

Legal Basics: Medicaid 101 for Older Adults

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Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Slides and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration on Community Living's Administration on Aging.

Justice in Aging

Justice in Aging is a national non-profit legal advocacy organization that fights senior poverty through law. Formerly the National Senior Citizens Law Center, since 1972 we've worked for access to affordable health care and economic security for older adults with limited resources, focusing especially on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency. Through targeted advocacy, litigation, and the trainings and resources we provide to local advocates, we ensure access to the social safety net programs that poor seniors depend on, including Medicare, Medicaid, Social Security, and Supplemental Security Income (SSI).

Medicaid: Program Basics

What Is Medicaid?

- Medicaid is not Medicare
- Medicaid eligibility depends on financial need
 - Enacted in 1965; same year as Medicare
 - Title 19 of the Social Security Act
- Medicaid is an entitlement
 - Generally no enrollment caps or waiting lists

Medicaid Programs Vary Significantly from State to State

- Medicaid is a joint federal/state program
- Federal law and policies lay out basic requirements
- States have significant flexibility in developing their programs
 - Different eligibility criteria
 - Financial eligibility
 - Populations covered
 - Different benefit packages
 - Waivers of federal laws and rules (e.g. waivers under Sections 1115, 1915, etc.)

Medicaid Coverage

Required Medicaid Benefits

- Physician services
- Hospital services
 - Inpatient and Outpatient
- Nursing facility services
- EPSDT
- Laboratory and x-ray services
- Home health services
- Transportation to medical services

Optional Medicaid Benefits

- Prescription drugs
- Dental
- Vision
- Hospice
- Physical, occupational, speech therapy
- Home and Community-Based Services (HCBS)

Medicaid Eligibility

Who Does Medicaid Cover

- Insures 80 million low-income individuals nationally
- More than 4.6 million older adults
- 60% of people living in nursing homes

Medicaid Coverage Populations

- Mandatory Coverage Groups
 - Families with minor children
 - Persons with disabilities
 - Older persons (age 65 or older)
 - Medicare Buy-In Groups (QMB, SLMB, QI)
- Optional Coverage Groups
 - Medicaid Expansion (18-64)
 - Medically Needy (with share of cost)

Eligibility Pathways for Older Adults

- Each category has different eligibility criteria including different income and asset limits
 - SSI – Related
 - Aged and Disabled Expanded
 - Medically Needy

SSI-Related Eligibility

- Supplemental Security Income (SSI) - federal program for older adults and persons with disabilities living in poverty
- \$735/month income (about 75% FPL) and \$2,000 assets
- Most SSI recipients automatically eligible for Medicaid
 - 9 states, known as “209(b)” states, can be slightly more restrictive

SSP-Related Eligibility

- Many states provide State Supplemental Payment (SSP) to supplement SSI
 - § Mandatory Medicaid eligibility for persons receiving state SSP

