

# MEDICAID

## *Medicaid Fraud Control Unit - Elder Abuse*

Medicaid is a medical assistance program designed to provide health care to persons who meet strict financial and medical requirements. To apply, contact the South Dakota Department of Social Services located in your area or county. Most South Dakota counties have a local office that can assist with the application process and answer questions about the various programs. Several Medicaid programs exist specifically for elderly citizens.

**The Long Term Care Program** provides hospital and nursing home care for people needing services for more than thirty (30) days. There is a monthly income limit of \$2,163. If income is over this amount a special income trust is needed to meet income eligibility requirements. An asset limit of \$2,000 exists for this program. This is the test for a one person household. For a home being used by a spouse or by children, household goods and one car are not included in the asset limits. In addition, a minimum of \$23,448 is protected for the spouse not in long-term care.

**The Home and Community Based Services Waiver for South Dakotans**, administered by Adult Services and Aging allows for in-home care for those who elect to remain home instead of using a nursing home. This also includes those in assisted living who need help with medication administration. The limits are to the same as those of the Long Term Care program.

**The Qualified Medicare Beneficiary Program**, known as QMB, is used by some seniors to help pay the premium and deductibles that Medicare doesn't cover. It effectively serves as a supplement to Medicare for those who cannot afford Medigap insurance. Again, there are certain income and asset limits in place.

**The Special Low Income Medicare Beneficiary program (SLMB) and Qualified Individual Program (QI)** covers Part B Medicare premiums for those who meet less restrictive income limits than QMB. For the QMB, SLMB and QI programs, asset levels are \$7,140 for an individual and \$10,750 for couples. Some items are not counted in these limits, including your home, household goods and personal effects. Also not included are one car and irrevocable burial contracts.

SOUTH DAKOTA OFFICE OF ATTORNEY GENERAL

**CONSUMER  
PROTECTION**

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**1-800-300-1986**

This handout is for informational purposes and should not be construed as legal advice or as a policy of the South Dakota Attorney General. If you need advice on a particular issue, you should consult a private attorney or other experts.

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For more information about Medicaid programs, contact your local Department of Social Services or visit [www.dss.sd.gov](http://www.dss.sd.gov). For those individuals who qualify for the above programs, Medicaid covers many health care expenses, and provides payment directly to the provider. If you receive a bill for a service paid by Medicaid, contact Social Services.

### **Spend Downs**

Many people have attempted to qualify for Medicaid by giving away their property and assets. This is referred to as Medicaid “spend down.” People considering gifts to liquidate their estate for the purpose of qualifying for Medicaid need to make sure those gifts are not in violation of the law. Before you begin to transfer or manipulate your assets, contact your attorney to make sure you are not in violation of the law. Transfer laws may change; be aware of the rules in effect when you apply for Medicaid.

## **MEDICAID FRAUD CONTROL UNIT**

The Medicaid Fraud Control Unit (MFCU) investigates and prosecutes fraud and abuse committed by physicians, hospitals, laboratories, pharmacists, dentists, ambulance and taxi services, sellers of durable medical equipment, and other service providers. The MFCU seeks to recover monies improperly paid by the Medicaid program and to prosecute criminal conduct.

### **Responsibilities:**

- Provider Fraud
- Patient Abuse or Neglect
- Misappropriation of Property

A provider is any person or entity who bills the South Dakota Medicaid Program for goods or services provided to a Medicaid recipient. The actual fraudulent schemes engaged in by dishonest providers are too numerous to count.

### **Provider fraud comes in numerous forms, including:**

- Billing for services not performed or for products not received;
- Billing for a more expensive service than what was actually rendered;
- Billing for several services that should be combined into one billing;
- Billing twice for the same goods or services;
- Billing the Medicaid Program and the recipient’s family for the same goods or services;
- Performing unnecessary medical services;
- Dispensing generic drugs and billing the Medicaid program for the more expensive brand-name drug.

### **Misappropriation of Property**

Elderly and disabled persons who live in facilities that receive federal funding, such as nursing homes, are sometimes targets of persons seeking financial gain. Some common examples of misappropriation of property schemes that the Medicaid Fraud Control Unit has au-

thority to investigate and prosecute are:

- An employee of a facility gains access to resident finances/bank accounts and diverts assets to themselves.
- An employee of a facility commits identity theft by using resident Social Security numbers, etc., to open a credit card account.
- An employee of a facility convinces a resident to give them money, or property such as land, a vehicle, jewelry, etc.
- An employee of a facility uses the funds in the resident personal trust account for themselves and/or others.

### **Patient Abuse**

The Medicaid Fraud Control Unit investigates and prosecutes acts of abuse, neglect or exploitation perpetrated upon any resident in a health care facility that receives federal funding. The MFCU sometimes receives reports from various State administrative and law enforcement agencies of abuse and neglect in nursing homes and other long-term care facilities. In many cases, abuse can go undetected for a long period of time because the victim is unable to communicate the abuse to the proper authorities. In addition, the victim is often dependent upon the abuser and may be afraid to complain for fear of reprisals. It is vitally important, therefore, that other persons be aware of the signs of patient abuse or neglect and report those instances to law enforcement agencies.

