



USING LEGAL AND FINANCIAL PLANNING TO GET CARE AT HOME

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LONG-TERM CARE NEEDS

- ▶ The number of people needing long-term care is growing as Baby Boomers turn age 65
- ▶ The current population of New Yorkers aged 65 and older is estimated at over 2.9 million and is expected to approach 4.4 million by the year 2040
- ▶ 52% of people turning age 65 will need some type of long-term care services in their lifetime
- ▶ The lifetime probability of becoming disabled in at least two activities of daily living or of being cognitively impaired is 68% for people age 65 and older

- AARP Public Policy Institute, Factsheet Long-term Support and Services, 2017
- Beyond 50. 2003: A Report to the Nation on Independent Living and Disability, Jan. 11, 2005, AARP



**87% of adults age 65 and older
want to stay in their current home
and community as they age.**

87%

HELPING SENIORS AGE IN PLACE

- ▶ Allowing seniors to stay comfortably at home and receive services in the community
- ▶ Aging in place may require modifications to the home: ramps, handicap accessible bathroom, monitoring devices, other assistive technology, etc.
- ▶ Caregiving provided at home – home health aides, meals on wheels, transportation to medical appointments, nursing or physical therapy
- ▶ Senior living residences, adult day programs, or assisted living facilities are also an option

ESTATE PLANNING DOCUMENTS

- ▶ Power of Attorney
- ▶ Health Care Proxy
- ▶ Will



POWER OF ATTORNEY

- ▶ Principal appoints an Agent (spouse, child, friend) to manage his/her financial, legal and personal affairs if they become incapacitated
- ▶ Executing a Power of Attorney before losing capacity can help avoid the more difficult and expensive process of obtaining Guardianship

HEALTH CARE PROXY



▶ **Health Care Proxy**

- To appoint an agent (family or friend) to make health care decisions if a person becomes incapacitated

▶ **Living Will**

- This is a separate document that can be signed separately or with a Health Care Proxy that gives the Agent an outline of the person's wishes for end of life care

LAST WILL AND TESTAMENT

- ▶ Last Will and Testament directs who receives your property after your death
- ▶ Executor – person who oversees everything, gathers assets, pays debts and then distributes balance to beneficiaries
- ▶ Probate Process – the Will must be submitted to court, appropriate people notified of the existence of the will, and if no objections the court appoints an Executor

HELPING SENIORS PLAN FOR LONG-TERM CARE

- ▶ Where do they want to live?
- ▶ Who will provide care?
- ▶ How to pay for it?
- ▶ What financial resources are available?
- ▶ What are the financial and physical resources of the family?
- ▶ What are the physical resources of the friend/family support system?
- ▶ Are they a veteran?



DEVELOPING A CARE PLAN

▶ **Desire for social interaction?**

- Friends & Family
- Community Groups/Senior Centers
- Educational Programs
- Living Communities

▶ **Community Supports & Services**

- Meals on Wheels
- Household Management/Bill Paying
- Respite Care/Adult Day Programs

DEVELOPING A CARE PLAN

What level of assistance is needed?

▶ **Activities of Daily Living (ADLs)**

- Personal hygiene
- Dressing
- Maintaining continence
- Transferring

▶ **Instrumental Activities of Daily Living (IADLs)**

- Transportation
- Shopping and meal preparation
- Finances
- Housecleaning and home maintenance
- Managing medications

COMMUNITY-BASED SERVICES

- ▶ Home Delivered Meals
- ▶ Nutrition Counseling
- ▶ Friendly home visitation/telephone reassurance
- ▶ Health Insurance Counseling (HIICAP)
- ▶ Home Maintenance Services (Umbrella)
- ▶ Personal emergency response systems
- ▶ Medication reminders & dispensers
- ▶ Low vision services (NABA)
- ▶ Adult Day Services
- ▶ Respite
- ▶ Transportation
- ▶ Case Management
- ▶ Food pantries
- ▶ Caregiver Education and Support
 - Hospice & Palliative Care
 - Physical therapy & occupational therapy services
 - Home care services

LONG TERM CARE COSTS

Home Care

- unpaid home care – spouse, children, family, friends
- paid home health aides – average cost \$30 per hour, costs vary depending on number of hours needed

Assisted Living

- costs can range from \$3,000 per month to \$8,000 per month, depending on the level of assistance needed
- For example, memory care can cost up to \$10,000

Nursing Home

- average cost is \$12,000 to \$15,000 per month

FUNDING SOURCES FOR LONG-TERM CARE

In New York, Medicaid is the primary payer for long-term care services.

