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*Preserve Family Assets & Age With Dignity:
Long Term Care and Medicaid Planning*

Disclaimer

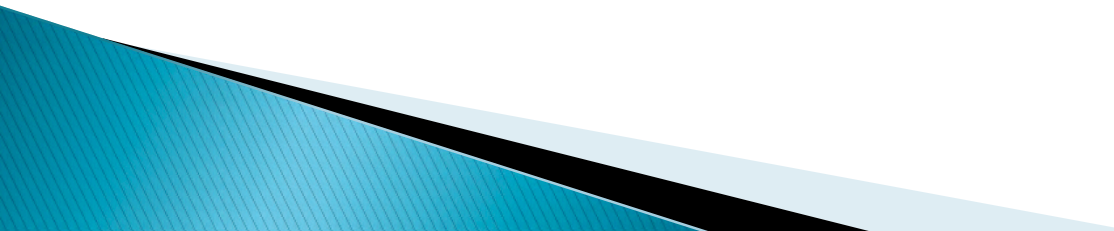
- ▶ All information contained in these pages is for informational purposes only. It should not be considered legal advice. Please consult an attorney before taking any steps based on this information.

What Are We Talking About?

- ▶ Providing for personal care as we or our family members age
- ▶ Providing an opportunity to stay in our homes while receiving care
- ▶ Preserving family wealth
- ▶ Preparing for many years of care



Who Are the Central Players?

- ▶ Individual in Need
 - ▶ Family Members (sometimes)
 - Health Care Agent
 - “Attorney in Fact” on Power of Attorney
 - ▶ Financial Planner
 - ▶ Estate / Elder Law Attorney
 - ▶ Geriatric Care Manager / Social Worker
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Congratulations!

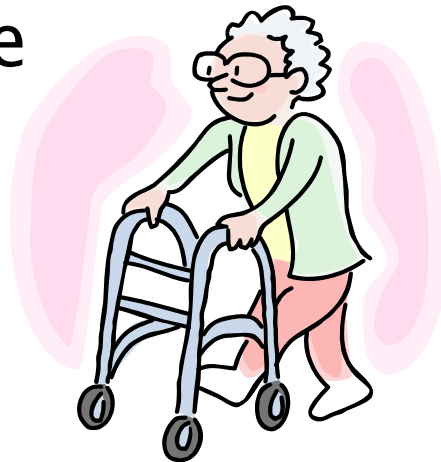
- ▶ You have lived to a ripe age!
- ▶ You have had many experiences
- ▶ You may have substantial assets
- ▶ You may (or may not) have family




The Need: Activities of Daily Living

▶ ACTIVITIES OF DAILY LIVING (“ADLs”)

- Transferring (I.e. Walking)
- Bathing
- Dressing
- Eating
- Continence
- Toileting



LTC Insurance to the Rescue!

- ▶ Long Term Care Insurance = Private Pay
 - Pays for Home Care:
 - a certified caregiver comes to your home to assist you with your ADLs
 - OR
 - Pays for Nursing Home Care
 - A need for more constant care
 - Trained staff on-site (such as nurses)
- 
- A stylized illustration of a person with dark skin and hair, wearing a red cape, sitting inside a white rocket ship. The rocket is pointed upwards and has blue dots on its side. The background is a bright blue sky with white clouds and radiating lines emanating from behind the rocket, suggesting it is launching or moving quickly.



LTC is NOT...

- ▶ Medicare
- ▶ Medicaid
- ▶ Health Insurance
- ▶ Disability Insurance
- ▶ Life Insurance



LTC: How the Benefit Works

- ▶ Example: \$250 per day for 5 years
 - $\$250 \times 365 \text{ days} \times 5 \text{ years} = \underline{\$456,250}$
 - \$456,250 is usually your guaranteed amount
- ▶ This is your “Insurance Pool”
 - If you use it slower = lasts longer
 - If you use it faster = lasts less time



Other Optional Aspects

- ▶ Cost of Living Adjustment
 - \$150 per day @ 2014 levels; increases 5% per year
- ▶ Life Insurance / LTC Hybrid Policies
- ▶ Home Care % lower than Institutional Care

Coverage Caveats

- ▶ Some policies pay less for home care than nursing home care
- ▶ Example:
 - \$250 per day for Nursing Home
 - \$125 Per day for Home Care



LTC: What Effects Premiums?

- ▶ Age
- ▶ Health
- ▶ Coverage
 - Amount per day
 - Amount of years
 - Is Home Care % same as Nursing Home Coverage?



LTC Problems

- ▶ Very few lapsed policies!
 - Lapsed policies were built into premium prices
 - Insurance companies losing money!!!
- ▶ Insurance Company “Fixes” – for new AND existing policies:
 - Premiums raised
 - Coverage Terms decreased

MEDICAID

- ▶ A government program that pays for people needing help with ADLs
- ▶ Reminder: NOT Medicare
 - MEDICARE:
 - An “Entitlement Program” – you paid for it, you get it
 - Pays for HEALTH care
 - MEDICAID:
 - A “Needs Based Program”
 - “Means Tested” must meet asset & income limitation requirements

Types of Medicaid

The type of Medicaid benefit you receive determines “look back” periods (l.e. the penalty for transferring assets)

Community Care

Personal care, physical therapy, home health care and home health aid services; clinical or out-patient basis; includes physicians, dentists, pharmaceutical, nursery



Institutional

Hospitals, medical facilities, nursing homes



Financial Eligibility Requirements for an Individual

Eligibility is based on people who are “Medically Needy,” “Categorically Needy” and “Legal US Residents”

Medicaid is “Means Tested,” meaning the recipient must have limited financial means

