The New York State Compact for Long-Term Care

Overview: The Compact is a partnership in which individuals who need long-term care services opt to make a Pledge to use half of their assets (up to a maximum of about $350,000 depending on the costs of care where they live) to pay for their long-term care needs without government help. When they fulfill the Pledge, they become eligible for government assistance with long-term care expenses in amounts that reflect their needs and their ability to pay without impoverishing themselves.

Philosophy

Impoverishment is the likely fate of almost anyone who needs long-term care (LTC) for an extended period of time. When the costs eventually exceed ability to pay, Medicaid becomes responsible for not just LTC but also for all health services not covered by Medicare or supplemental insurance.

For 40 years, this scenario of limitless responsibility has generated resentment on both sides — individuals resent forced poverty, and Medicaid resents their attempts to divest assets. As the number of individuals seeking help from Medicaid has grown, so too has the effort to find a level of fairness. From this struggle has emerged a never-ending battle with no winners.

The Compact for Long Term Care ends the battle by disengaging the linkage that created it. Rather than total independence followed by total dependence, the Compact establishes a new paradigm that begins and ends as a joint public/private venture shared equally, managed privately where possible, and based on limits of liability and operational simplicity.

Compact Part One — The Pledge

Individuals who believe they need LTC may apply to a private Compact third party administrator (TPA). They are directed to obtain an independent assessment of their need for LTC, paid for with their own funds. If they meet the LTC definition of need and wish to become Participants in the Compact, they return to the TPA.

Individuals then enroll with the TPA and make a Pledge to privately pay qualified LTC costs up to a preset amount of their choice. The options are either:

(a) ½ of an enrollee's assets (excluding the home). The other ½ is then protected.

Or: (b) An amount equal to 36 times the established monthly "regional rate" for nursing home care in the individual's geographic area. Payment of this "Maximum Pledge Amount" provides protection for all of the person's remaining assets.

Participants who select option (a) must supply an affidavit identifying the asset values that serve as the basis for computing a Pledge Amount equal to ½ of those assets, and the figures must be validated by the TPA.

For participants who select option (b), the correct amount is simply registered with the TPA.

For each Participant, the TPA establishes a Participant's account, and the individual submits evidence that he/she has personally paid, at the private rate, bills for qualified LTC services, until the Pledge Amount is met.

Compact Part Two — The Subsidy

When a Pledge has been fulfilled, Medicaid is notified.

The amount of the Participant's income is determined, and the Participant agrees to contribute ¼ of his/her income as a participation fee to Medicaid.

Thereafter, Medicaid subsidizes the costs of LTC needs at the rates it routinely pays for services. In addition, a Compact Rate, defined as an amount 10% above Medicaid's rate, applies for Compact Participants. Using a portion of the ¾ of their income they retain, they are responsible for both this 10% co-payment, and for medical needs that do not qualify as LTC services and are not covered by Medicare or supplemental insurance.

Exceptions to the ¼ payment of income apply for low-income Participants who would be unable to provide for their other needs if required to pay the full ¼ amount.

Financial Principles

All expenses in the Pledge period are privately paid by the Participant, including the cost of assessment, TPA asset validation expense, and TPA Pledge-tracking services.

The source of payment for LTC expenses incurred while completing the Pledge does not matter. Any non-government source is valid, including LTC insurance coverage if available. (Neither the lifetime premium for coverage equal to ½ of an individual's assets nor the lifetime premium for coverage equal to a Maximum Pledge based on the applicable regional rate would ever be likely to exceed the amount needed to fulfill a Pledge.)

Most insurance contracts today would cover the cost of assessment to determine eligibility for the Compact.

The Compact design assumes that, but for the need for LTC, a Participant would never need to seek public assistance. Therefore, the ability to retain both unpledged assets and ¾ of income (after ¼ is paid during the Subsidy portion of the Compact) is designed to allow most Participants to remain self-sufficient and independently provide for their daily needs.

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