

# Nursing Home Toolkit

Nursing Homes—A Guide for Medicaid Beneficiaries' Families and Helpers





## Content Summary

When a loved one enters a nursing home, it can be a stressful time. Knowing the general Medicaid eligibility rules and beneficiary rights can help you make informed decisions and may provide peace of mind.

This guide gives an overview of Medicaid nursing home coverage rules and services, information about how nursing home residents should be treated, and tips on what to do if your loved one is not treated well. The guide concludes with tips on preventing beneficiary identity theft; information about fraud, waste, and abuse in the nursing home; and how to report them.

There are about 1.4 million nursing home residents in the United States.[1] Almost two-thirds of those residents are Medicaid beneficiaries.[2] A nursing home is one of many settings in which Medicaid long-term care is provided. Medicaid and other State agencies, such as the State Department on Aging and Disabilities, also provide long-term services and support outside of an institution.[3] People go to nursing homes for different reasons: when they have been sick, have been hurt, had surgery and need to get better, or when they can no longer live without daily help that can only be made available in institutional facilities.

Generally, your loved one can choose a family member or helper to assist in making decisions or to assist with other tasks. At certain times, only a spouse, a person who has power of attorney, or a guardian can get information or make decisions for the beneficiary. The rules about this vary by State. The nursing home social worker, your State Medicaid agency (SMA), and your State Attorney General’s Office can give you more information.

If your loved one is moving to a nursing home and is eligible for Medicaid coverage, some things can help you with the process, such as knowing:

- General Medicaid nursing home admission and eligibility criteria;
- Beneficiary rights;
- The quality of care your loved one should receive; and
- How to report problems or concerns.

If you would like more information about choosing a nursing home, you can access “Your Guide to Choosing a Nursing Home or Other Long-Term Care” at <https://www.medicare.gov/pubs/pdf/02174.pdf> on the Medicare website. Check <https://www.medicare.gov/NursingHomeCompare/> to find quality of care information for every Medicare- and Medicaid-certified nursing home in the country.

## General Medicaid Nursing Home Admission Criteria

Medicaid is a program that is jointly funded by the Federal government and your State government.[4] Medicaid covers care for eligible beneficiaries in a State-certified Medicaid nursing home only when there is no other source to pay.[5] To be eligible for nursing home care under Medicaid, your loved one must have a medical need.[6] Medical need is required in all States. Each State defines medical need in its own way.

## Applying for Medicaid Benefits

You can help your loved one apply for Medicaid benefits. As you go through the application process, it is important to remember that if your loved one does not qualify for Medicaid, he or she may have to pay for nursing home services. Beneficiaries commonly need another source, such as a Medicare or a long-term care policy, to pay for their nursing home stay. Some may have to pay “out of pocket” before applying for Medicaid.[7] When you help your loved one apply for Medicaid, you may need a face-to-face meeting with an SMA representative. They will review the application with you and ask you to provide personal and financial information about your loved one to determine eligibility. The application form should list the documentation you will need to provide, or you can call your SMA for more information.



To check if you or a loved one qualifies for Medicaid, or to apply for Medicaid, visit <https://www.healthcare.gov/screener> on the Health Insurance Marketplace website and follow the prompts. To check if you are eligible, you only need information about household income and family size and ages. For the full application, you will need to set up an account on the Health Insurance Marketplace website and provide more detailed information about you and your household.[8]

## Medicaid Eligibility Criteria

Specific eligibility criteria may vary from State to State. The Federal government requires States to follow some guidelines but also allows some flexibility. Check with your local Medicaid agency if you have questions.[9] Eligibility for Medicaid may be figured differently for a nursing home resident, so access to Medicaid services may depend on the resident's need for an institutional level of care.[10] Nursing homes normally have a social worker on staff. The social worker can assist you with questions.

## Income and Resource Limits

State Medicaid programs may have different income and resource limits for admission to a nursing home. It is important you know the Medicaid income and resource limits for nursing homes in your State. To find out about limits, contact the SMA in your loved one's area.

## Income

The Social Security Act defines income. Income may include Social Security benefits, railroad benefits, disability benefits, veteran's compensation and pension, retirement benefits, pension, alimony, wages, rent, dividends, interest, and royalties.[11, 12] If a person has a trust, the SMA will need to consider the terms of the trust when determining income. For individuals who make too much for Medicaid but not enough to pay for a nursing home stay, a Qualified Income Trust may be an option to qualify for Medicaid. Check with your SMA on the specific requirements for this trust.[13, 14] This list does not cover all income items. It is an example of the most common types of beneficiary income.

