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A BRIEF SUMMARY OF WHAT YOU NEED TO KNOW ABOUT THE ARIZONA LONG TERM CARE SYSTEM (ALTCS)

This is a basic general outline only and the information is subject to change. The numbers are effective as of January 1, 2018.

This summary reflects the changes to the Medicaid law pursuant to The Budget Deficit Reduction Act of 2005 (PL-109-171).

Program Overview

Since 1982, Arizona has participated in the Medicaid program through the operation of the Arizona Health Care Cost Containment System (AHCCCS) under a federal waiver allowing the payment of federal Medicaid dollars into a state-run managed care program. One condition placed on approval of Arizona's AHCCCS program, however, was the inclusion of nursing home care programs operating under Medicaid rules. The Arizona Long Term Care System (ALTCS), Arizona's Medicaid long-term care program, was implemented in 1988.

The ALTCS program contracts with "program contractors" who oversee and subcontract with the providers, as is the case with any HMO. The providers for each program therefore are different. In Yavapai County, the program contractor is United Healthcare Community LTC Plan. In Maricopa County, there are three program contractors:

- Mercy Care Plan
- United Healthcare Community LTC Plan
- Banner – University Family Care

Effective October 1, 2017, Gila, Pima, and Pinal Counties may choose from two program contractors:

- Banner – University Family Care
- Mercy Care Plan

The Department of Economic Security (DES) Division of Developmental Disabilities (DDD) acts as the ALTCS program contractor for all applicants who are determined medically eligible on the basis of a developmentally disability (see Medical Eligibility, below), regardless of the applicant's county of residence.

Available Benefits

The medical insurance provided by AHCCCS is managed care and therefore choice in providers is limited. However, the coverage is substantial and includes, but is not limited to, the following:

- Doctor's visits
- Specialist care
- Medical transportation
- Prescriptions
- Lab and x-rays
- Hospital services
- Emergency care
- Dialysis
- Pregnancy care
- Podiatry services
- Immunizations
- Physical exams
- Behavioral health
- Family planning

In addition to providing AHCCCS Medical Insurance, ALTCS also provides:

- **Nursing Home Care**, provided in a licensed nursing facility, Intermediate Care Facility for the Mentally Retarded (ICF-MR), a freestanding hospice, a residential treatment facility for person under 21 or a psychiatric hospital for persons age 65 or older;
- **Home and Community-based Services (HCBS)** provided in your home. These in-home services are intended to help you to remain in your home. HCBS services include, but are not limited to:
    - Home Health Nursing
    - Adult Day Care
    - Personal Care
    - Medical Transportation
    - Mental Health Services
    - Homemaker Services
    - Habilitation
    - Attendant Care
    - Respite Care
    - Home Health Aids
    - Home Delivered Meals
    - Hospice

Home and Community-based Services (HCBS) may also be provided in a supervised alternative residential setting, such as an Adult Foster Care Home, Assisted Living Home, Group Home or a Level I, II, or III Behavioral Health Center. ALTCS clients may receive up to 600 hours per benefit year (October 1st to September 30th of each year) of respite care.

Medical Eligibility

The purpose of the **Pre-Admission Screening (PAS)** is to determine whether an applicant meets the medical criteria for Title XIX (Medicaid) funded long term care services (ALTCS). To receive federal Medicaid funds for an individual, AHCCCS must demonstrate that the applicant has a medical need for these services and is at *risk of institutionalization.* This means that the applicant must be in need of long term care at a level comparable to that provided in a nursing facility, but which is <u>below</u> that of an acute care setting (hospitalization or intense rehabilitation) and <u>above</u> that of a supervisory/personal care setting (intermittent outpatient medical intervention or benevolent oversight).

An individual who meets ALTCS criteria for Title XIX eligibility will present with <u>one or more</u> of the following needs and impairments:

- Requires nursing care by or under the supervision of a nurse on a daily basis
- Requires regular medical monitoring
- Exhibits impaired cognitive functioning
- Exhibits impaired self-care with activities of daily living
- Exhibits impaired continence
- Displays psychosocial deficits

The PAS tool is the instrument used to score the person's impairments in the above areas. The PAS tool consists of several sections:

1. Intake information
2. Demographic information
3. Functional information and assessment
4. Medical information and assessment

The PAS screening includes all of the following:

- An interview of the applicant and significant others
- Review of available records
- Observation of the applicant's behavior during the PAS interview

All the functional and medical assessment criteria are taken into account in the development of a numerical score, to determine whether the applicant meets the baseline criteria for eligibility. If an applicant's score meets eligibility criteria, the level of care required for the applicant is determined based on the score and review of PAS tool to determine the applicant's care needs. If the score does not meet eligibility criteria and the PAS assessor or applicant questions if the PAS score accurately reflects whether the applicant is at risk of institutionalization, the assessor can request that an evaluation be made by a physician consultant who can override the numerical score. The physician consultant may also overturn the level of care determination.

