Western Mass Estate Planning

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MASSHEALTH COVERAGE FOR ASSISTED LIVING
(GAFC - Group Adult Foster Care Program)

Some individuals cannot remain safely at home, but do not need or desire a long-term (nursing home) placement. Options include remaining at home and arranging for caregivers, or moving to an assisted living facility (ALF).

The cost of assisted living varies with each residence, depending upon the size and location of the apartment and the amount of services the resident needs. Monthly fees are based on rent, utilities, food, housekeeping, personal care and other optional services and amenities. Assisted living costs are generally less than those for a skilled nursing facility because nursing homes are required to provide intensive, 24-hour skilled nursing and related care. In Massachusetts, monthly fees range from approximately $2,000 to more than $7,000. Special care units and programs for people with memory loss and/or dementia require additional staffing and services, so are typically at the high end of the fee range.

Some ALFs charge a basic monthly fee that includes personal care services, while others charge separately for all services on an “a la carte” basis. There may also be charges for items such as guest meals, room service, special recreational events, transportation, personal laundry, etc. In all cases, a portion of each month’s fee is comprised of a medical/personal services portion and a rent portion.

Various government programs can assist with the cost of assisted living for those individuals who qualify. While those programs include GAFC (Group Adult Foster Care, which helps with the medical portion), SSI-G (the Supplemental Security Income assisted living benefit, which contributes to the rent portion for people whose income is less than approximately $955/month), SCO (Senior Care Option), and PACE (Program for All Inclusive Café for the Elderly), <u>this article will focus on GAFC, with particular emphasis on individuals whose monthly gross income *exceeds* $1,295/month</u>.

To qualify for GAFC, an individual may not have more than $2,000 in countable assets and a couple may not have more than $3,000 in countable assets. In addition, if an individual’s income is *less than* $1,295 (2023), or a couple’s income is *less than* $1,526 (if both spouses are applying), the resident pays his or her income to the ALF each month in full satisfaction of the rent portion. GAFC will cover the medical portion.

However, if an individual's income is *greater than* $1,295, or a couple's income is *greater than* $1,526 (if both spouses are applying), MassHealth imposes a recurring six-month deductible. For example, if a single individual's gross monthly income is $2,295 ($1,000 over the program threshold), the Medicaid $522 standard (plus a $20 income disregard) is applied and subtracted from $2,295. That result, $1,753, is then multiplied by six (six months) and, as a consequence, an $10,518 deductible must be met at the start of each six month period before GAFC benefits will begin/resume.

Applicants must satisfy the deductible by paying qualifying medical expenses, which includes Medicare and supplemental health insurance premiums, but typically consists almost entirely of paying the ALF at the private-pay rate (with only the medical portion of the monthly fee eligible to satisfy the deductible). Once GAFC benefits are in effect, the resident is required to contribute his or her income toward the monthly rent portion; GAFC pays the medical portion. In cases where an applicant needs to meet a recurring six-month deductible, GAFC eligibility can be sustained only if the individual has access to other resources (funds transferred to a trusted family member, non-countable VA Aid and Attendance benefits or spousal assets, for example). *Below is an example of how GAFC benefits work for an individual needing assisted-living, but whose income exceeds $1,295/month.*

For those individuals who qualify, the GAFC program pays $40.33-per-day ($1,432.20-per-30-day month) toward daily personal care, homemaking, meals and transportation. The resident then pays his or her income to the ALF for the rent portion of the monthly fee (SSI-G pays a portion of the rent only if the resident qualifies). The resident does not have to apply for or be eligible to receive SSI-G in order to qualify for GAFC.

Louise is an 82-year-old widow, no longer able to live safely at home. She tried having in-home caregivers, but, for a number of reasons, it was not successful and the expense was quickly depleting her remaining funds. Louise's sole gross monthly income is Social Security in the sum of $1,486.50. In addition, she has approximately $37,000 left in her checking and savings accounts (she has no retirement funds, life insurance, stocks, or other assets).

If Louise's gross income were *less* than $1,295/month, she would simply give that to the ALF for her rent and know that GAFC would be responsible for the caregiving component of the monthly cost. However, because her gross income is *greater than* $1,295, Louise must meet a recurring deductible. Every 6 months, benefits will terminate, until she shows that she has paid medical bills which satisfy the deductible. Then GAFC will resume paying the $40.33/day. Throughout the process, Louise will continue to pay her income as the rent portion. Medical bills to satisfy the deductible can be doctor co-pays, eye glasses, prescriptions, hearing aids, Life Alert (or similar) and the medical portion of an assisted living charge.