ASSETS

\$14,550 in the recipient’s name

EXCEPTIONS:

- “Burial Allowance” of \$1,500
- Life Insurance: \$1,500 cash value
- Personal Property (unlimited)
- Your House (ONLY for Home & Community care)
- Supplemental Needs Trusts
- Medicaid Trusts

• Retirement Plans (IRAs) are exempted from assets if they are in “payout status” (Required Minimum Distributions or Separate and Equal Periodic Payments if recipient is under age 59 ½), in which case payments are included in Income

MONTHLY INCOME

HOME CARE: \$809 per month

• Any excess income must go to the recipient’s “SPEND DOWN”

INSTITUTIONAL (at a Nursing Home): ALL of the recipient’s monthly income in excess of \$50 must be paid to the NH to offset Medicaid payments



Transfer Penalties

Department of Social Services and Medicaid impose a “Lookback Period” for transferring assets outside of the proposed recipient’s name

Home & Community Care 3 MONTH Lookback

One Strategy:

Transfer all financial assets (except \$14,550) to a non-spouse, wait one month for bank statements to be updated, then apply for Home Care.

DOWNSIDE: If the recipient needs Nursing Home care the 5 Year Lookback rule applies

Nursing Home 5 Year Lookback Period, and the Homestead can be attached by Medicaid

EXAMPLE: In January, 2010 Mary transfers her Coop and most of her assets to her son Joe (total of \$280,000), and applies for Home Care. In March 2014 Mary goes to a Nursing Home. She failed to make the 5 year Lookback (4 years & 2 months). Nursing Home Care in Manhattan equals approximately \$12,000 per month.

$$\frac{\$280,000 \text{ (amount gifted)}}{\$12,000 \text{ (monthly benefit)}} = 23.3 \text{ MONTH "Penalty Period"}$$

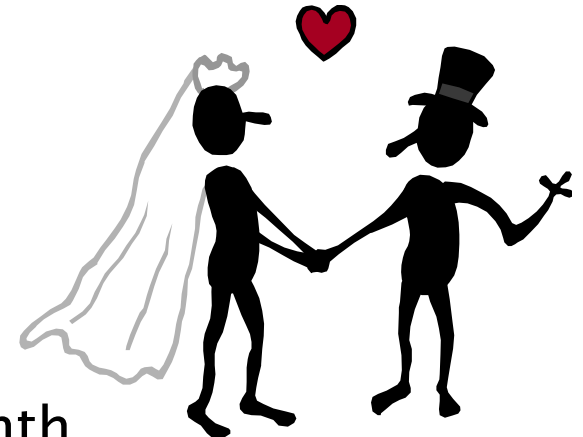
Medicaid will not pay Mary’s Nursing Home benefits for 23 months. ..and Joe is liable. Joe should have paid for Mary’s care for 10 more months to get through Mary’s Lookback Period.

Income Only Trusts (a “Medicaid Qualifying Trust”)

- ▶ These Trusts are used to distribute income or hold property (including a primary residence) in Trust to avoid Medicaid from attaching assets
 - The Creator chooses the residuary beneficiaries
 - The Creator can be the recipient, spouse, the recipient’s Power of Attorney or an Administrative body
 - The Beneficiary and his/her spouse can ONLY receive income (NO principal) from the Trust
 - The 5 Year Lookback DOES apply if the recipient needs nursing home care, so these may not be a good idea if Nursing Home care is imminent
 - The Trust is Irrevocable / cannot be amended

What About the “Well” Spouse?

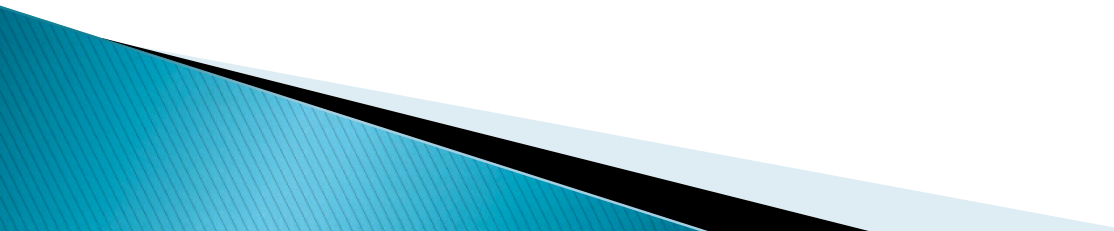
- ▶ The “Community Spouse” is entitled to some assets and income, but they are limited
- ▶ If spouse is in a Nursing Home:
 - \$2,931 of income per month
 - \$74,820 – \$117,240 of resources
- ▶ If spouse has Home Care:
 - Combined income of ` \$1,192 per month
- ▶ During the Medicaid Application process the well spouse may exercise a “Spousal Refusal” to avoid inclusion of his/her assets and income
 - Medicaid may accept this, but will have a claim against the well spouse when he/she dies



LTC versus Medicaid

	LTC	Medicaid
Costs	Insurance Premiums	Legal Fees
Quality Care	Typically Quite Good	Varies
Asset Transfers	No problem	Heavily regulated
Oversight	Insurance Company	Government (DSS)

LTC & Medicaid Strategy

- ▶ When the need for care arises and you have a LTC policy:
 1. Inform LTC agent / Financial Planner
 2. Hire a Social Worker & Attorney
 3. Get policy paying
 4. Transfer assets EXCEPT what is needed for 5 years; HOLD FUNDS IN RESERVE!
 5. Apply for Medicaid when policy coverage nears its end
- 

See a lawyer who focuses on Elder Law



Thank You!



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