### **There are many things you can do to avoid being a victim of provider fraud:**

- Be aware that not all medical services and products are covered by Medicaid. When receiving services, be sure to ask which services are covered, and which are not. You will be responsible for payment for any non-covered service.
- Read your medical bills; make sure you are only paying for services performed.
- Medicaid recipients aren't usually required to make co-payments.
- Be wary if you are asked to pay for a service covered by Medicaid.

In addition, when a provider performs services or provides products to a Medicaid recipient, the provider has agreed to accept the amount paid by the Medicaid Program as payment in full. Providers are not allowed to bill the Medicaid recipient, or recipient's family for the balance. Medicaid recipients must pay co-pays for some services or goods.

If you have private insurance coverage, be wary every time you see both Medicaid and the insurance company paying for the same procedures. All of these signs, as well as any irregularity in billing, could indicate improper conduct. If you suspect that you are the victim of any fraudulent conduct, contact the Attorney General's Medicaid Fraud Control Unit at 1-888-497-3100 or through our web site at [www.atg.sd.gov](http://www.atg.sd.gov).

# **ELDER ABUSE**

Adult Protective Services provides assistance to individuals residing in the community who are at risk of abuse, neglect, exploitation, or self-neglect. The following indicators may be helpful when deciding whether abuse, neglect, or exploitation may be taking place.

## **Physical Abuse**

- Injury that has not been cared for properly
- Frequent visits to the emergency room and/or hospital or health provider
- Poor hygiene
- Soiled clothing or bed; untreated bed sores
- Frequent unexplained injuries or complaints of pain without obvious injury
- Burns or bruises suggesting the use of instruments, cigarettes, etc.
- Passive, withdrawn, and emotionless behavior
- Lack of reaction to pain
- Injuries that appear after the person has not been seen for several days
- Patient reports physical abuse

## **Emotional Abuse**

- Witnessing threatening, belittling, or controlling behavior by Caregivers toward individual
- Behavior from the elder that mimics dementia, such as rocking, sucking, or mumbling to oneself
- Individual often appears disturbed, scared, hopeless, or with low self-esteem
- Avoiding eye contact or not talking openly
- Anxious, shy, depressed, or withdrawn
- Sudden changes in eating or sleeping patterns or moods
- Kept inside the house and not allowed to have other people call or visit you

## **Sexual Abuse**

- Sexually transmitted diseases
- Injuries to the genital area
- Difficulty in sitting or walking
- Fear of being alone with caretakers
- Patient reports a sexual assault

## **Neglect**

- Obvious malnutrition
- Lack of personal cleanliness
- Habitually dressed in torn or dirty clothing
- Obvious fatigue and listlessness
- Begging for food or water
- In need of medical or dental care
- Left unattended for long periods of time
- Patient reports neglect

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## **Financial Exploitation**

- Changes in spending patterns
- Unusual bank account activity
- Unpaid bills
- Items or cash missing from the senior's household
- Suspicious changes in wills, power of attorney, titles, and policies

## **Reporting Abuse, Neglect & Exploitation**

Abuse, neglect or exploitation of an elder or an adult with disabilities is a crime. Medical service people, social workers, health care professionals, psychologists, mental health professionals, criminal justice employees, law enforcement officers, staff members of nursing and assisted living facilities, staff members of adult day care centers or community support providers, residential care givers, individuals providing homemaker services, victim advocates and hospital personnel who know or have reasonable cause to suspect abuse or neglect are required by law to report the abuse or neglect within twenty-four hours. A report of abuse, neglect, or exploitation may be made orally or in writing to the state's attorney of the county in which the elder or an adult with disabilities resides or is present, to the Department of Social Services, or to law enforcement. Some mandated reporters are allowed to report to their supervisor who in turn must report the abuse or neglect. To help protect the elderly population and adults with disabilities, people who are not required by law to report are encouraged to report abuse, neglect or exploitation of elders or an adult with disabilities.

Any person who, in good faith, makes a report of abuse, neglect, or exploitation of any elder or an adult with disabilities, is immune from any civil or criminal liability that might otherwise be incurred or imposed, and has the same immunity with respect to participation in any judicial proceeding resulting from the report. But, immunity does not extend to any person alleged to have committed any act of abuse or neglect of any elder or an adult with disabilities or to any person who has aided and abetted any such act.

If you know or have reasonable cause to believe someone needs protection, you can make a referral to the South Dakota Department of Social Services' Division of Adult Services and Aging by calling 1-866-854-5465 or by email at [ASA@state.sd.us](mailto:ASA@state.sd.us). The Attorney General's Office, Medicaid Fraud Control Unit can be contacted at 1-888-497-3100. Look to your local directory for contact information for your local States Attorney office or local law enforcement agency.