The first challenge for Louise will be coming up with the funds to meet her deductible, since all of her income will be going to the facility each month. As of the date this document was drafted, MassHealth does not impose a penalty for transferring funds in non-nursing home cases, so the first thing Louise should do is gift all but $2,000 to a trusted family member or other individual. Having these funds available to Louise will be the only way she will be able to make the GAFC program work. The transferred funds can be drawn upon to meet the recurring deductible. In addition, or if Louise did not set aside any funds, the VA Aid and Attendance benefit can be a lifesaver. The benefit is typically around $900 - $1,100/month and is NOT countable for GAFC purposes, so it can accumulate and be used to pay the deductible at the 6-month intervals. See more about this program toward the end of this article.

The second challenge for Louise will be that the assisted living bill is not considered all medical (as a nursing home bill is). So, Louise cannot meet her deductible simply by paying the amount of the deductible to the ALF, because only a *portion* of what she pays each month will comprise the medical portion. Each assisted living facility has its own percentage of what comprises the medical portion of the monthly charge, but it typically falls around $25% - 28%. So, if Louise pays an ALF as a way to meet her deductible, she will have to pay much more than just the amount of the deducible to satisfy MassHealth.

So, using Louise's gross income of $1,486.50, we would first deduct the Medicare premium of $164.90 (2023), leaving her with $1,351.60 net. The figure of $542 is then deducted, resulting in $779.60. If Louise has a health insurance premium she is paying out-of-pocket, that would be deducted, as well. Assuming she does not, the $779.60 is multiplied by 6 (for a 6-month period), resulting in $4,677.60. This would be the amount she would need to pay in medical bills every six months in order for GAFC to pay the balance of the 6-month period.

A sample notice from MassHealth showing how a deductible is calculated is available at my website (www.WesternMassEP.com). The part that is not clear is that, even though the notice lists monthly amounts, the total sum must be paid up-front, at the start of each deductible period.

Assuming the monthly private-pay rate at the ALF is $5,500, only 28% of that ($1,540) would qualify as a medical expense, so it would take approximately 3 months of private-pay rate payments in order to meet Louise's deductible. Louise would then show MassHealth that she has paid this sum and GAFC would pay the medical portion for the next 3 months (the balance of the 6-month period). The process is repeated every 6 months. So, to come up with $4,677.60 in medical bills, Louise would have to pay the ALF approximately $16,500. Adding this figure (2x) to the monthly income payments will determine what the annual cost of care will be. In Louise's case, this would be approximately $49,219-per-year ($1,351.60/month in rent, from her Social Security, for a total of $16,219.20, plus $33,000 in funds needed to meet the medical deductible).

So, assuming that the ALF private-pay rate is $5,500/month, totaling $66,000/year, using GAFC would save approximately $16,781/year ($66,000 - $49,219). Her biggest challenge will be accessing the extra $12,447 she will need every 6 months, in order to pay the ALF for the 3 months. If she has funds set aside, that will help, but eventually, those could be depleted, as well.

Of course, if the monthly ALF charge is different than $5,500, that would make a difference and if Louise has a supplemental health insurance premium, that would help, because 100% of that is applied to the deductible (rather than only 28% as the assisted living bill is). If Louise purchased eye glasses or hearing aids at the start of the deductible period, that would be applied 100%, as well.

And, again, if Louise or her husband was a veteran, who served at least 90 days, with at least one day being during a time of war, the VA may help with the assisted living cost and that would make a dent in the overall cost (approximately $1,000/month, so $12,000/year). These benefits are most beneficial for individuals whose income exceeds $1,295/month, as MassHealth does not count them when calculating income, so they are available to help with the recurring deductible.

Sadly, most people in Louise's case are forced into a nursing home, because they were erroneously told that they had to spend down their available cash and, absent a wealthy and generous friend or family member, now have no place to pull funds from every 6 months to meet the deductibles. The only option for individuals who cannot make the finances of assisted living work, due to their income level, is either to return home or move to a skilled-nursing facility.

This is intended to be a general discussion about MassHealth coverage for assisted living expenses and was accurate as of <u>March 1, 2023.</u> Individual circumstances may impact options and outcomes. Because each situation is different and the laws relating to MassHealth eligibility are regularly changing, a competent elder law attorney should be consulted concerning any particular situation and legal advice relative to these issues. This article is for informational purposes only and is not intended to constitute comprehensive or specific legal advice.