- ▶ Private Pay
- ▶ Medicare
- ▶ Medicaid
- ▶ Other
- ▶ County Office for Aging
- ▶ Long Term Care Insurance
- ▶ Respite/Caregiver Support Grants
- ▶ Veterans Services



MEDICARE — WHAT DOES IT COVER?

- ▶ **Hospital Stays**
- ▶ **Short term stay in nursing home following a hospitalization**
 - First 20 days, Medicare pays 100%
 - Days 21-100, Co-Pay of \$170.50
 - No coverage after 100 days
- ▶ **Limited Home Care Coverage following a hospitalization**
 - Average 4-5 hours per week for a few weeks
- ▶ **No coverage for custodial care at home**

LTC INSURANCE — THE BASICS

- ▶ Elimination Period – 30, 60, 90 days
- ▶ Benefit Period – typically 2 to 5 years
- ▶ Eligibility to Begin Receiving Benefits
 - Need assistance with 2 out of 6 ADLs or
 - Cognitive Impairment
- ▶ Daily Benefit Amount – amount policy pays for care
 - Usually 2 rates – one if in nursing home, one if at home
 - Ex. \$300/per day benefit, limited to 50% \$150 per day for home care
 - Type of Reimbursement – cash reimbursement – cash to you – or payment directly to nursing home or provider

MEDICAID

Medicaid will cover long-term care services for people who are over age 65 and/or disabled if you meet the financial eligibility requirements

- ▶ **What does Community Medicaid pay for?**
 - Home Care
 - Adult Day Care
- ▶ **What does Institutional Medicaid pay for?**
 - Nursing Home Care

COMMUNITY MEDICAID INCOME AND ASSET LIMITS

Community Medicaid 2019 Income & Asset Levels		
	Individual Applicant	Couple
Income	\$ 879	\$ 1,287
Assets	\$ 15,450	\$ 22,800

2019 Spousal Budgeting	
Income	\$ 3,160.50
Resources	\$ 74,820

EXEMPT ASSETS



- ▶ Principal Residence
- ▶ Burial Plot
- ▶ Pre-paid irrevocable burial contract
- ▶ Life Insurance Policy with a face value up to \$1,500
- ▶ One automobile
- ▶ Retirement Accounts in Periodic Payment Status

FINANCIAL ELIGIBILITY FOR MEDICAID

What if their income or assets are too high?

Assets

- Transfers of assets
- Irrevocable Trust
- Transfers to Spouse
- Spousal Refusal
- Spend down assets

Income

- Excess income – Medicaid spenddown
- Pooled Supplemental Needs Trust

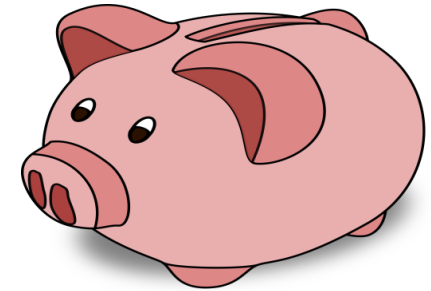
TRANSFERRING ASSETS TO QUALIFY FOR CHRONIC CARE MEDICAID

- ▶ There is a 5 year lookback period for transfers of assets for a nursing home application
- ▶ Any transfers for no consideration – gifts – are counted
- ▶ A penalty period is calculated based on the amount of transfers during the lookback period
- ▶ During the penalty period you are ineligible for Medicaid benefits for nursing home

TRANSFERRING ASSETS TO QUALIFY FOR COMMUNITY MEDICAID

- ▶ There is **no lookback period** when you apply for Community Medicaid
- ▶ You can transfer assets to a trust this month, and then apply for Community Medicaid next month with no penalty

