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MEDICAID/ARIZONA LONG TERM CARE SYSTEM

Since 1982, Arizona has participated in the Medicaid program through the operation of the Arizona Health Care Cost Containment System ("AHCCCS") under a federal waiver allowing payment of federal Medicaid dollars into our homegrown version of a managed care program. In 1987, the state legislature added long term care services to the AHCCCS program by establishing the Arizona Long Term Care System ("ALTCS") for Medicaid-eligible persons who are elderly (over age 65), or physically or developmentally disabled. As a result, ALTCS is a separate division of AHCCCS, operating under Medicaid long term care rules. Although the names are different, it is correct to say that ALTCS is Medicaid.

Benefits available under the ALTCS program range from home care services and assisted living to care rendered in an adult foster care home or skilled nursing facility. Because ALTCS is a needs-based program, a person must be both medically and financially "needy" before long term care services are rendered.

Medical eligibility is determined by a pre-admission screening ("PAS") conducted by a nurse and/or social worker. The screening consists of both a functional and medical assessment. Different screening tools are used to assess medical eligibility of the elderly, or physically or developmentally disabled. The primary consideration is the individual's ability to perform his or her activities of daily living ("ADL"), such as mobility, transferring, toileting, dressing, feeding, bathing and grooming. The individual's diagnosis, sensory function, orientation, emotional/cognitive behavior and necessary medical services and treatments are also considered. The overall purpose of the PAS is to determine whether the individual is at risk for institutional placement.

Financial eligibility consists of both income and resource requirements, which vary depending on whether the person who is applying for benefits is single or married. The following provides basic information concerning such requirements.

I. Income Requirements:

- A. Single person: limited to \$2,022.00 per month.
- B. Married person: The applicant can meet the income eligibility requirement if:

1. The total income of both spouses does not exceed \$4,044.00 per month;
2. The total income received by the applicant under his name as well as half of the income received in both names does not exceed \$2,022.00 per month or;
3. The total income received by the applicant under his name does not exceed \$2,022.00.

C. If a single applicant's income exceeds the monthly income amount, but is under \$5,808.25 per month if they live in Maricopa, Pima, or Pinal county, \$5,158.40 a month if they live in any other county, an "income-only" trust can be established which will still allow the individual to qualify. In any other county of residence in Arizona the limit is \$5,158.40 for the income received in the individual's name plus ½ of the joint income or \$10,316.80 in combined income for both spouses.

II. Resource Requirements:

A. Single person: The applicant cannot have more than \$2,000.00 in countable resources to qualify for ALTCS. (An applicant who is disabled and under age 65 may become eligible under certain conditions by the establishment of a trust even if countable resources exceed \$2,000.00).

B. Married person: The applicant's spouse may retain half of the total countable resources of both spouses, except that the half retained cannot exceed the maximum of \$109,560.00 and the spouse may keep a minimum of \$21,912.00 even if half is less than \$21,912.00. In addition to the half that the spouse retains, the applicant is still permitted to retain \$2,000.00 in resources. Under most circumstances, if both spouses in a marriage are applicants then each is limited to \$2,000.00 in resources.

C. Single and Married persons: Certain resources are considered excluded and therefore may be retained in addition to the countable resources. In general, these resources include the following:

1. The primary residence, if the applicant and/or his spouse have an ownership interest in the property and the applicant states it's his or her intent to return home, or if a spouse or dependent relative is living in the home. Note, a primary residence held in trust is countable for ALTCS purposes.
2. An automobile.
3. A burial fund of \$1,500.00 for each spouse set up in a bank account and labeled as such, or as part of a prepaid burial plan. If the burial plan is

funded by the irrevocable assignment of proceeds of a life insurance or annuity policy, there is no value limit to the plan as long as the proceeds assigned do not exceed the fair market value of the burial plan.

4. Burial plots for the applicant and spouse and members of immediate family of an unlimited value. The burial plot exclusion includes the cost of the headstone, casket, niche, burial container, opening and closing the grave and perpetual care.
5. Household goods and personal effects.
6. The combined cash value of all life insurance policies insuring any one individual with a combined face value that does not exceed \$1,500.00.
7. All funds in an account designated as a Uniform Transfer to Minors Act (“UTMA”) account. Any funds withdrawn from the account as cash or used for food, clothing or shelter are considered as a resource in the month following the month of withdrawal if retained. The value of the account is considered as a resource in the month following the month in which the child’s 21st birthday occurs.
8. The assets of a trust created for the benefit of a disabled person under the age of 65 with his or her resources if the trust is established by a parent, grandparent, guardian or conservator, or court, and if the trust contains a provision whereby AHCCCS is reimbursed the cost of services rendered to the individual, which is the capitated rate, at the time of his or her death.

