

REPRESENTING A PERSON ENTERING A NURSING HOME

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NEED FOR LONG TERM CARE:

43% of all people over age 65 will enter a nursing home in their lifetime.

(24% are expected to spend a year or more in a nursing home. 57% will never enter a nursing home. And 19% will spend less than a year in a nursing home. Only 9% will spend more than 5 years in nursing home)

- ▶ 50% over age 75
- ▶ 70% of couples over 65 can expect at least one partner to enter a nursing home
- ▶ 50% of women and 33% of men over 65 will spend time in a nursing home

Types/Locations of LTC:

Nursing Homes

- ▶ Skilled Nursing Facilities
- ▶ Intermediate Care Facilities

Licensed Assisted Living Facilities

- ▶ Residential Care Facilities I
- ▶ Residential Care Facilities II

Non Licensed Assisted Living Facilities

Adult Day Care/Program Site

Elderly Person's Home (Home Health & Other In Home services)

Family Member's Home (Home Health)

Respite Care

Family as Caregivers:

85 % of Frail Elderly get care at home.

Some Elderly persons are so frail themselves, they can not continue to care for their frail family member.

Women, once considered the traditional caregivers, have increasingly entered the work force. They no longer are as available as in past to tend to elderly person's needs.

The nuclear family has dissolved because of divorce or relocation.

It wears down the family members who choose to help, or they can not make the sacrifice for their elderly family member, or care for the elder is out of sync with the family's rhythms.

THUS, Every year, a million families struggle against heartbreak and exhaustion and finally make what many call the most painful decision of their lives. . .

They put a beloved spouse or parent in a nursing home.

Only Five Options to Pay for Nursing Home Care:

- MEDICARE – 10.3% of total costs (despite many seniors thinking that Medicare will pay for care)
- PRIVATE PAY – 27%
- LTC & MEDIGAP/SUPPLEMENT INSURANCE – 8.1%
- MEDICAID – 48.3%
- VETERAN'S BENEFITS – 2%

-- 2000 CMS Stats – Charities and Service Clubs pay 4.3% of total costs

MEDICARE — (Very Limited)

Pays only up to 100 Days of Nursing Home Care

To nursing home directly from hospital (or within 30 days)

Must have been hospitalized for three days

Only ***Skilled*** level of care – nursing or therapy (physical, occupational, speech)

Pays 100% for first 20 days

Excess of \$119.00 per day for days 21-100 (2006).

Different rules for Hospice & Home/Community Based

Plenty of Assets? . . .

. . . Or No insurance? . . .

. . . Or Medicaid not for You?

PRIVATE PAY

is only alternative

. . . plan for \$14,000 to over
\$60,000 per year.

. . . Also, Remember, Private pay
patients must pay for diapers and
other extras in addition to daily rate.

Private Pay for Long Term Care:

Mid Missouri Long Term Care Nursing Home costs for a semi private bed ranges

from \$2,852 per month (\$92 per day)/\$34,224 per year

to \$3,627 per month (\$117 per day)/\$43,524 per year

4 years @ \$36,000 (\$100 per day) is \$144,000

Licensed Assisted Living Facilities (Residential Care Facilities) in area charge \$1200 per month (\$40 per day/\$14,400 annually) to \$2000 or more per month (\$66.67 per day/\$24,000 annually). Non-Licensed Assisted Living Facilities may have higher costs.

Home Health and in home services costs vary with type of treatment/service and time spent in home -- per hour, per ½ day, per day, per 24-hour day.

Live-in Housekeeper.

Insure Against LTC Risk –

LTC Insurance

For Healthy

Premiums lower when younger

May be recommended option for second marriages if one spouse ten years younger than other

Children could pay premiums for parent if they want inheritance

Needs overall planning!

LTC Insurance Benefit Triggers

1. Loss of Activities of Daily Living (ADLs)
 - Bathing
 - Dressing
 - Eating
 - Toileting
 - Contenance
 - Transferring
2. Cognitive Impairment
3. Medical Necessity

Won't cover alcohol/drug abuse, some mental illnesses, developmental disabilities.