IRREVOCABLE TRUSTS



- ▶ An Irrevocable Trust can be used to protect your assets and pass them to your children, if you plan far enough in advance.
- ▶ The trust must be created and funded 5 years before you need to apply for Chronic Care Medicaid to avoid the lookback period for nursing home care, then after 5 years have passed, the assets in the trust are exempt for Medicaid purposes for a nursing home
- ▶ Immediate eligibility for Community Medicaid
- ▶ If properly established, you can apply for Medicaid and the assets in the trust will not be counted or have to be spent down for Medicaid eligibility purposes

IRREVOCABLE TRUSTS

For the trust to qualify to protect your assets:

- **Trustee** – cannot be you or your spouse – can be children or other relatives. You reserve the right to change the trustee.
- **Trust Income** – you receive all the income from the trust
- **Principal Residence** – you maintain a life estate in your house
- **Trust Principal** – You cannot receive principal distributions from the trust (unless you do a Partial Revocation of Trust)
- **Upon your death** – trust assets go to your beneficiary/s

FUNDING YOUR IRREVOCABLE TRUST

▶ **What assets should be placed in a trust?**

- Home
- Stocks
- Bonds
- Investment accounts
- Life Insurance with Cash Value
- Extra Savings, Money Market or CDs

▶ **What assets to keep out of a trust?**

- Checking account
- Money to live on, fun money, walking around money

TYPES OF COMMUNITY MEDICAID

- ▶ **Waiver Programs – includes oversight and monitoring**
 - Nursing Home Transition Diversion (NHTD)
 - Traumatic Brain Injury (TBI) Waiver
- ▶ **Managed Long Term Care – task-based services**
 - Personal Care Assistant (PCA)
 - Consumer Directed Personal Assistance Program (CDPAP)

COMMUNITY MEDICAID APPLICATION PROCESS

- ▶ Apply for Medicaid – meet income and asset guidelines
- ▶ Get approved for Medicaid
- ▶ Get a “Conflict Free” Assessment to see if you are eligible
 - To determine that you require at least 120 days of Community Based Long Term Care Services
- ▶ Enroll in a Managed Long Term Care Company “MLTC” **or**
- ▶ Enroll in the Nursing Home Transition Diversion Waiver
 - ***Both MLTC and NHTD require additional intakes to determine number of hours that you will qualify***

HOW TO QUALIFY FOR MEDICAID WITH EXCESS INCOME (SPEND-DOWN)

Options to spend-down excess monthly income:

1. Send excess income to Medicaid each month
2. Spend-down excess income on qualified medical expenses
3. People with disabilities and disabling chronic conditions can deposit excess monthly income into a Pooled Supplemental Needs Trust (SNT) and use that money to pay bills and other expenses not covered by Medicaid

COMMUNITY MEDICAID INCOME LIMITS

“Income received by an individual and placed into a pooled SNT in the same month will be disregarded for Medicaid eligibility purposes.”

▶ **2019 NY Medicaid Income Limits**

- Individual - **\$859/month (+\$20)**
- Couple - **\$1,267/month (+\$20)**
- Spousal - **\$3,160.50/month**

▶ **2019 NY Medicaid Resource Limits**

- Individual - **\$15,450**
- Couple - **\$22,800**
- Spousal - **\$74,820**

Examples of Monthly Income:

- Social Security
- Pension
- Alimony
- IRA Distributions

POOLED TRUST OVERVIEW

- ▶ Must have a qualifying disability to spend-down using a pooled trust
- ▶ Trustee is a not-for-profit organization and a financial institution serves as co-Trustee
- ▶ Funds are pooled for investment and management purposes
- ▶ Activity is tracked individually in sub-trust accounts
- ▶ Inexpensive and easy to establish quickly
- ▶ Trust deducts monthly administrative fees from spend-down
- ▶ Trust is irrevocable and must terminate upon death of beneficiary
- ▶ Under Federal statute, upon the death of the beneficiary any funds not retained by the trust must go to the State(s) that provided Medicaid services

