

Asset Protection Law Newsletter



HOLLYWOOD TELEPHONE (954) 963-8719 ♦ DADE TELEPHONE (305) 326-7400 ♦ **WEBSITE: WWW.ROSEMAN-ELDER-LAW.COM**

FROM MARK A. ROSEMAN, ESQ.
WELLS FARGO BANK BUILDING
3325 HOLLYWOOD BOULEVARD, SUITE 308
HOLLYWOOD, FLORIDA 33021-6926

A FREE LEGAL UPDATE FOR ELDERS AND SAME SEX PARTNERS WHO SEEK ASSET PROTECTION ♦ MARCH 1, 2013 EDITION

GETTING THE GOVERNMENT TO PAY FOR HOME HEALTH CARE

Q. What exactly is the Florida's Diversion Program?

A. The Long-term Care Community diversion Program is a Medicaid waiver program designed to provide community-based services to people who would otherwise qualify for Medicaid nursing home placement.

Q. What is the goal of the Diversion Program?

A. The goal is to provide frail elders with safe, appropriate community-based alternatives in lieu of nursing home placement at a cost less than Medicaid nursing home care. Assisted Living Facilities and limited home health care are these alternatives.

Q. What are the requirements to be eligible to receive services under the Diversion Program?

A. There are 9 requirements:

1. Be 65 years or older.
2. Reside in a Diversion Project Service area.
3. Florida resident.
4. Be a U.S. citizen or qualified non-citizen (usually green card holder for 5 years or more).
5. Must file for any other benefits to which they may be entitled such as V.A. benefits.
6. Have Medicare Part A and part B.
7. Must disclose any health insurance benefits.
8. Must meet the level of care requirements to obtain nursing home benefits.
9. Patient must be under \$2,000 in countable assets with community spouse under \$115,920.00 in countable assets (2013).

Q. Are there any Medicaid planning strategies to qualify for Diversion Program if assets or income are in excess of those levels?

A. Yes. An attorney who specializes in Medicaid has a variety of strategies to qualify for the Diversion program. This includes certain annuities and personal service contract to shift assets from the applicant to other parties.

Q. How does Department of Elder Affairs CARES unit determine who can qualify for Diversion Program?

A. Patient must be limited in his ability to perform certain activities of daily living (ADL):

1. Eating
2. Bathing
3. Dressing
4. Walking
5. Transferring
6. Toileting

Q. Who provides these services to be paid by the Diversion Program?

A. Each county has approved providers for medical care services. Each Assisted Living Facility has its own list of providers which provide these services. Examples of providers include American Eldercare, Evercare, Universal, Vista and some others.

Q. Are diversion benefits retroactive to the date you apply for Diversion Program?

A. No. Unlike nursing home Medicaid, diversion benefits are only paid from date of approval by both Department of Elder Affairs and Department of Children and Families.

Q. Can the community spouse of an applicant for diversion program with assets in excess of \$115,920 use spousal refusal to obtain Diversion benefits?

A. No. Community Spouse must have less than \$115,920 in countable assets for applicant to be approved for Diversion Program.

Q. To qualify for Diversion Program, must applicant need help with all five activities of daily living (ADL'S)?

A. A patient who has to have medication management must require help with only four ADL's. A patient diagnosed with dementia must require help with only three ADL's to obtain Medicaid through the Diversion Program.

Q. How much help at home does Diversion Program give?

A. Usually no more than 15 hours per week.

Q. Who determines how many hours of care patient can receive at home?

A. Patient or his family selects a provider such as American Eldercare. The provider assigns a case manager who determines hours and supervises the patient's care.

Q. How does the provider get paid?

A. Medicaid pays a fixed rate per client per month. From this money, the provider must pay for all services it considers necessary for the patient.

Q. How does patient know which provider to select?

A. It must be one with whom patient and his family feels comfortable. If you select a particular Assisted Living Facility, you are limited to providers who have contracts with that particular facility.

Q. If you select an Assisted Living Facility, how much does Medicaid pay that facility?

A. Usually about \$1,000 per month. If patient's social security plus the payment by Medicaid to the facility covers the Assisted Living Facility's charges, then patient needs pay nothing else of his own funds to the ALF.

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News You Can Use

2013 FLORIDA MEDICAID LIMITS

Gross Monthly Income Limit for Medicaid Applicant:	\$2,130.00
Personal Needs Allowance:	\$35.00
Asset Limit (Individual):	\$2,000.00
Asset Limit (Couple):	\$3,000.00
Medicare Part B Premium:	\$104.90
Community Spouse Resource Allowance:	\$115,920.00
Minimum Monthly Maintenance Income Allowance:	\$1,891.25
Maximum Monthly Maintenance Income Allowance:	\$2,898.00
Monthly Personal Needs Allowance:	\$35.00