Optional LTC Insurance Features:

Elimination Period – 0, 30, 60, 90, 180, 365 days

Inflation Protection

Waiver of Premium

Survivorship Benefit

Term – 3 months, year, 2 years, 3 years, 4 years,
lifetime

Types of covered Care

- ★ nursing home,
- ★ assisted living facility,
- ★ assistance received in home,
- ★ homemaker or companion services,
- ★ adult day care,
- ★ alternate care (defined in future),
- ★ informal care giver,
- ★ respite care.

Qualifying for LTC Insurance:

Comprehensive evaluation

Records from doctor

Health exam

Failure to disclose conditions can be grounds for benefits denial even after approved.

Some minor health problems may be acceptable

Overall Planning to Use Long Term Care Insurance

1. What is income?
2. What is long-term care cost?
3. How much to support spouse at home while other spouse in residential care or pay ongoing expenses while in long-term care?

Purchase per diem LTCI benefit to supplement income to support person at home or in long-term care setting

(e. g., if enough income to pay \$70 per day towards LTC & other costs, then could only purchase \$50 per day LTC benefit -- remember that health care inflation usually higher than other COLA increase)

Alternative of Last Resort

(or. . .if it pays for theirs,
why not have it pay for
mine!

What can we do to keep
from losing the farm, house
and life savings?)

MEDICAID

MEDICAL STANDARDS FOR MEDICAID (nursing home)

- ★ Must be in vendor bed for thirty days before approved

- ★ Physical need criteria must be met in nine areas of assessment
 - ✓ mobility
 - ✓ dietary
 - ✓ restorative services
 - ✓ monitoring
 - ✓ medication
 - ✓ behavior/mental condition
 - ✓ treatments
 - ✓ personal care
 - ✓ rehabilitation services

- ★ Physician must certify that patient meets medical standard for nursing facility care

Home & Community-Based may be different.

RESOURCE REQUIREMENTS FOR MEDICAID

In Nursing Home

Kinds of Assets Considered under
Federal and State definitions
("Assets" = everything owned of
value regardless of marital or non
marital, received as gift or
inheritance, earned or unearned)

Inaccessible (Unavailable) Assets

Accessible (Available)

- Countable Assets (Non
Exempt Assets)
- Non-Countable Assets
(Exempt Assets)

Inaccessible (Unavailable) Assets -

Assets made inaccessible (Out of recipient's control) by

1. Giving Them Away (may be penalty)
2. Holding Them in Irrevocable Trusts (may be penalty)
3. Putting Them in Qualified Annuities (irrevocable, single premium, immediate, periodic payments based upon life expectancy or less per DFS tables)
4. Having Other Assets Unavailable (e.g., owning 1/10th of real estate with other members of family, interest in limited partnership)

Accessible but Non Countable Assets (Exemptions)

- ✓ The family home if spouse or dependent living in it and for two years if neither lives there.
- ✓ Furniture and personal property (effects) inside the family home.
- ✓ One automobile
- ✓ Irrevocable pre-arranged funeral (as little or as much as desired)
- ✓ Personal jewelry
- ✓ Term Life Insurance
- ✓ Income Producing Property (rental)

Accessible and Countable Assets (non-exempt assets)

- ✓ More than \$999.99 cash for single person; \$1,999.99 for couple
- ✓ More than \$1,500 in cash value of whole life insurance, or more than \$1,500 in burial plots or burial insurance (Irrevocable prearranged funerals are exempt)
- ✓ Stocks & bonds
- ✓ Keoghs & IRA's
- ✓ Certificates of Deposit

- ✓ Savings Bonds & Treasury Notes and Treasury Bills
- ✓ Vacation homes
- ✓ Second or more vehicles
- ✓ Every other available asset except those listed as non-countable

Gifts Assets

Look-Back Period of 5 years for Gifts/Transfers Disqualify Applicant

If transfer for less than fair market value within 60 months if to another person or to an Irrevocable Trust or from a Revocable Trust), then applicant penalized for each \$2852* given away (Missouri's divestment penalty divisor)

E. g., You give away \$12,000 on 3/1/2006, then disqualified for 4 months, 6 days (beginning with date of application for Medicaid (unless application is made more than 60 months from date of gift. Might be Criminal Consequences if Gift within Look-Back Period with Intent to Defraud Medicaid (concealment) or if Apply within Penalty Period

* 2006 figure - penalty divisor changes each year

Special Rules if Married (Division of assets):

Countable Assets of institutional and community spouse are examined and Community Spouse allowed to keep Resource Allowance of \$19,908* (minimum) to \$99,540* (maximum) E. g., \$300,000 total countable assets; divided by 2 = \$150,000; therefore must spend down \$149,000 of IS's ½ share and \$50,460 of CS's ½ share UNLESS REQUEST FAIR HEARING.