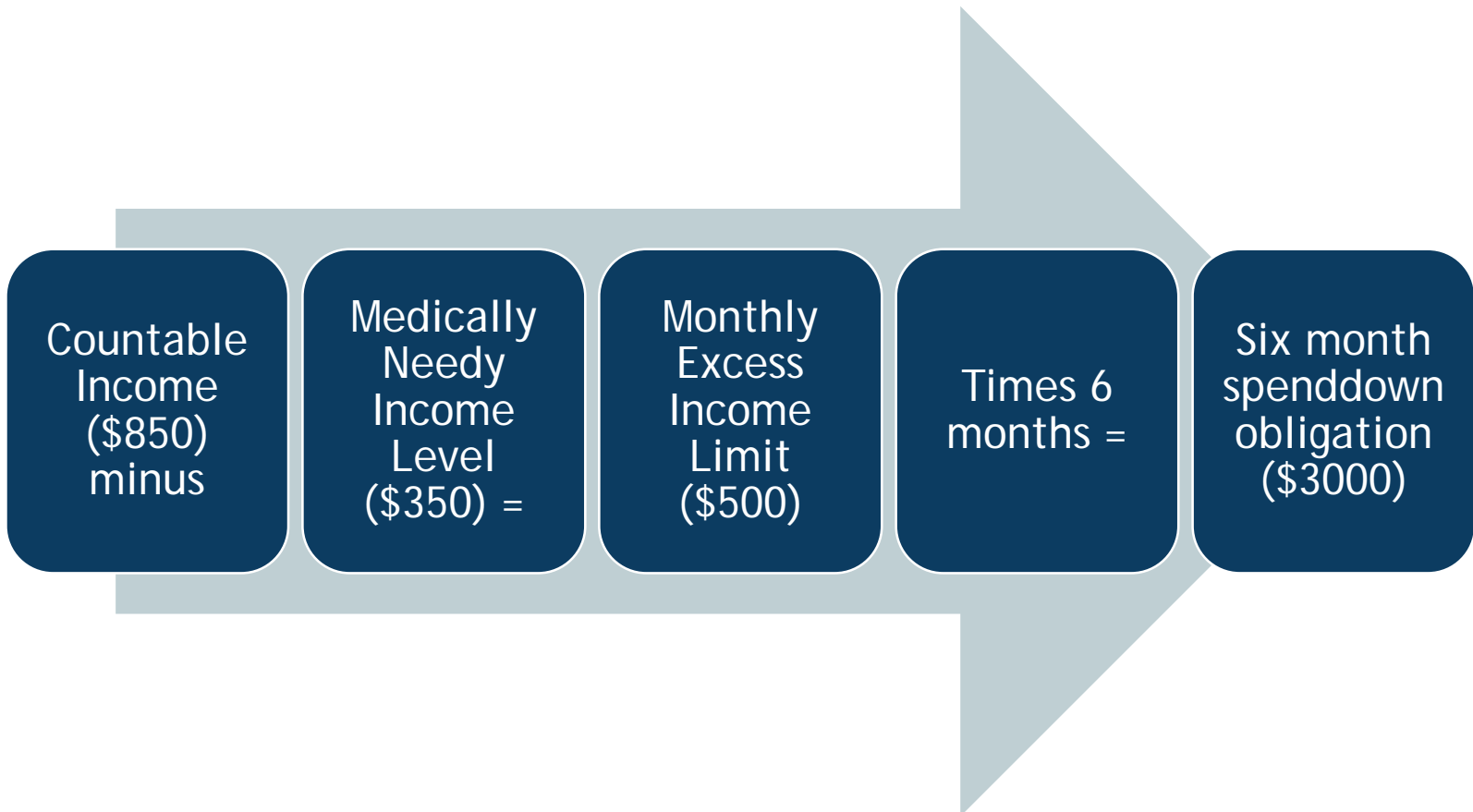
Expanded Aged & Disabled

- 23 states use the federal SSI minimum (\$735 = 73% FPL; FPL is \$1,005 for 2017)
- 26 states use higher standard than SSI
 - 10 states 76-99% FPL
 - 16 states 100% FPL
 - About 10 states also use higher asset limits than SSI

Medically Needy

- Spend down (share of cost) allows an older adult above the normal income limit to become eligible *after* they spend their excess income on health care
- Very complex – but can be best option for senior with high medical expenses

Medically Needy Example: Maryland



Specifics of Spend Down/Post-Eligibility Payment

- Doesn't have to be directed towards current Medicaid-covered expense
 - E.g., service not covered by Medicaid
 - Health insurance, e.g., dental coverage
 - "Old" health care bills (but not too old)
 - Coverage of "old" bills is especially useful for bills incurred right before eligibility, when non-coverage caused by confusion/mistakes of beneficiary or representative