## Resources

Resources are also known as assets. Resources may include a home, bank accounts, certificates of deposit, money market accounts, burial contracts, and the cash value of life insurance policies. Some resources do not count for Medicaid, while others do. Some of the resources that do not count for Medicaid include, but are not limited to: one vehicle, a burial space, and life insurance policies if the total face value of all policies for the owner is \$1,500 or less.[15] Most other resources count toward Medicaid's resource limit for admission to a nursing home. Resource limits and home ownership rules are different for every State Medicaid program, so check with the SMA in your loved one's area to find out what they are.[16, 17, 18]

## Spouse at Home

In 1988, Congress made changes to the Social Security Act to allow a certain amount of resources to be set aside for a spouse still at home.[19] During the Medicaid application process, the Medicaid representative determines the resources to be set aside for the spouse still at home. The amount is generally calculated by adding the total countable resources owned by either spouse and dividing it in half.[20] There is a minimum and maximum limit. These limits change each year.

Sometimes the income or resources set aside for the community spouse are not enough. If this happens, either spouse may ask for a hearing from Medicaid. If either spouse shows the spouse at home needs more income, more may be allowed.[21]

After resources are set aside for the spouse at home, they should be changed or transferred into that spouse's name.[22] This change is made so the spouse in the nursing home does not own the resources. This is considered a proper transfer of assets and will not result in a penalty by Medicaid.

## Transferring Assets

Generally, Medicaid does not allow a person to transfer assets to another person without a penalty.[23] In some cases, Medicaid will not penalize an individual for transferring assets, such as to a spouse, as discussed above. However, in most cases, your loved one's assets cannot be transferred or given to another person without a penalty by Medicaid.

During the Medicaid application process, the Medicaid representative will ask if any assets have been given away in the past 5 years. The Medicaid representative will also ask if any property has been sold in the past 5 years for less than what it was worth at the time.[24] The 5-year period before the application date is known as the look-back period. Giving away property or selling property for less than it is worth is considered transferring assets.[25] Most of the time there is a penalty for doing this. The penalty for transferring assets is not being eligible for Medicaid.[26] The person in the home will not be eligible for Medicaid for as long as the value of the asset should have been used to pay for nursing home care. For example, if a person gives away \$10,000 and the care in a nursing home costs \$5,000 per month, the person would not be eligible for Medicaid for 2 months.[27]



# Medicaid beneficiaries may owe a monthly patient pay amount...



There is no penalty if the transferred asset is a home and the title to the home was transferred to:

- The person's spouse;
- A child who is under age 21 or is blind or permanently and totally disabled according to certain specific State criteria;
- A brother or sister of the individual who has an equity interest in the home and was living in the home for at least 1 year immediately before the person entered the institution; or
- A son or daughter of the individual who was living in the home for at least 2 years before the individual went to a nursing home and who provided care to the individual so they could continue to live at home instead of go to an institution or nursing facility.[28]

## Paying for Nursing Home Care

Most of the time, Medicaid beneficiaries who have income will owe the nursing home a monthly amount from their own funds. This is the patient pay amount.[29] The amount can be paid by the beneficiary or someone helping them.[30] The monthly amount the beneficiary pays is a part of the cost of nursing home care. The nursing home will bill Medicaid for the rest of the monthly cost of care. Medicaid then pays the rest of the bill to the nursing home. How much a beneficiary owes the nursing home depends on how much income they have. Some costs are deducted from the beneficiary's income. Things that can be deducted from income each month include:[31]

- A personal needs allowance, which varies by State, but must be at least \$30 per month per person;
- Another \$90 for some veterans;
- Medicare and other health insurance premiums, coinsurance, and deductibles;
- Medical or remedial services not covered by a State plan as long as the amount is reasonable;
- An allowance for the spouse not in the nursing home (community spouse); and
- An allowance for other family members in the household.[32]

## Rights of Residents in Nursing Homes

People living in a nursing home have the right to be treated with dignity and respect.[33] If your loved one moves to a nursing home for care, you should learn about his or her rights.[34] This can help you decide if your loved one is being treated well.

Nursing home beneficiary rights and protections under the law include, but are not limited to, the right to:

- Be given privacy;
- Be informed about services, health condition, and medications;
- Be treated with dignity and respect;
- Make independent choices, including choosing a physician;[35]
- Manage his or her own money or choose someone else to manage it;
- Participate in making choices in care; and
- Refuse medications and treatments.[36]

## Quality Care in the Nursing Home

Nursing home staff members have an obligation to help beneficiaries maintain a reasonable quality of life, which includes treating beneficiaries well, providing the services in the beneficiaries' written plans of care, and watching for and reporting any abuse and neglect.

### Quality of Life

The Social Security Act requires nursing homes to care for beneficiaries in a manner that emphasizes their quality of life[37] and ensures dignity, respect,[38] and choice.[39] In addition, nursing homes must provide reasonable services and activities that help beneficiaries reach or continue to meet their physical, mental, and psychosocial needs.[40] Thus, a beneficiary's health and quality of life should not decline because they move to a nursing home unless there is a medical reason.

