Q10. What is the difference between Medicare and Medicaid? Doesn't Medicare cover everything?

Medicare is a federal acute care insurance program that is administered by the Centers for Medicare and Medicaid Services. Medicaid is also a Federal program, but it is run by the State. The two programs serve different purposes. For nursing home care, Medicaid is the program most of us look to for help in paying the bill. Information on what Medicare covers is provided in the next 2 questions.

Q11. How do I qualify for nursing home Medicare coverage?

Medicare coverage at a nursing home requires that you meet a three-part test. First, you must be at the hospital for at least three consecutive days, not counting the day of discharge. Second, you must be admitted to the nursing home within 30 days of your discharge from the hospital. Third, once at the nursing home, you must be receiving professional care that increases your functioning level, such as physical therapy, speech therapy or specialized nursing, or you must require certain types of wound or ventilator therapies. The nursing home, NOT the hospital, is required by law to tell you on or before your admission to the nursing home whether you will receive Medicare benefits. Check with your doctor to see how long your stay in the hospital is anticipated to be.

Q12. What will Medicare cover at the nursing home?

Most people think that Medicare will pay the entire bill at the nursing home or will at least pay the entire bill for the first 90 or 100 days. This is NOT true. Medicare will pay the entire bill at the nursing home for the first 20 days. For the next 80 days, Medicare will pay the entire bill except for $128.00 per day, (increased each year for inflation). You are responsible for the $128.00 per day. This is called the "Medicare co-pay."

You will receive Medicare benefits for up to 100 days only for so long as you continue to meet the third part of the Medicare qualifying requirements in Question 11 above (you are being restored to a higher functioning level). Once you are at the nursing home, the nursing home will give you advance notice of when they expect that you will no longer be eligible for continued Medicare benefits. After 100 days, you will no longer receive Medicare benefits at the nursing home.

Q13. Do I need supplemental health insurance (Medigap)?

No, although most people have it. Of the several standardized supplemental health plans available (Plans A-L) as of 2007, all but four have a benefit that fully pays the Medicare co-pay.

Q14. What does Medicaid pay for? Is going on Medicaid my only choice?

Medicaid will pay either some or all of the nursing home's entire bill, depending upon your individual financial circumstances, for as long as you continue to qualify financially. Before Medicaid will pay, you must first exhaust your Medicare benefits and private insurance benefits.

Q15. How do I qualify?

Qualification for Medicaid cannot be neatly summarized. The rules are different depending upon whether you are married or single. Connecticut enacted new laws in 2001, 2003 and 2005 and there are now two separate sets of rules that vary based on the married couple's financial situation and other matters. In addition, the Federal government passed new rules effective in 2006 and the State of Connecticut issued interpretive regulations in 2007 that have greatly and adversely changed the landscape. See Q 17, 18 & 19.

Q16. Do I get less care if I am on Medicaid?

Nursing home residents, whether their care is paid for by Medicare, Medicaid, private insurance, or the resident's own money, all receive the same quality of care and ancillary services (laundry, dietary, janitorial, etc.). The only appreciable difference is that a private pay resident may have a private room—Medicaid and Medicare residents usually have to share a room.

Q17. Am I allowed to keep anything?

If you are single, the State allows you to keep very little if you want them to pay for you at the nursing home. You are allowed to have $1,600 in the bank, term life insurance of any amount, cash surrender value life insurance with a face amount of $1,500 or less, and a prepaid funeral contract. Until you reduce your assets to these levels, Medicaid will not pay. The State interprets this rule very strictly and does not factor in your liabilities. If all you own is a house, however, Medicaid will pay so long as you make reasonable efforts to sell it, but the State will place a lien on the house to reimburse itself at the time of sale for the money spent on your care. Once the house is sold, if there is any remaining money after reimbursing the State, you become a private pay resident and your Medicaid benefits end.

If you are married, the healthy spouse is allowed to keep a house and a car of any value and usually investment assets of not more than $109,560 (indexed annually for inflation). The healthy spouse is also allowed to keep his or her own pension and social security income regardless of amount. The State wants to ensure that the healthy spouse has a monthly income of at least $1,750/month (indexed annually for inflation), so, if the sum of the healthy spouse's pension and social security income is less than $1,750 the State will divert some or all of the ill spouse's income to the spouse to increase the spouse's income (an "Income First" methodology). In certain limited situations, the State will allow the healthy spouse to keep more than

$109,650, if necessary to generate additional income needed by the healthy spouse to remain in the principal residence.