Also, the community spouse is entitled to a minimum monthly maintenance needs allowance of \$1,650* up to a maximum monthly needs allowance of \$2,489.00*

*As of 7/1/2006; changes periodically

As part of MMNA, Community spouse entitled to have \$252* of Institutionalized spouse's income for utilities and what exceeds \$495* for shelter expenses. Home & Community-Based Medicaid rules may be different.

Spend down to Qualify (Countable to Non Countable):

- ✓ Consider Exempt Transfers
- ✓ Pay off mortgage
- ✓ Prepay certain expenses,
- ✓ Purchase paid-up term life insurance
- ✓ Do home maintenance
- ✓ Purchase prepaid burial arrangements
- ✓ Purchase Qualified Annuity
- ✓ Purchase or repair car
- ✓ Purchase clothing
- ✓ Purchase furniture

Checklist at time of applying for married couple (perhaps best strategically to occur during spend down):

- ✓ Proper titling of assets
- ✓ Proper Durable Power of Attorney with “the power and authority to make application for Medicaid.”
- ✓ If spouse enters into a nursing home, his or her name should be removed from all jointly held property, wills, beneficiary of insurance policies, bank accounts, etc.

RECOVERY AFTER DEATH FOR COSTS OF MEDICAID BENEFITS

Claim against Estate of Recipient

- ✓ Beneficiary Deed Does not Work (see section 461.300, RSMo)
- ✓ Probate Info Run (computer data of probate and death certificates compared)
- ✓ Question of Life Estates
- ✓ Question of Joint Tenancy
- ✓ Question of Trust

Claim against Spouse of Recipient

Probate (Maybe)

Medicaid Lien

(Personal Injury case)

To Qualify For Medicaid While Protecting Life Savings

Optimally requires planning far enough in advance

- ◆ Transferring before look-back period
- ◆ Timing application to avoid look-back problems
 - ✓ By using long-term care insurance (up to five years)
 - ✓ By having family pay costs during look-back period after Gifting
- ◆ Considering “half a loaf” and other gifting strategies
 - ✓ By keeping sufficient assets to get through look-back period after gifting
 - ✓ By gifting less than ½ penalty divisor per month
[this strategy no longer viable after DRA 2005]
 - ✓ By gifting less than 1 ½ penalty divisor per month
[this strategy no longer viable after DRA 2005]
- ◆ Using spend-down (countable to non countable assets) if admission imminent including purchase of Medicaid annuity
- ◆ Coping with challenge of continuing to be qualified if inherit asset or sell countable asset (e.g., sell residence)

Veterans Benefits

Service Connected Disability

Non Service Connected Disability

VA Nursing Home Units

State Veterans Homes

Must apply (Contact veterans service officer at any VA Hospital, State Veterans Home, or call 573-751-3779)

Requires

- ✓ Application
- ✓ Honorable Discharge
- ✓ Proof of 180-day Missouri residency
- ✓ Assessment of Care needs
 - 3 levels, waiting lists longer if
More care required
 - Copy of Military separation papers

VA Does not accept spouse unless also veteran

There are resource and income limitations, but much more liberal in interpretation. Fewer gifting penalties.

Benefits of seeking advice and representation of competent attorney who knows Medicaid, Long-Term Care Insurance, Estate planning and Long-Term Care System

1. Development of a long term care plan in conjunction with elderly person/couple and family.
2. Assistance in finding appropriate care and in applying for resources for elderly loved one.
3. Advocacy for the care of that person.
4. Protection of as much of the family assets as possible.
5. Accomplishment of as much of elderly person's goals as practicable

November 3, 2006

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