Medically Needy: Advocacy Tip

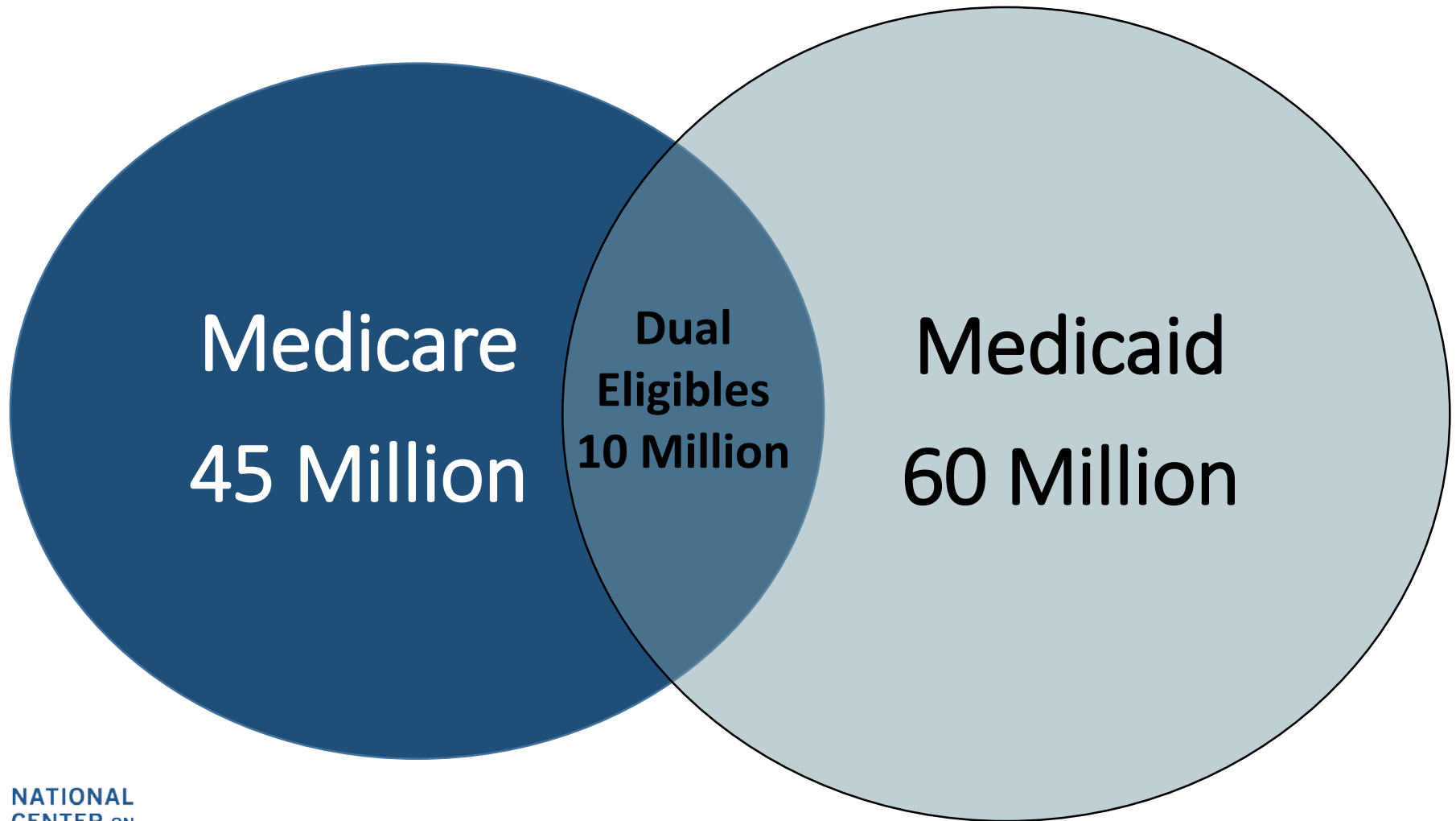
- Being over eligibility limits by just a couple dollars can result in large spend down or share of cost
- Advice: Reduce Countable Income
 - Purchase dental or vision insurance
 - For couples, split the budget group, i.e., apply for only one spouse

First Date of Eligibility

- Date of application or, at state option, the first day of that month
- Retroactive eligibility up to three months prior to month of application, if applicant met eligibility requirements for month(s) in question

Dual Eligibles

Ten Million Dual Eligibles



Medicare Savings Programs

Qualified Medicare Beneficiary (QMB)

