My Medicaid Application Was Denied…Now What?

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Objectives

Understand Texas Medicaid eligibility rules
Identify common Medicaid denials
Review appeal options and strategies
Know when to appeal vs. reapply

Texas Medicaid Basics

Long-Term Care Medicaid and STAR Plus
Administered through Texas HHSC
Medical necessity + financial eligibility required
- The three tests

Federal and state regulatory framework
- We get some money from fed gov and some from Texas

Income Rules

Monthly income limits apply currently $2982 as of this year
VA benefits usually stop
SSDI vs SSI
Qualified Income Trusts may solve excess income (that's all they do)
Gross income test used in Texas
Oil and gas
Pension
Etsy and eBay
Crypto staking
Cash payments

Resource Rules

$2,000 countable resource limit single people
$3,000 for couples in home
Homestead exemptions available
Certain vehicles and personal property exempt
IRA
SPRA expansion
Active farm
Cash in mattress
Mortgage and notes payable

Wright v Jones

Five-Year Lookback

Transfers reviewed for prior 60 months
Gifts may trigger penalty periods
Documentation is critical
What was purpose of the gift
Ways of gifting vs non gifting
3 years is VA…10 years is something else

Prepping the Application

- Gather all documents
- Review bank statements
- Ask client for remaining info
- Explain deadlines
- Check deed records…minerals too
- Check SDPOA
- Ask client for info one more time

Most Common Denials

Failure to provide…failure to provide
Excess resources
Excess income
Missing verification
Transfer penalties
Medical necessity denials (recent increase)
Trust misunderstanding

Denial: Excess Resources

- Spend-down opportunities
  - Half a loaf
- Conversion to exempt assets
  - Buy a house…but see HHSC v. Burt
  - Presence and intent is required
- Correct classification of assets matters
  - IRA rules vs 401k rules

  - House in trust then taken out of trust as spend down
    - Make sure ELED or TODD are utilized

Denial: Excess Income

Qualified Income Trusts
- Miller Trust
- Include exact income

Correct income calculations
- Medicare reduction and $75

Timing issues frequently arise
- Setting up bank account increasingly difficult

Denial: Missing Documents

- Bank statements
  - Checking it twice
- Insurance information
  - Burial policy
  - Cash value
  - Tax sharing
- Identity and citizenship records
  - SSA records
  - Driver’s license
- Respond before deadlines
  - Send something
  - Log of contact
  - Mail and fax and use portal

AVOID FRAUD

Transfer Penalties

Improper gifting
Undervalued transfers
Family misunderstandings create issues
Name off bank account
All to irrev trust
Notes payable
If you’ve thought of it…someone else tried

Appeal or Reapply?

- Some denials are easier to fix through reapplication
  - If you misses resource or income month, reapply and work on appeal
  - Keep in touch with nursing home
- Agency mistakes may require appeal
  - Document everything
  - Keep sending documents when requested
  - Appeal to regional attorney
  - Explain your argument and be prepared to wait
  - Don’t miss the hearing…so confirm the hearing
- Evaluate timing carefully

Appeal Process

Request fair hearing
Submit supporting evidence with attorney memo
Call caseworker to discuss
Correct agency misunderstandings
Preserve deadlines
Attend hearing even if promised approval
Whose hearing is it?
Send to correct address
Caseworkers are literally by the book…follow the rules and look for mistakes

HHSC appellate packet

- Check communication timeline
- Check all notices
- Review HHSC argument with MEPD citation
- Review your filings for accuracy
- Make the argument based on misinterpreted rules or facts
- If law…reach out to regional counsel…if MEPD based, use the caseworker

Practice Tips

Pre-screen applications carefully
Maintain organized records
Communicate with facilities and families
Utilize the portal
Send by fax and certified mail
Double check income
Confirm mailing address and check communication from HHSC
Be in good contact with nursing home in case they hear sooner

Follow up in 3 weeks after application

Be kind to caseworkers and hearings officers…they remember you

Key Takeaways

Many denials are fixable
Preparation matters
Documentation wins cases