

# AGING TODAY

Vol. XXVII, No. 4

PAGES 1 & 2

July–August 2006

ISSN: 1043-1284

[www.agingtoday.org](http://www.agingtoday.org)

## **Potomac Sources**

# MEDICAID'S NEW RULES 'DISTURBING'

By **ROBERT A. ROSENBLATT**

Long-term care financing in the United States can give people a headache, and it is now getting even more confusing. New rules will create even more complexities for couples and families struggling with the emotional pain of having a loved one in a nursing home.

People on Medicaid—the federal-state health program for low-income individuals—have to prove their citizenship under a new rule that took effect July 1. An estimated 3 million to 5 million Americans could lose coverage “because they do not have a U.S. passport or U.S. birth certificate in their possession,” according to a report by the Center on Budget and Policy Priorities, a liberal think tank in Washington, D.C. The deficit reduction act passed by Congress in February aims to prevent illegal aliens from obtaining benefits under Medicaid. An unintended consequence may be to eliminate coverage for citizens otherwise eligible for Medicaid who cannot produce documentary proof of their citizenship.

### **BIRTH CERTIFICATES**

The new rule could “impede or delay coverage for millions of eligible U.S. citizens,” according to the center, which commissioned a survey that produced an estimate of as many as 5 million people whose eligibility could come under question. The center offered several disturbing examples of such problems with

eligibility. An elderly nursing home resident with Alzheimer’s disease, for example, may never have had a driver’s license, and her family may be unable to find her birth certificate. Also affected could be a child who is a U.S. citizen and is in foster care because of family problems, whose birth certificate can’t be located. Or, perhaps, an elderly African American woman could be denied because she never received a birth certificate, having been born at home in an era when racial discrimination denied her parents access to hospital care.

Furthermore, a series of new asset rules will make it harder for people in nursing homes to become eligible for Medicaid. “The average cost of a year stay in a nursing home is in excess of \$70,000,” according to a February 2006 report, “Frontline Perspectives on Long-Term Care Financing Decisions and Medicaid Assets Transfer Practices,” by the Kaiser Commission on Medicaid and the Uninsured. “Most of the elderly and especially those at risk of needing nursing home care lack the financial resources to afford that care for more than a few weeks or months,” the report states.

The Medicaid program has income and assets tests and is “the key funding source for paid long-term care services,” says the Kaiser report. It goes on, “The vast majority of people become eligible for Medicaid-financed long-term care services because they meet the financial eligibility requirements or they use up their income and savings due to high medical costs—called ‘spending down’—until they reach Medicaid financial eligibility limits.” (To see the full report, visit [www.kff.org](http://www.kff.org).)

Many people confuse Medicare with Medicaid, mistakenly thinking that Medicare will pay for the nonmedical continuing care commonly provided in a nursing home to those with chronic conditions. But Medicare’s payment system is designed for acute illness, ailments that can be treated and possibly lead to recovery, usually within a definable period. Thus Medicare will cover the hospital stay for someone who breaks a hip and has an artificial hip implanted. Then the federal program might also pay for

time spent in a rehabilitation facility learning how to manage with the new hip, or limited convalescent care at home or in a nursing home, but only if it's judged to be medically necessary.

Not covered, though, is an individual who appears to be physically healthy but cannot live at home because of Alzheimer's disease or another dementia. She might be forgetful, wandering away from the house or leaving the stove turned on after cooking a meal. She may be placed in a nursing home without having any serious physical ailments that require skilled nursing care.

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#### **LAW EXTENDS 'LOOK-BACK' PERIOD TO FIVE YEARS**

Most **Ageing Today** readers understand the basic facts of the system that are yet to be realized by the aging U.S. population. The cost of routine residence in a nursing home, the monitoring and maintenance duties often called custodial care, are not covered by Medicare until someone like a dementia patient is poor enough to qualify for Medicaid—a means-tested poverty program. Typically, older patients go into nursing homes with some money of their own. When they have spent down—used all their money but about \$2,000—they can become eligible for Medicaid to pay their nursing home bills.

Under the new statute, handling assets before becoming eligible for Medicaid now becomes more complex. The old law had a three-year look-back: If someone gave away money within three years of applying for Medicaid, that amount could still be counted as an asset and delay one's eligibility for the program. For example, an older person could be denied eligibility if, less than three years before applying for Medicaid coverage, she gave \$50,000 to her adult son to help with education costs for her college-age grandchildren. Under the older rules, if the average cost of a nursing home stay in her state was \$2,000 a month, she would have had to wait 25 months (\$50,000 divided by \$2,000 a month) to be approved for Medicaid. Even if this grandmother had gotten down to the \$2,000-asset level, she wouldn't have been eligible until she, or her family, came up with another \$50,000 over the following two years before Medicaid would start paying.

The three-year look-back period has been extended to five years for transfers of financial assets made after Feb. 8, 2006. Congress adopted the new extended period to prevent people from "gaming" the system, said Charles Sabatino, director of the American Bar Association's Commission on Law and Aging. "There is a perception that lots of people are trying to manipulate their finances to get on Medicaid, but I have rarely seen that," he stressed.

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#### **HOME EQUITY LIMITED TO \$500,000**

Another new rule could have a big impact on older people whose homes have reached a market value of \$500,000 or more. The new rule gives states the authority to refuse to enroll people in Medicaid if they have home equity of \$500,000 or more, even if they meet the traditional standard of \$2,000 in financial assets (stocks, bonds and savings accounts).

Consider the prospect of elderly widows with tiny fixed incomes and no money in the bank, but who live in homes they bought with their husbands for a relative pittance in the 1940s or 1950s. Those homes could be easily worth \$500,000 or more in many areas of the United States today. If an elder in this situation must be admitted to a nursing home, her family could be required to sell her home to pay for long-term care because Medicaid eligibility is denied. It's not clear whether home equity loans or reverse mortgages would apply if the older person no longer lives in the home. That might violate lending regulations.

"We'll have to see how states carry out these new rules," said Sabatino. The new Medicaid strictures "do not present a pretty picture," he stated. ❖

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