

TIPS FOR A MAINECARE LONG-TERM CARE APPLICATION

In Maine, the Medicaid benefit is administered by the Department of Health and Human Services (DHHS) and is called MaineCare. MaineCare can help pay for long-term care services for individuals who are both medically and financially eligible for the benefits.

The MaineCare rules regarding long-term care are complex, and they include:

- An asset limit for countable assets,
- A five-year look-back period,
- Transfer penalties for non-exempt transfers, and
- Medicaid estate recovery.

Understanding the complex MaineCare eligibility rules is just the start. The MaineCare application process can be just as complex and confusing, especially to individuals and families attempting to complete the process on their own. It can often take several months of communicating with DHHS and providing additional financial document requests before a decision by DHHS is made.

While the MaineCare application is not something you can do proactively, meaning that an application for MaineCare long-term care benefits should not be submitted before there is an immediate need medically and financially, there are steps that you can take now in anticipation of a potential, future MaineCare application.

1. Save Financial Statements

One step you can take now to prepare for a future MaineCare application is to save financial statements. These statements include monthly bank statements with check images, quarterly investment account statements, or yearly stock statements. When a MaineCare long-term care application is submitted, DHHS requests all financial statements for all accounts within the look-back period which is currently 60 months or five years. The request includes any account opened or closed during the look-back period. DHHS also requests verification of large transactions including check deposit and withdrawals and cash deposit and withdrawals (generally over \$500 or \$1,000).

Often, requesting the financial statements from various banks and financial institutions takes longer than the deadline DHHS provides. Some banks will charge per page to print the statements. Keeping your financial statements now could avoid a denial of benefits based on missing financial statements and save you money if you apply for MaineCare benefits in the future.

If you receive a statement verifying your income or changes to your income, save these statements as well. For example, each year Social Security will send you verification of your social security income and deductions from your income. This letter is titled *Your New Benefits Amount*. DHHS asks for proof of income when you apply for MaineCare, and a tax return or a direct deposit into your bank account will not be enough.

Likewise, statements verifying your individual medical insurance premium will also be helpful to keep for a future MaineCare application. DHHS will not accept automatic withdrawals from a bank account or a statement showing both spouses' premium payment as verification. Requesting this verification from the insurance company can take time and delay the MaineCare application process.

2. Keep a Paper Trail

Another step you can take now is to keep a paper trail of any large purchases or sales you make. Under the MaineCare rules, if you or your spouse sell or transfer an asset and do not receive fair market value in return, that transfer is subject to a transfer penalty. DHHS will request verification of the sale, verification of the fair market value, and verification as to where the proceeds from the sale went. Even if transactions are with cash, DHHS requires verification as to where money went after a sale and where money came from for a purchase.

For example, if you are purchasing a boat from your neighbor and paying him in cash, be sure to get a receipt for your payment. Or, if you are selling your car to your neighbor and he is paying you cash, be sure to get two statements establishing fair market value and keep a sales receipt for yourself or create a sales agreement. Having a receipt or sale agreement to provide DHHS with verification of a large purchase or sale can prevent a transfer penalty on a future MaineCare application, especially if the sale or purchase was from a family member.

3. Document Agreements for Care and Rent

If you or your spouse pays a family member for caregiving services or for rent payments, it is important to create a personal services agreement or room and board agreement. The MaineCare rules treat any payments to family members for caregiving as gifts subject to a transfer penalty, unless the payments were made pursuant to a legally enforceable contract and the services were approved by a health care provider as necessary to keep the individual in the community.

In the same way, be sure to enter into a room and board agreement before paying a family member rent. Even if you are living in the home of that family member, DHHS may call the rent payments a transfer of assets thereby creating a transfer penalty. To be proactive, document the arrangements with a room and board agreement or lease agreement.

4. Consult an Elder Law Professional Before Making Gifts or Other Transfers for Less than Fair Market Value

Before making a gift of money to a loved one or transferring your home or other asset to someone for less than fair market value, you should consult an elder law attorney or other professional specializing in elder issues. The MaineCare long-term care rules regarding gifting are not the same as the IRS tax rules regarding gifting. Any gifts or transfers over \$500 per calendar quarter may impact your future eligibility for MaineCare benefits.

5. Keep Your Estate Planning Documents Up-To-Date

Finally, it is crucial to keep your estate planning documents up-to-date for several reasons. First, updated estate planning documents can be the difference in your family successfully completing a MaineCare application. If you are unable to request financial documentation, your family will need to have the authority to do so on your behalf. If you do not have a legally effective financial power of attorney or advance health care directive, your family may be required to go through the probate court process known as guardianship and conservatorship to get that authority. Up-to-date estate planning documents can save your family time and money if you need MaineCare long-term care benefits in the future.

Second, there are legitimate strategies to hasten ones eligibility for MaineCare benefits while protecting assets for a spouse and the next generation. These strategies can only be taken on your behalf if you have up-to-date and broad estate planning documents. Please note that being a spouse or a joint owner on an account does not permit you to take these steps without additional authorities in estate planning documents.

This article is intended to provide information of a general nature only. It does not provide or replace professional legal advice, and it does not establish an attorney-client relationship with the Maine Elder Law Firm or Rudman Winchell. Please consult an attorney for advice regarding your specific circumstances.

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