

## **How to Pay for Nursing Home Care Without Going Broke**

One of the greatest fears of older Americans is that they may end up in a nursing home. This not only means a great loss of personal autonomy, but also a tremendous financial price. Depending on location and level of care, nursing homes can cost between \$50,000 and \$85,000 a year.

### **Traditional Health Insurance**

Contrary to popular belief, traditional health insurance will not pay for the cost of long-term nursing home care. Instead, it is usually the patient or the patient's family that pays the entire cost. The advantages of paying privately are that you are more likely to gain entrance to a better quality facility and it eliminates or postpones dealing with your state's welfare bureaucracy--an often demeaning and time-consuming process. The disadvantage is that it's expensive, and the harsh reality is that few elderly Californians can afford to pay this cost over an extended period without completely depleting all of their savings. In fact, many elderly Californians have lost their homes and depleted their life savings as a consequence of financing the cost of their nursing home care.

Careful planning, whether in advance or in response to an unanticipated need for care, can help protect your estate, whether for your spouse or for your children. This can be done by purchasing long-term care insurance or by making sure you receive the benefits to which you are entitled under the Medicare and Medicaid programs. Veterans may also seek benefits from the Veterans Administration.

### **Long-Term Care Insurance**

The use of long-term care insurance is increasing as more people become familiar with the existence of these types of policies. Unfortunately, the monthly premiums are cost-prohibitive for most elderly persons, many of whom are living on a fixed income. Moreover, the persons who are already in a nursing home, or will most likely need nursing home care in the immediate future, will not usually qualify.

For those who can't afford to privately pay for long-term care or don't have long-term care insurance, there are two public assistance programs that will finance the cost of nursing home care. These programs are Medicare and Medicaid.

### ***Medicare***

Medicare is a federal health insurance program for the elderly and disabled. If one is eligible to receive Social Security, one is eligible to receive Medicare. There are no financial eligibility requirements to receive Medicare except for a small monthly premium that is required to receive certain outpatient services.

Unfortunately, Medicare only pays for the type of care that is needed by a small minority of long-term nursing home patients. Under the laws regulating the program, Medicare will only pay for the cost of nursing home care for patients who need "skilled care." Skilled care is a level of care that requires the expertise of a doctor, nurse, or therapist. Examples of skilled care include physical therapy or rehabilitative therapy. Nursing home patients who are in a facility for longer than three months typically do not need skilled care. Rather, they need "custodial care."

Custodial care is health care that involves ordinary activities of daily living, such as feeding, bathing, or dressing. Custodial care is particularly needed by patients who suffer from dementia such as Alzheimer's Disease. For example, an Alzheimer's patient can be physically healthy, and therefore would not need skilled care such as physical or rehabilitative therapy. However, the degenerative brain condition caused by the disease renders him or her unable to care for himself or herself. Medicare only pays for nursing home care for a limited time. This is because Medicare only covers the costs of nursing home care while the patient needs skilled care. Therefore,

Medicare, as a practical matter, covers only a small portion of most long-term patients' nursing home costs.

Not only is Medicare assistance limited to nursing home patients who need skilled care, the program will finance the cost of this care for only a limited period of time. Medicare will only pay the daily cost of care from the third through the twenty-first day in which the patient resides in the nursing home and needs skilled care. From the twenty-second day to the hundredth day, the patient (or the patient's family) must pay approximately \$100 per day. Medicare will pay the additional costs. The daily payment which the patient is responsible for is known as "copayment." For those lucky enough to have it, Medicare supplemental insurance (so-called "Medi-gap" insurance) will finance this copayment. However, after the hundredth day of skilled care per calendar year and illness, the patient (or the patient's family) is responsible for the entire cost of nursing home care.

## **Medicaid**

For all practical purposes, in the United States the only "insurance" plan for long-term institutional care is Medicaid. Lacking access to alternatives such as paying privately or Medicare, most people pay out of their own pockets for long-term care until they become eligible for Medicaid. Although their names are confusingly alike, Medicaid and Medicare are quite different programs. For one thing, all retirees who receive Social Security benefits also receive Medicare as their health insurance. Medicare is an "entitlement" program. Medicaid, on the other hand, is a form of welfare -- or at least that's how it began. So to be eligible for Medicaid, you must become "impoverished" under the program's guidelines.

Also, unlike Medicare, which is totally federal, Medicaid is a joint federal-state program. Each state operates its own Medicaid system, but this system must conform to federal guidelines in order for the state to receive federal money, which pays for about half the state's Medicaid costs. (The state picks up the rest of the tab.)

This complicates matters, since the Medicaid eligibility rules are somewhat different from state to state, and they keep changing. (The states also sometimes have their own names for the program, such as "Medi-Cal" in California and "MassHealth" in Massachusetts.) Both the federal government and most state governments seem to be continually tinkering with the eligibility requirements and restrictions. The rules for gaining eligibility to the program will be explained in future editions of this weekly e-newsletter. To be certain of your rights, consult an expert. He or she can guide you through the complicated rules of the different programs and help you plan ahead.

Those who are not in immediate need of long-term care may have the luxury of distributing or protecting their assets in advance. This way, when they do need long-term care, they will quickly qualify for Medicaid benefits. Giving general rules for so-called "Medicaid planning" is difficult because every client's case is different. Some have more savings or income than others. Some are married, others are single. Some have family support, others do not. Some own their own homes, some rent. Still, a number of basic strategies and tools are typically used in Medicaid planning. These will be described in future editions of this weekly e-newsletter as well.

**Editor's Note:** This article is one in a series of articles dedicated to the need for long-term care planning in a comprehensive estate plan and how to pay for nursing home care without going broke. This information is for general informational purposes only and does not constitute legal advice. Please do not rely on the limited information given here. Medicaid is a highly complex area of the law; it varies from state to state and even within a particular state. *Unfortunate and costly mistakes can be made if you do not know what you are doing.* Before taking any steps to protect assets, you are strongly urged to consult with an elder law attorney who is competent in this area of the law so that you will understand all of the ramifications of your actions, including

but not limited to property, estate, gift, and income tax; financial and estate planning considerations; and even possible *criminal sanctions*.

If you need help in planning for long-term care as part of a comprehensive estate plan or finding the right nursing home or paying for it without going broke, please give us a call. We can help.

JAMES E. BERGE, JD, CPA, LLM  
Certified Specialist – Estate Planning, Trust and Probate Law  
California State Bar Board of Legal Specialization  
1101 S. Winchester Blvd., Suite I-208  
San Jose, CA 95128-3904