III. Transfers:

The Deficit Reduction Act (“DRA”) of 2005, changes the Medicaid rules regarding transfers or gifts. Any transfers or gifts made to someone other than a spouse or in the case of transfers to or from a trust within 60 months prior to application must be disclosed to ALTCS. ALTCS then calculates a period of ineligibility by dividing the total amount transferred by the average monthly cost of care in the county as determined by ALTCS, which is currently \$5,808.25 in Maricopa, Pima, or Pinal counties, and \$5,158.40 in all other Arizona counties. The resulting figure is the number of months of ineligibility. Fractions are **not** rounded down. Multiple transfers or gifts may be aggregated at the discretion of the State. The period of ineligibility runs from the **date of application assuming the applicant would otherwise be eligible, i.e., would meet medical criteria and otherwise meet the financial requirements at that time.**

For transfers or gifts made prior to enactment of the DRA, which was February 8, 2006, the “old” rules apply. The disclosure requirement is 36 rather than 60 months, with the exception that the 60 month rule applies to transfers to/from trusts. ALTCS then calculates a

period of ineligibility by dividing the total amount transferred by the average monthly cost of care. The resulting figure is the number of months of ineligibility, with fractions being rounded down. The period of ineligibility runs from the date of transfer, with the first month being the month in which the transfer was made. If a transfer is made within a period of ineligibility resulting from a prior transfer, then the amount of the recent transfer is added to the prior transfer, and the ineligibility period runs from the date of the first transfer. Transfers or gifts totaling less than the average cost of care as determined by ALTCS do not result in the imposition of a period of ineligibility. In addition, transfers or gifts made prior to 36 months before applying for ALTCS benefits will not result in the imposition of a period of ineligibility, unless the transfer was made from a revocable trust or, in most cases to an irrevocable trust, in which case the “look back period” is 60 months as it is now for all transfers or gifts.

Under the previous as well as current law, certain transfers do not result in a period of ineligibility. Any gift made prior to the 60 months before applying for ALTCS benefits will not result in the imposition of a period of ineligibility. Transfers to a spouse and transfers of an excluded resource other than a home, also do not result in the imposition of a period of ineligibility. There are also other limited instances in which transfers do not result in a period of ineligibility, such as transfers to/from a spouse, transfers to a disabled child or to a trust for a disabled child’s benefit, transfers to a disabled under age 65 trust which is described above.

IV. Share of cost:

A. Single person: Once the applicant qualifies for Arizona Long Term Care and is receiving services, he may have to pay a share of the cost of his care on a monthly basis. He/she will only be permitted to keep a small spending allowance, currently \$101.10 per month. In addition he or she is able to deduct non-covered medical expenses including the cost of Medicare and other insurance premiums.

B. Married person: Once a married person qualifies for Arizona Long Term Care he or she is entitled to the \$101.10 per month spending allowance plus enough income to cover his or her non-covered medical expenses, including insurance premiums. In addition, the spouse is entitled to a minimum of \$1,822.00 per month, plus a standard utility allowance of \$326.00 per month plus the monthly mortgage or rent amount and monthly property taxes and insurance minus \$547.00. The resulting total cannot exceed \$2,739.00 per month. If the spouse does not have enough of his or her own income to cover this amount, then he or she is entitled to receive enough money out of the applicant's income to make up the difference.

The rest of the applicant's income must be paid to ALTCS for the share of cost. Share of cost is never assessed against the spouse's income. A share of cost will not be assessed at all if the applicant receives services in the home, unless perhaps, if an income only trust has been established.

V. TEFRA Liens and Estate Recovery:

Effective September of 2004, ALTCS is permitted to place a lien on an individual's home property regardless of form of ownership, that is, whether owned as a joint tenant, life estate, or beneficiary deed, under the following conditions:

- If the individual is over the age of 55;
- If the individual is permanently "institutionalized," that is, the individual has continually resided in a hospital or nursing facility for 90 consecutive days;
- If none of the following individuals are residing in the home: a spouse, child under the age of 21, child who is blind or disabled, or sibling who has an equity interest in the home and who was residing in the home for at least 1 year immediately before the date of the individual's "institutionalization."

According to the lien regulations, ALTCS will be required to send the individual notice of intent to file a lien at least 30 days prior, which delineates the right to request a fair hearing among other things. If a lien is filed, ALTCS may only recover the lien upon sale or transfer, and is prohibited from doing so if the individual is survived by a spouse, child under the age of 21, blind or disabled child, sibling who currently resides in the home under the circumstances described above, or a child resided in the home for at least 2 years immediately before the date of "institutionalization:" and who provided care that enabled the individual to reside at home rather than in an "institution."

If a person has received services through the ALTCS program after the age of 55, then AHCCCS will also have a claim to recover the cost of services rendered to that individual during his or her lifetime against assets subject to probate. Note that ALTCS will only recover against the probate estate as defined by Arizona law and will not recover against joint tenancy property, life insurance proceeds or designated beneficiaries on pension plans or IRA's. ALTCS will not implement estate recovery if the spouse survives the ALTCS recipient or if there is a disabled child. See ALTCS booklet DE-810 for more specific information.

NOTE: This is a basic general outline only and the numbers are subject to change. The numbers are effective as of 01/01/2009.