Spousal refusal: In accordance with a 2005 federal court case, a spouse can flatly refuse to spend down any assets exceeding the protected amount for the healthy spouse. However, the ill spouse must first sign a statement in which the State of Connecticut, as a precondition to granting Medicaid benefits, receives an assignment in any rights the ill spouse has to legal support from the healthy spouse. The result is that Medicaid benefits are granted to the ill spouse and the healthy spouse keeps all assets, not just the $109,560.

However, State regulations issued in 2007 have added additional criteria making it less likely that spousal refusal will be a useful planning tool. Whether the State will exercise the support rights assigned to it by the ill spouse (remember that this assignment was a precondition of eligibility) and seek payment from the healthy spouse remains to be seen.

Q18. Is it "OK" to give away my assets —what are "penalty periods?"

You can usually give assets away, even if you are already in the nursing home, as long as you do not run afoul of the State's rules. If you meet the State's rules, the State will pay; if you don't meet the State's rules, the State won't pay. It's that simple.

The asset transfer rules generally provide that for every $9,464 (indexed annually for inflation) a person gives away, they are ineligible for Medicaid benefits for one month. A gift of $18,000, therefore, results in a two-month ineligibility period. These ineligibility periods are referred to as "penalty periods." The penalty rules apply to gifts of money, real estate, cars, and to anything of value. Penalty periods, as a result of the 2006 Federal rule change, start to run on the date a person is "otherwise eligible" for Medicaid. This usually means when the person is in a nursing home and has assets, of $1,600 or less.

In the 2005 Connecticut legislative session, the State passed the so-called "Transfer Liability Act." This new law provides that any gift that results in the imposition of a penalty period is presumed to have been made for Medicaid qualification purposes. Any such gift creates a debt owed to the State by the transferor or transferee (the maker or the recipient of the transfer). The amount of the debt is equal to the lesser of the cost of care paid for by the State after the transfer date or the amount of the transfer. It is still unclear whether and how the State will enforce this law. The impact of this law is significant to people who receive gifts and should be discussed with a qualified attorney.

Q19. What is the "look back" period?

Under federal law, as a result of Federal legislation passed in 2006, a State may not "look back" more than 60 months from the date that you apply for Medicaid in an attempt to find disqualifying asset transfers (gifts). This 60-month period defines your maximum exposure because if you have done no advance planning for nursing home care, suddenly find yourself in a nursing home with a projected long term stay, and decide at that point that you wish to preserve as many of your assets as possible, you may then give away all of your assets except for what will be needed to pay for your care for 60 months. There are strategies that one may use to lessen the impact of this new 60 month "look back", but they are too case specific to include in this booklet.

The desired impact of the 2006 Federal legislation and 2007 Connecticut interpretive regulations is to impose a 5 year Medicaid disqualification period, starting on the date of the gift, for any gift of any size, unless you return the gift. Discussion with a qualified attorney is suggested.

Q20. How long does it take to apply and when should I apply?

The application process can take anywhere from one month to one year, depending upon the complexity of your financial situation and how quickly or slowly your caseworker processes your application and how quickly or slowly you provide supporting documentation for your application. For single individuals, two months is average; for married individuals three months is average. You should begin the application process about two months before you expect your money to run out.

Q21. Do I need a lawyer to apply for Medicaid?

Not always, but the general rule of thumb is that you should consult with a lawyer who has experience in this area so that you can at least get the lay of the land and not spend more money than you have to at the nursing home, especially given the many recent State and Federal rule changes. In addition, seeing a lawyer ahead of time might reveal planning concerns and opportunities that you might not be aware of but that the lawyer could point out and advise you on. A rough rule of thumb follows: As soon as you suspect that your health is declining or that you might need to go to a nursing home or if you are already in one, you should contact a lawyer to investigate whether it is possible to protect assets for your spouse, children or other beneficiaries, if that is your desire. The more assets you have, the more complicated the application will be, and the more likely it is that a lawyer can help you to protect some of your money, if you wish, for your beneficiaries.