To help the nursing home meet the needs of its beneficiaries, each beneficiary must have a thorough assessment and a written plan of care.



## Assessment

The nursing home must assess the beneficiary's abilities and limitations in performing activities of daily living. The assessment must:

- Be completed on the State's standard form;
- Measure the same things for each person;[41]
- Occur promptly on admission, but no later than 14 days after admission;
- Be repeated promptly whenever a beneficiary's physical or mental ability has a major change; and
- Occur no less than once every 12 months.[42]

## Plan of Care

Every beneficiary must have a written plan of care. The plan of care is written by a team that includes the beneficiary, the beneficiary's helper, a professional nurse responsible for the beneficiary's care, and the beneficiary's attending physician.[43] The plan of care should be reviewed and, if necessary, revised after each assessment.

The plan of care should address your loved one's:

- Medical needs;
- Nursing needs; and
- Psychosocial needs.

The plan of care should also include how these needs are met.

## You Can Help Ensure Quality Care for Your Loved One

As a family member or helper, you play a big part in the life of your loved one. You can make sure your loved one is being treated well and receives appropriate care. Take the time to get to know the staff members at the nursing home and understand their jobs and duties. Ask questions. Talk to your loved one. If you have concerns, write them down, and ask whom you should talk to about them.[44]

Make sure your loved one receives:

- The right amount of food and fluids;
- Correct basic daily care;
- A proper amount of medication;
- Use of restroom on a regular schedule;
- Limited or no use of physical or medicinal restraints;
- Good skin care, which means no signs of skin redness or pressure ulcers;
- Access to necessary medical care; and
- A place to live that is safe and free of physical, emotional, or verbal abuse.



If you do not feel the nursing home is addressing your or your loved one's concerns, you can call your long-term care ombudsman. You can also contact the ombudsman if your loved one does not feel able to speak for themselves. An ombudsman advocates for nursing home residents. Visit [http://theconsumervoice.org/get\\_help](http://theconsumervoice.org/get_help) on the Internet to find one in your area. Having someone to support your concerns provides a sense of comfort and protection.[45]

## Abuse and Neglect in a Nursing Home

Not only do nursing home residents deserve quality care, but more importantly, they deserve to live free from fear of abuse and neglect. Most of the time nursing home staff members treat residents well and want to help the people who live there. However, at times appropriate care may not be provided. It is important to know when your loved one is not being treated well. This could be abuse or neglect. You should know the signs as well as how to report a concern.

Neglect means failure to provide care for a person in a manner that would avoid harm and pain, or failure to react to a situation that may be harmful. Neglect may or may not be intentional.[46] On the other hand, abuse means the willful infliction of injury, unreasonable confinement, intimidation, or punishment that results in physical or mental harm to a resident.[47] One form of abuse is misuse of property or funds that belong to the beneficiary. Many nursing home residents keep money in an account at the nursing home called a Resident Trust Account. The nursing home is responsible for managing this account appropriately. Abuse may involve nursing home staff misplacing or misusing the resident's money or personal property without consent.[48]

It is also important to be aware of any changes in your loved one's physical health or emotional behavior. Some common signs of physical or emotional abuse and neglect include:

- Bruises, wounds, or broken bones;
- Dirty undergarments or bedding;
- Fear, anxiety, or depression;
- Lack of fall and injury precautions;
- Missing personal property;
- Not bathing;
- Sores due to not changing position;
- Too much or not enough medication;
- Unnecessary restraints (physical or medicinal);
- Verbal mistreatment; and
- Weight loss.



If you think your loved one is being abused or neglected, you should write down your concerns. Tell the nursing home administrator. Talk to your loved one's physician. You can also tell the long-term care ombudsman's office in your area, local Adult Protective Services agency, and the State or local Medicaid agency.[49] You should also report any abuse of a nursing home resident to your State's Medicaid Fraud Control Unit (MFCU). It is the agency's job to investigate a claim of abuse in nursing homes. You can find the agency's contact information at [https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Report\\_Fraud\\_and\\_Suspected\\_Fraud.html](https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Report_Fraud_and_Suspected_Fraud.html) on the Centers for Medicare & Medicaid Services (CMS) website.

## Fraud, Waste, and Abuse in a Nursing Home

The government is working hard to stop fraud, waste, and abuse in the Medicaid program. U.S. Department of Health and Human Services, Office of Inspector General (HHS-OIG) reports have shown nursing homes and their residents are common targets for fraud schemes. Some providers bill Medicare and Medicaid for services not provided and for unnecessary services. At times these schemes involve nursing home management or staff.[50] The government wants to stop the incorrect payments. You can help by understanding fraud, waste, and abuse. You can also help by being part of your loved one's health care decisions and by reporting activity that does not appear right.