Different PAS tools are used based on whether the applicant is considered:

- **Developmentally Disabled (DD):** Used if the applicant has been diagnosed with one or more of the following conditions prior to the age of 18:
    - Mental retardation
    - Cerebral palsy
    - Seizure disorder
    - Autism
    - Developmental delay, for children under age six

  The DD PAS tool is always used for applicants under six years of age. There are four different DD PAS tools, encompassing the following age groups:

    (1) Ages 0-2 (for applicants under 6 months old, the PAS tool and medical records must undergo review by the AHCCCS physician consultant before eligibility can be approved)

    (2) Ages 3-5

    (3) Ages 6-11

    (4) Ages 12 and older

- **Elderly and/or Physically Disabled (EPD):** For applicants who are age 65 or older and/or physically disabled. Applicants who have developmental disabilities but who are determined ineligible using the DD PAS tool may also be evaluated using the EPD PAS tool.

Although the scoring thresholds are different for each PAS tool, the same general criteria are evaluated as delineated below.

Functional Assessment

The functional portion of the screening focuses on the following areas:

Activities of Daily Living (ADLs):

- *Mobility* – purposeful movement within the applicant's residence
- *Transfer* – the ability to move between two surfaces i.e. bed, wheelchair, and chair
- *Bathing* – washing, rinsing, drying body parts, transfer in/out of tub
- *Grooming* – tending to appearance of hair, teeth, hands/face, nails
- *Dressing* – putting on and removing articles of clothing
- *Eating* – putting food and fluids into system
- *Toileting* – managing elimination of urine and feces

Other areas reviewed include the following:

- Continence
- Vision
- Orientation to person, place, and time
- Developmental milestones, for children between the ages of six months and six years
- Ability to clearly communicate, verbally or otherwise
- Behavior patterns such as wandering, aggression, self-injuries, suicidal or disruptive

Medical Assessment

The medical portion of the screening focuses on the following areas:

- *Medical condition* – determines an applicant's medical conditions whether acute, chronic or history; if these conditions impact ADLs and if medical or nursing treatments are required.
- *Services and treatments* – identifies all services and treatments an applicant receives or needs.

Financial Eligibility

Income Requirements

Income Defined: Income is cash received that can be used to obtain food or shelter. It can be paid to the person directly or deposited into the person's financial account. Sources of income

include, but are not limited to, Social Security income, pensions, annuities, disability insurance, etc. Interest and dividends are excluded as income for ALTCS.

1. *Single person:* limited to $2,250.00 per month.

2. *Married person:* The applicant can meet the income eligibility requirement if one of the following applies:

   a) The total income of both spouses does not exceed $4,500 per month, OR,

   b) The total income received by the applicant under their name as well as half of the income received in checks made out jointly in both names does not exceed $2,250 per month.

If the applicant's income exceeds the limit: An applicant whose income exceeds the monthly income amount may establish an "income-only" trust which will still allow the individual to qualify in the following circumstances:

1. *For a single person*: if countable income is less than:

   a) $7,134.44 a month if they live in Maricopa, Pima or Pinal counties, *OR*

   b) $6,307.74 per month if they live in any other county

2. *For a married person*: if either of the following applies:

   a) The countable income received in the individual's name plus ½ of the joint check income is less than the amounts listed in #1, above.

   b) The combined countable income of both spouses does not exceed:

      (i) $14,268.88 per month if they reside in Maricopa, Pinal or Pima counties, *OR*

      (ii) $12,615.48 per month if they live in any other county

Resource Requirements

Resource Limits:

Single person: The applicant cannot have more than $2,000 in countable resources to qualify for ALTCS (an applicant who is disabled and under age 65 may become eligible under certain conditions by the establishment of a trust even if countable resources exceed $2,000).

Married person: ALTCS evaluates the resources owned by both spouses, regardless of whether the resources are owned individually or jointly, as of the first date on which the applicant is considered to be continuously institutionalized for 30 consecutive days or more. Institutionalization is considered to be continuous if there is no break of 30 days or more. This date, called the *first continuous period of institutionalization* (*FCPI)*, is the earliest of the following:

- The date on which the applicant first resided in a medical institution (such as a hospital,

rehab facility, or nursing home) or a combination of medical institutions.