HOW TO OBTAIN A DETERMINATION OF DISABILITY

- ▶ County DSS will ask for proof of disability to spend-down using a Pooled Trust
- ▶ Show proof with an award letter for either SSDI or SSI benefits
- ▶ If the beneficiary does not receive these benefits or has not otherwise been deemed disabled, he or she will need to obtain that determination
- ▶ Forms are available on www.health.ny.gov and include:
 - [LDSS-486T Medical Report](#) – completed by a doctor describing disability
 - [LDSS-1151 Disability Questionnaire](#) – completed by beneficiary, caregiver, or other advocate
 - [LDSS-1151.1 Disability Questionnaire Continuation Sheet](#)

NORMA NEEDS MEDICAID

- ▶ Norma is 80 years old and recently moved in with her daughter when she was diagnosed with Alzheimer's disease
- ▶ She had a fall recently and was placed in a skilled-nursing facility for short-term rehabilitation
- ▶ To transition back home, she is applying for Medicaid to assist her with activities of daily living and to cover her other long-term care needs
- ▶ She has too much monthly income to qualify for Community Medicaid, but not enough to private pay for home health aids

HOW IT WORKS?

1. Transfer/protect 'resources' through planning solutions
2. Obtain determination of disability from DOH
3. Apply for Medicaid – may take up to 3 to 6 months
4. Apply for pooled trust – you can apply and open a pooled trust within a week
5. Deposit monthly surplus income (NAMI) into pooled trust
6. Medicaid covers amount of care per assessed need
7. Funds in the pooled trust will pay for living and other expenses

* ***The order of these steps may vary***

USING A POOLED TRUST FOR INCOME SPEND-DOWN

Norma's total monthly income:	\$1,954
Medicaid Income Limit:	<u>- \$879</u>
Excess monthly income (spend-down)*	= \$1,075
Administrative fee	<u>- \$75</u>
Funds left in the trust to pay bills	= \$1,000

After the monthly administrative fee, Norma will have around **\$1,000** in her trust account to pay bills and other expenses

****Excess monthly income is determined by Medicaid***

TRUST ADMINISTRATION

- ▶ **All disbursements must be for primary benefit of the trust Beneficiary**
- ▶ **Trust funds are intended to supplement, not replace, what is available to a person through government benefits by paying for goods and services a person's benefits do not provide**
- ▶ **Disbursements are paid directly to third parties (to reimburse individuals or to pay a licensed business)**
- ▶ Disbursements must be substantiated by supporting documentation (receipts, invoices, bills, etc.)
- ▶ Administrative and investment management fees charged monthly – fee structures vary by trust
- ▶ Electronic deposits and automatic payments can automate the process
- ▶ Pay bills on a credit card to maintain financial independence

WHAT CAN A POOLED TRUST PAY FOR?

For a person receiving Community Medicaid, the trust will typically pay for living expenses, such as:

- Rent or mortgage, property maintenance, and taxes
- Utility bills, cable, phone, etc.
- Transportation/Vehicle expenses/Insurance (owned by Beneficiary)
- Groceries, clothing, and other personal needs
- Uncovered Medical Expenses/OTC items
- Additional hours for home health aids not covered by Medicaid
- Irrevocable pre-need funeral arrangement
- Entertainment/Recreation

TYPES OF DISBURSEMENT REQUESTS

Submit a bill/receipt to pay a third party directly

- Rent/Mortgage, Utility Bill, Loan Payment, Insurance Premium, Newspaper/Magazine subscription, etc.

Submit a receipt to reimburse an individual

- Groceries, clothing, or other store purchases

Make purchases using a credit card

- Submit Credit Card bill and itemized receipts for purchases the trust will pay

Quote/Invoice for service or purchase

- Assistive technologies, furniture, computer, home repairs, etc.

BENEFITS OF A POOLED TRUST

- ▶ Qualify and maintain eligibility for Community Medicaid to get health care benefits and long-term care services, like home care without a complete loss of resources and financial independence
- ▶ Utilize excess funds for living expenses and to enhance quality of life
- ▶ Maintain comfort and independence in the community - get needed care at home and avoid a nursing home
- ▶ Helps people transition home following short-term rehabilitation
- ▶ Benefits can provide helpful relief for family caregivers

QUESTIONS? CONTACT US!



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