Waste is using too many services or using services in the wrong way. It is not usually a criminal act and is not typically intentional.[51] Waste could include the nursing home staff ordering more medical supplies than your loved one can use. Abuse includes billing for services that a person does not need,[52] such as extra lab tests. Waste and abuse may not be done intentionally to profit from the Medicaid program, but they harm everyone by raising health care costs.

Fraud is considered an intentional misrepresentation or deception by a person with the knowledge it could result in some unauthorized benefit to himself or some other person. It is any act the Federal or State law says is fraud.[53]

An example of fraud in a nursing home is drug diversion. In 2013, a nurse was convicted of obtaining drugs by fraud. The nurse ordered prescription medication for a resident that was delivered to the nursing home and paid for by Medicaid. However, instead of the nurse giving the medication to the resident, the nurse stole the medication.[54] Nursing homes are responsible for returning or destroying any prescription drugs that have not been used by a beneficiary.[55] Stealing medication for any reason is against the law. It is considered fraud. Another example of fraud in a nursing home is a doctor billing for a visit or medical service when the doctor does not see the beneficiary or perform a service for them.

It is best to know what the doctor has ordered for your loved one. You should also follow up and make sure all needed ordered care and services are being given.

If the nursing home beneficiary is also covered by Medicare, it is a good idea to review the Medicare Summary Notices carefully. You may also ask for a detailed billing statement from the doctor and nursing home. Talk with your loved one about the medical services he or she is receiving or has received. For example, if the doctor bills a service monthly but does not see your loved one each month, this would be questionable. Report billing or services that do not match.

Fraud, waste, and abuse cost everyone. Taking part in your loved one's care can help you be aware of problems. Ask questions if you do not understand what the doctor says. You should also ask questions if your loved one is not getting the goods or services ordered. Ask questions if you think services are not needed. **Never sign a blank form without asking questions. You should never give your loved one's Medicaid, Medicare, or Social Security number over the phone to someone you do not know.**

## Identity Theft

Another form of fraud in a nursing home is identity theft. The nursing home is responsible for protecting the medical and personal identities of its residents. Medical identity theft can cost a lot. It can also affect a person's health care. If someone else uses your loved one's medical identification number and receives medical services, then that person's medical information will become part of the resident's medical record. As the person helping your loved one, you may be the one getting medical and billing information. Some signs of medical identity theft include:

- A bill showing medical services your loved one did not receive;
- A debt collector contacting you about a medical debt your loved one does not owe;
- A health plan saying your loved one has reached the limit on benefits when you know that is false;
- An insurer denying coverage because medical records show a condition your loved one does not have;
- A credit report showing medical collections that you do not recognize; and
- A Medicare Summary Notice showing care for services not received.[56]

It is a good idea to request a credit report each year for your loved one. This report will help make sure his or her identity is protected. You may also request a detailed billing statement from the nursing home at any time if you have questions or concerns. This practice is a good way to compare the services received by your loved one with the services billed.

If after asking questions you still have doubt, report it, even if you are uncertain whether fraud is involved.

## Fraud and Abuse: How Do You Report Them?

To report instances of suspected fraud and abuse:

Contact your State MFCU or SMA. Their contact information can be found at [https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Report\\_Fraud\\_and\\_Suspected\\_Fraud.html](https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/FraudAbuseforConsumers/Report_Fraud_and_Suspected_Fraud.html) on the CMS website.

Contact HHS-OIG:  
Office of Inspector General  
U.S. Department of Health and Human Services  
ATTN: Hotline  
P.O. Box 23489  
Washington, D.C. 20026  
Phone: 1-800-HHS-TIPS (1-800-447-8477)  
TTY: 1-800-377-4950  
Fax: 1-800-223-8164  
Email: [HHSTips@oig.hhs.gov](mailto:HHSTips@oig.hhs.gov)  
Website: <https://forms.oig.hhs.gov/hotlineoperations/>

## Will Other People Know You Called to Report Fraud?

Your name, telephone number, or address will not be given to anyone. The only people who will know you called are the people you speak with to report suspected fraud. They will only call you back if there is a question.

## Conclusion

When a loved one enters a nursing home, understanding the Medicaid program, your loved one's rights, what it means to receive quality care, and how to recognize signs of abuse or neglect can help the situation seem less stressful. If concerns do arise, it is important to know how to document and report them.

To see the electronic version of this booklet and the other products included in the "Nursing Home" Toolkit, visit the Medicaid Program Integrity Education page at <https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/edmic-landing.html> on the CMS website.

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