- The date on which the applicant first received Home and Community Based Services (HCBS), or a combination of HCBS and institutional care, at a level of care equivalent to that provided in a medical institution, as determined by the PAS. The services must have been provided by a licensed or certified provider who is under contract to provide the services.
- The date on which the applicant is first determined to be medically eligible for ALTCS by the PAS.

The applicant's spouse may retain half of the total countable resources owned by the couple as of the FCPI, except that the half retained cannot exceed the maximum of $123,600, and the spouse may keep a minimum of $24,720, even if half is less than $24,720. In addition to the half that the spouse retains, the applicant is still permitted to retain $2,000. Under most circumstances, if both spouses in a marriage are applicants then each is limited to $2,000 in resources.

Excluded Resources: Certain resources are considered excluded and therefore may be retained in addition to the countable resources. These resources include the following:

- *Home:* The primary residence is excluded if the equity value of the residence is $572,000 or less (effective January 1, 2018) and if the applicant resides there or states it is his or her intent to return home, except that the primary residence is excluded regardless of its value if a spouse, a child under the age of 21, or a disabled child of any age is living in the home. This applies to applications filed on or after July 1, 2006, and the amount changes annually in January.
- *Vehicle:* One automobile may be excluded.
- *Burial Arrangements:* A burial fund of $1,500 for each spouse set up in a bank account and labeled as such, or as part of a prepaid burial plan. If the burial plan is funded by the irrevocable assignment of the proceeds of a life insurance or annuity policy, there is no value limit to the plan as long as the proceeds assigned do not exceed the fair market value of the burial plan.
- *Burial Plots:* Burial plots for the applicant and spouse and members of immediate family of an unlimited value. The burial plot exclusion includes the cost of the headstone, casket, niche, burial container, opening and closing the grave and perpetual care.
- *Household Goods and Personal Effects:* Household items such as furniture, electronics, clothing, artwork and jewelry owned by an individual are excluded.
- *Life Insurance with Cash Value Less Than $1,500:* The combined cash value of all life insurance policies insuring any one individual with a combined face value that does not exceed $1,500. If the policy has dividends that can be withdrawn from the policy without canceling the policy, the amounts of those dividends are countable towards the $2,000 resource limit.

Share of Cost

Once the applicant qualifies for Arizona Long Term Care and is receiving services, s/he may have to pay a share of the cost of his/her care, called *share of cost*, on a monthly basis. The share of cost is calculated by deducting the following from the gross income of the applicant:

1. *Personal needs allowance:* The applicant will be permitted to keep a small spending allowance, called the *personal needs allowance*, currently $112.50 a month. An applicant may keep more if s/he is living in his/her own abode or in another person's home (not including an assisted living home or adult care home).

2. *Non-Covered & Remedial Medical Expenses:* In addition s/he is able to deduct medical expenses that are not covered by ALTCS, such as eyeglasses, hearing aids, and non-emergency dental work, and remedial expenses including the cost of Medicare and the portion of medical, vision and dental insurance premiums that is charged for the applicant's coverage and is paid for by the applicant. No deduction is given for health insurance premiums that cover the spouse or other family members or for premiums not paid from the applicant's own funds. For example, if the ALTCS applicant is covered under a policy provided by the spouse's pension and the health insurance premium is deducted from the spouse's pension, then no deduction is given. The payment for the health insurance premium MUST be paid from the ALTCS applicant's funds.

3. *Community Spouse Monthly Income Allowance (CSMIA):* In addition to the above deductions, the applicant's legal spouse who resides in a community setting may be entitled to keep a portion of the applicant's income in order to maintain his/her standard of living in the community. The minimum amount that the spouse can keep is $2,030 a month (effective July 1, 2017), plus a standard utility allowance of $274 per month, plus the monthly mortgage or rent amount, monthly property taxes and home insurance minus $609. The resulting total cannot exceed $3,090 per month (effective January 1, 2018). If the spouse does not have enough of his or her own income to cover this amount, then he or she is entitled to receive enough money out of the applicant's income to make up the difference.

The rest of the applicant's income must be paid to ALTCS for the share of cost. Share of cost is never assessed against the spouse's income.

Share of Cost While at Home: There is no share of cost for a married or single individual living at home, unless an income-only trust is necessary.

