

# OHIO AND PENNSYLVANIA MEDICAID DIFFERENCES

While most people do not want to enter a nursing home, oftentimes, an individual's care cannot adequately or safely be provided at home. However, if it becomes necessary to enter a skilled nursing facility, an individual must know more than which nursing home to select if he/she needs this level of care.

Medicaid is the program which pays for the majority of the care provided in skilled nursing facilities. Medicaid is a program, which is jointly funded by the Federal and state governments. As a result, both Federal and state laws regulate skilled nursing facilities and the Medicaid program. However, there are differences in Medicaid regulations from state to state. Knowing the differences of the Medicaid programs between states is critical, especially when living in an area where an individual could choose to live in a skilled nursing facility in either Ohio or Pennsylvania.

There are major differences in the Medicaid program in Ohio and Pennsylvania. Some of the more notable differences are the following:

1. **Amount of assets permitted to retain to qualify for Medicaid.** In order to qualify for Medicaid in Ohio, an individual is only permitted to retain assets in the amount of \$1,500.00. However, in Pennsylvania, the amount of assets an individual can retain and qualify for Medicaid is either \$2,400.00 or \$8,000.00 depending on the amount of the Medicaid applicant's gross monthly income. If the Medicaid applicant's gross monthly income is less than \$2,250.00, he is permitted to retain \$8,000.00 in assets. Unfortunately, if the individual's gross monthly income is more than \$2,250.00, then the individual is only permitted to retain \$2,400.00 in assets to qualify for Medicaid. While this may not sound like a large difference, if the individual in the nursing home still owns a home, he/she can maintain the house longer if he/she is permitted to retain \$8,000.00 in assets.

2. **Whether or not the community spouse's retirement plans are counted as assets.**

When one spouse enters a nursing home, the Federal law permits the community spouse, which is the spouse residing in the community, to retain a set amount of the couple's assets. However, there is a major difference in Ohio and Pennsylvania's Medicaid laws concerning the treatment of the community spouse's IRAs and retirement benefits. In Pennsylvania, the IRAs, 401k's, and other retirement plans of the community spouse are not counted as resources for purposes of the institutionalized spouse qualifying for Medicaid. However, in Ohio, the IRAs, 401k's, and retirement plans of the community spouse are counted as assets for purposes of the spouse in the nursing home qualifying for Medicaid. In cases where the community spouse has retirement plans, being able to protect these assets, which can be done by the community spouse of a resident in a Pennsylvania nursing home, can substantially improve the community spouse's quality of life.

3. **Ohio's Estate Recovery program is broader.** Upon a Medicaid recipient's death,

Medicaid looks to the Medicaid recipient's assets to reimburse the state for the money spent on the individual's care provided in the nursing home. In Pennsylvania, Medicaid can only recover from probate assets, while in Ohio, Medicaid benefits can be recovered from both probate and non-probate assets, such as jointly held assets, life insurance policies, annuities, and Trusts. The reason for the difference in the Estate Recovery programs between the states is due to the Federal law which permits the states to expand its definition of probate assets subject to Estate Recovery to include non-probate assets. Until 2005, Ohio's Medicaid Estate Recovery program only recovered from probate assets. However, in 2006, Ohio expanded its definition to the broader rule of probate assets to include the non-probate assets set forth above. As a result, Ohio's Estate Recovery Program includes all types of assets while Pennsylvania's Estate Recovery program maintains the narrower definition of the rule and only recovers from probate assets.

As you can see from the information provided above, if you, or a loved one needs to reside in a skilled care facility, it is not enough to know what facility you want to provide this care. You

must also determine whether it is more beneficial for the individual to reside in a skilled nursing facility in Pennsylvania or Ohio. An Elder Law Attorney well versed in the differences in the Medicaid laws of these states should be consulted to inform you how these laws would affect your situation.

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