- Income limit: Up to 100% FPL, \$1,025 monthly for individual, \$1,374 for married couple

Specified Low-Income Medicare Beneficiary (SLMB)

- Income limit: Up to 120% FPL, \$1,226 monthly for individual, \$1,644 for married couple

Qualifying Individual (QI)

- Income limit: Up to 135% FPL, \$1,377 monthly for individual, \$1,847 for married couple

What Benefits do MSPs Provide

QMB

- Medicaid pays for Part A (if any) and Part B premiums.
- Medicaid may pay for deductibles, coinsurance, and copayments for Medicare services furnished by Medicare providers to the extent consistent with the Medicaid State Plan

SLMB and QI

- Medicaid pays for Part B premiums.

MSPs and Affordability

- Medicaid has significant out-of-pocket protections when compared to Medicare
- Huge incentive to get Medicare enrollees into Medicaid and an MSP whenever possible
- 80% of QMBs have full Medicaid (QMB plus)
- 20% have QMB only

Long-Term Services and Supports

Nursing Facility (Institutional LTSS)

- Required benefit under Medicaid
- Must meet medical level of care
- Long Term Services & Supports (LTSS) include:
 - Skilled Nursing (Institutional or private duty)
 - Help with Activities of Daily Living (ADL) (Bathing, eating, meal prep, household chores)
 - Supplies (wheelchairs, adult diapers, etc.)
- Medicare does not cover ADL care, and only limited stays in a nursing home

Nursing Facility Medicaid Eligibility

- May or may not have "income cap"
 - Without cap, resident must spend income except for small monthly personal needs allowance
 - "Income cap" states generally set limit at three times the federal SSI rate -- \$2,205 in 2017 ($735 \times 3 = 2,205$)
- Must spend most income on care minus a small personal needs allowance (generally \$30-\$75 monthly)
- There are many complex rules around assets and topics such as asset transfers, community spouse resources, and personal spending allowances

Home & Community Based Services (HCBS)

- Optional Medicaid benefit
- Allows individuals otherwise eligible for nursing home services to instead receive LTSS in the community
- HCBS win/win
 - Preferable for most individuals
 - Generally cheaper than institutional LTSS
- Enrollees get needed support services and full Medicaid coverage

HCBS Programs

- States can implement HCBS programs through “waivers” or state plan
- Rebalancing from institutional to community care
- Can take many forms: adult day health care, personal care attendant, assisted living, case management, meals, home accommodations, etc.
- New definition for “community-based” setting to promote integration with broader community

HCBS Financial Eligibility

- Generally subject to income cap of \$2,205
- Beneficiary may also be obligated to make post-eligibility payment of income towards health care expenses

Spousal Impoverishment Protections

- Applies always to nursing facility benefit and is mandatory for HCBS through 2018 (at state option thereafter)
- Allows community spouse to maintain higher amount in resources
 - Up to \$120,900 in 2017
- Allows community spouse to maintain income up to state specific limit
 - \$2,033 - \$3,022.50 in 2017

Spousal Impoverishment Resource Protections

- State sets Community Spouse Resource Allowance from \$24,180 to \$120,900
 - "Community spouse" can keep $\frac{1}{2}$ of joint resources up to \$120,900
 - Or, can keep minimum as set by state from \$24,180 to \$120,900

Spousal Impoverishment Income Protections

- Community spouse can obtain some of resident's income as necessary to raise total income to amount set by state between \$2,030 to \$3,022.50
- Community spouse can keep all of his or her own income, no matter how much

Case Consultations

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

Additional Resources

- Eric Carlson, Justice in Aging, ecarlson@justiceinaging.org
- Amber Christ, Justice in Aging, achrist@justiceinaging.org
- Medicaid Statute: 42 U.S.C. §§ 1396- 1396w-5
- Medicaid Regulations: 42 C.F.R. §§ 430.1- 435.1015
- Centers for Medicare & Medicaid Services Website, www.medicaid.gov
- Justice in Aging Resources, www.justiceinaging.org/keep-older-adults-home-community

Questions