Room-and-Board Charges: Applicants who reside in a community setting other than their own home, such as an assisted living home or group home, will usually be required to pay a *room-and-board charge* assessed by the program contractor according to their contract with the facility. Generally, the room-and-board charge assessed by the program contractor will equal the amount the applicant would have had to pay for share of cost if s/he resided in a skilled nursing facility. However, room-and-board charges are not considered a charge for medical services and are therefore not regulated by federal or state Medicaid laws.

Transfers

Transfers defined: For ALTCS purposes, a *transfer* occurs when the legal ownership of an asset (resource or income) is conveyed in whole or in part to another person or entity (ALTCS MS 901). Any transfers or gifts made to someone other than a spouse, or from a revocable trust, or to any trust where assets are not available to the applicant, within five years prior to applying for the ALTCS program, must be disclosed to ALTCS. If the applicant or spouse makes a transfer and does not receive full market value for the item transferred, a penalty period of ineligibility may result as follows:

- *Penalty Calculation:* ALTCS imposes a period of ineligibility by dividing the total amount transferred by the average monthly cost of care in the county as determined by ALTCS as of the date of the ALTCS application, which is currently $7,134.44 in Maricopa, Pima and Pinal counties, and $6,307.74 in all other Arizona counties (effective October 1, 2017). The resulting figure is the number of months of ineligibility and the remaining fractional amount is multiplied by 30 to determine the number of additional days of ineligibility. ALTCS will add together the value of all the asset transfers made during the look back period and base the period of ineligibility on the total value of all of the transfers; with the exception that transfers totaling $500.00 or less in any given month will be disregarded.
- *Penalty Begin Date:* The period of ineligibility runs from the date of the transfer, with the first month of ineligibility being the month in which the transfer was made, or when the applicant applies for and is otherwise eligible for ALTCS, whichever is later.

Annuities

The purchase of a single premium immediate annuity or annuitizing an existing annuity under certain circumstances can be an easy way to preserve assets and at the same time qualify someone quickly for the ALTCS program without any delay or period of disqualification by turning an available resource into a stream of income. A *single premium immediate annuity* or an annuitized deferred annuity is considered unavailable as a resource under the ALTCS program because it is an irrevocable arrangement. The purchaser cannot get his/her investment back in a lump sum once a deferred annuity is annuitized or a single premium immediate annuity is purchased.

There is no transfer penalty as long as the purchaser under the terms of the contract will get his money back through monthly payments within a fixed term “period certain” not to exceed the purchaser’s life expectancy.

The State must also be named as a remainder beneficiary up to the costs incurred by the institutionalized spouse. The State may be named a remainder beneficiary in the second position after a spouse, minor child, or disabled child.

The entire amount of each annuity payment is considered income under ALTCS rules and this can affect eligibility and share of cost. For this reason, with some limited exceptions, single premium immediate annuities and annuitized annuities do not work well for most single persons.

However, they can be very effective for married couples because the annuity can be made payable to the spouse.

Estate Recovery

See attached brochure. Note that although federal law gives ALTCS the option of recovering against life insurance proceeds or designated beneficiaries on pension plans or IRAs, ALTCS has chosen not to do so at this time. ALTCS will not implement estate recovery if the ALTCS recipient is survived by a spouse, a child under 21, or if there is a disabled child of any age.

NOTE: This section does not apply to recovery from trusts excluded by federal Medicaid law under 42 U.S.C. § 1396p(d)(4), including special needs trusts for disabled persons under the age of 65, income-only trusts, and pooled trusts. You may request a copy of "Administering a Special Needs Trust: A Handbook for Trustees" and its addendum from the Law Offices of Chester B. McLaughlin for additional information about trust recovery.

Liens

See attached brochure. ALTCS may place liens on the real property of Medicaid members of any age as long as they are determined to be permanently institutionalized, cannot return home, and none of the following people are residing in the home:

- Member's spouse
- Member's child who is under the age of 21
- Member's child of any age who is blind or disabled, or
- Member's sibling who has an equity interest in the home and who was residing in the recipient's home for at least one year immediately before the date the recipient was admitted to the medical institution.

ALTCS cannot recover on a lien while the member's surviving spouse, child under 21 or disabled child is alive; and cannot recover if the member is survived by a sibling living in the home who lived there for at least a year before the member went into the nursing home or a child residing there who provided care to the member that allowed the member to stay at home for the two years prior to the member going into a nursing home.

NOTE: This section does not apply to medical liens against a third-party settlement or award. Third-party settlements/awards may be subject to AHCCCS/ALTCS medical liens for medical services provided as a result of the injury giving rise to the claims.