. The allowance is also increased by one third for every minor or adult dependent child, or certain other dependents who live with the community spouse. In 2000, 35 states set the minimum monthly maintenance needs allowance at the federal ceiling.⁴

Rules regarding assets. Community spouses can retain half or more of the couple's combined assets, subject to state limits. Under federal rules in 2006, states must allow a spouse to retain a community spouse resource allowance of at least \$19,908 and as much as \$99,540.⁵ If the community spouse's resources exceed

the maximum, assets must be reduced before Medicaid will cover the costs of nursing home care. States have the option to raise the minimum to any level up to the federal maximum, and many do. In 2000, 36 states opted to raise the minimum level, most of them setting it at the federal maximum.⁶

Policy Issues

Although financial eligibility for Medicaid nursing home patients with community spouses is significantly more generous than for those who are single, widowed or divorced, these financial protections may be inadequate for many middle-income couples. Moreover, the amount of assets an elderly couple can protect varies across states. A couple with \$50,000 in savings may be able to keep nearly all of their savings in many states (assuming they are aware of and take advantage of Medicaid's protections), but would be able to protect only half that amount in other states. The prospect of spending down assets accumulated over a lifetime of work creates a substantial hardship for all nursing home residents, but especially for those with a spouse in the community, perhaps only in her 60s or 70s, who is counting on those resources to sustain herself in retirement.

A Policy Option

States' choices significantly affect the number of elderly couples who can achieve Medicaid eligibility for an institutionalized spouse without depleting accumulated savings. To make Medicaid more equitable across states, federal policy makers could establish a higher uniform threshold—mandating that all states set the income and resource thresholds at the current federal maximums for Medicaid long-term care beneficiaries with community spouses. To offset increased state costs, federal matching payments could be increased.

If all states set protected income at the federal maximum in 2004, an estimated 31 percent of elderly married couples in the community would have qualified for full income protection (see Figure 1). Had the income standard been set at the federal minimum in all states, however, only 12 percent of couples would have been eligible for full income protection.

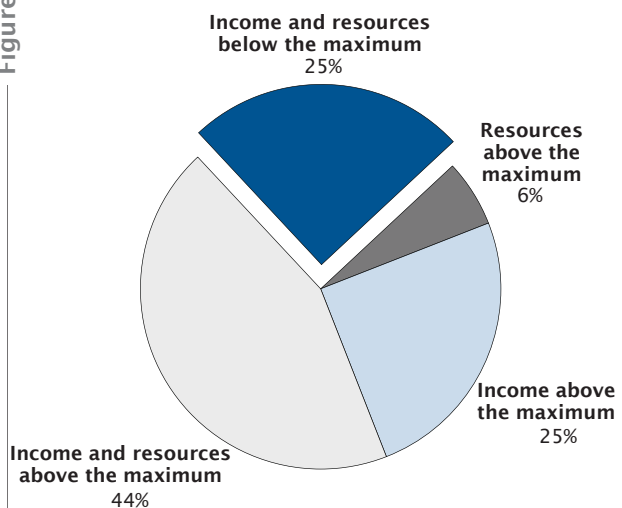
Among elderly couples with low incomes (i.e., below the minimum standard), the large majority (84 percent) also had countable resources below the federal minimum resource allowance in 2004 (then \$18,552), and would thus have been eligible for full protection of their income and assets if one spouse were to require nursing home care. Another 6 percent had resources between the federal minimum and maximum.

The majority of elderly couples with modest incomes (between the federal minimum and maximum) also have limited resources. Three-fourths of the elderly couples in this income group could protect all of their assets if all states set the resource standard at the federal maximum.

If both the income and asset eligibility levels were raised to the federal maximums in all states, roughly a quarter of all elderly married couples living in the community in 2004 would have been eligible for full protection

Distribution of Elderly Couples in the Community by Income and Resources Relative to the Federal Maximum Standards, 2004

Figure 2



NOTE: Data are for the community-dwelling elderly.
SOURCE: Authors' estimates based on data from the Survey of Consumer Finances, 2004.

of their income and resources if one spouse were to enter a nursing home (see Figure 2). That is, 31 percent of elderly couples would meet the income eligibility criteria (see Figure 1), but some of these income-eligible couples would need to spend down assets to Medicaid eligibility levels. Nine percent of elderly couples in the lowest income group (with family income below the federal minimum) and a quarter of those in the middle income group would be required to spend down some of their assets to qualify for Medicaid.

Even at this higher uniform eligibility threshold, most elderly couples in the community would need to spend down some of their resources or income, including six percent of couples with resources above the maximum, 25 percent with income above the maximum, and 44 percent with income and resources above the maximum (see Figure 2).

This incremental adjustment to Medicaid eligibility would improve Medicaid's financial protection for married nursing home residents and their spouses in some states. The effects of the policy could be further enhanced if states were required (rather than simply permitted, as they are today) to extend these protections to married people receiving long-term care services in the community.

Notes

1. Genworth Financial, *2006 Cost of Care Survey*, March 2006. http://longtermcare.genworth.com/comweb/pdfs/long_term_care/Cost_Of_Care_Survey.pdf.
2. Julie Lynn Stone. *Medicaid: Eligibility for the Aged and Disabled*. Congressional Research Service, July 5, 2002, p. 37.
3. <http://www.cms.hhs.gov/MedicaidEligibility/downloads/1998-2007SSIFBR102406.pdf>.
4. Stone 2002, pp. 38-40.
5. Medicaid eligibility levels as determined by the Centers for Medicare and Medicaid Services, available at: <http://www.cms.hhs.gov/MedicaidEligibility/downloads/2006SSIFBR.pdf>.
6. Stone 2002, p. 37.

