

Keeping Mom (or Dad) at Home

How to Pay for Aging In Place

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Client Preferences

- ▶ Clients prefer to age in place at “home.”
 - The AARP reports that 90% of seniors prefer to live at home.
 - Even when they need care, 82% prefer to remain at home.
 - The most often cited reason is living by their own rules.
- ▶ Clients prefer for their Elder Law attorney to develop a plan centered on Aging at Home.

Senior Housing Options

- ▶ Private Residence
 - Most private residences will require modifications when clients suffer from poor eye sight, balance or flexibility.
 - Obtain an assessment of needed modifications from a certified Geriatric Care Manager.
- ▶ Independent and Assisted Living
 - Apartment–style living, condominiums, or stand alone homes.
 - Specialized settings for memory and dementia care.
- ▶ Continuing Care Retirement Community (CCRC)
 - Independent, Assisted Living, and Skilled Nursing.
 - Entrance Fees and Monthly Fees.

Statistics for In Home Care

- ▶ U.S Department of Health & Human Services
 - In Home:
 - Average Duration – 2 years
 - Probability – 65%
 - Assisted Living Facility
 - Average Duration – Less than one year
 - Probability – 13%
- ▶ Remember that many people will need care for more than the average duration.
 - One of my family members needed care for 14 years.

Cost of In Home Care

- ▶ Genworth Cost of Care Study for Virginia – State Median
 - Home Health Aide (44 hours per week for 52 weeks per year) – \$43,500 per year.
 - Cost will vary based on use of agency or private employee/independent contractor
 - If private hire, use written agreement & comply with tax & employment laws. See <https://www.carefamily.com/>
 - Adult Day Care (5 days per week for 52 weeks per year) – \$17,000 per year
 - Assisted Living Facility (private, one bed room) – \$43,000 per year

Options for Payment of in Home Care

- ▶ **Medicaid**
 - Home and Community Based Care (“CBC”) Waivers
 - PACE
- ▶ **Veterans Administration (VA) programs**
- ▶ **Private Resources**
 - Investments & Income
 - Reverse Mortgage
 - Long-term Care Insurance Policy
 - Life Insurance
 - Negative Inheritance (filial support obligation)

Medicaid

- ▶ Home and Community Based Care
 - Non-financial requirements
 - Citizenship, Residency, Aged/Blind/Disabled;
 - Financial requirements
 - Income – 300% of the current SSI payment standard for one person (currently \$2,199).
 - Assets – Less than \$2,000 in countable resources.
 - Transfer penalties; and
 - Medical requirements
 - Must meet Nursing Home level of care criteria as determined by a Uniform Assessment Instrument (UAI) screening.

Medicaid continued

- ▶ Elderly or Disabled with Consumer Direction Waiver (EDCD Waiver)
 - Targeted Population: Age 65 and over OR disabled.
 - Income – If income exceeds 300% SSI, month-to-month spenddown available.
 - Services Available:
 - Adult day health care;
 - Agency-Directed and Consumer-Directed personal care;
 - Agency-Directed respite care (including skilled respite) and Consumer-Directed respite care;
 - Personal Emergency Response System (PERS).

Medicaid continued

- ▶ Intellectual Disabilities / Mental Retardation Waiver (ID/MR Waiver)
 - Targeted Population
 - Individuals with diagnosis of an intellectual disability or mental retardation;
 - Individuals under the age of six who are at developmental risk and who have been determined to require the level of care provided in an ICF/MR (intermediate care facility for the mentally retarded). At age six, these individuals must be determined to be intellectually disabled or mentally retarded in order to continue to receive CBC waiver services.

Medicaid continued

- ▶ Intellectual Disabilities / Mental Retardation Waiver (ID/MR Waiver) cont.
 - Individual's need determined by local Community Mental Health Services Board (CSB) or Department of Rehabilitative Services (DRS).
 - Income – If income exceeds 300% SSI, the individual is not eligible for services under this waiver and no month-to-month spenddown is available.
 - Services Available:
 - Day support;
 - Supported Employment;

Medicaid continued

- ▶ Intellectual Disabilities / Mental Retardation Waiver (ID/MR Waiver) cont.
 - Services continued:
 - Residential Support;
 - Therapeutic consultation;
 - Agency–Directed and Consumer–Directed Personal Assistance Services.
 - Agency–Directed and Consumer–Directed Respite Care;
 - Nursing services;
 - Environmental modification;
 - Assistive Technology;

Medicaid continued

- ▶ Intellectual Disabilities / Mental Retardation Waiver (ID/MR Waiver) cont.
 - Services continued:
 - Agency-Directed and Consumer-Directed Adult Companion Services;
 - Crisis Stabilization;
 - Prevocational services; and
 - Personal Emergency Response System (PERS).

Medicaid continued

- ▶ Technology–Assisted Individuals Waiver
 - “Technology–Assisted” means any individual defined as chronically ill or severely impaired who needs both a medical device to compensate for the loss of a vital body function and substantial and ongoing skilled nursing care to avert death or further disability.
 - Targeted Population:
 - Individuals who need both 1) a medical device to compensate for the loss of a vital body function and 2) substantial and ongoing skilled nursing care.

Medicaid continued

- ▶ Technology–Assisted Individuals Waiver cont.
 - Eligibility Rules:
 - Has a live–in primary care giver who accepts responsibility for the individual’s health and welfare.
 - Is not receiving services in a general acute care hospital, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded.
 - Is not residing in a board and care facility or adult care residence.
 - Income – If income exceeds 300% SSI, individual treated as though residing in a medical institution.

Medicaid continued

- ▶ Technology-Assisted Individuals Waiver cont.
 - Services Available:
 - Private duty nursing;
 - Respite care;
 - Nutritional supplements; and
 - Medical supplies and equipment not otherwise available under the Medicaid State Plan.

Medicaid continued

▶ Day Support Waiver

- Targeted Population – Only those individuals on the urgent and non-urgent waiting lists for the ID/MR Waiver are considered for this waiver.
- Income – If income exceeds 300% SSI, the individual is not eligible for services under this waiver and no month-to-month spenddown is available.
- Services Available:
 - Day support and Prevocational services.
- Need determined by the local CSB or Virginia Department of Behavioral Health Developmental Services (DBHDS).

Medicaid continued

- ▶ Alzheimer's Assisted Living Waiver (AAL)
 - Targeted Population
 - Auxiliary Grant (AG) recipients;
 - Have a diagnosis of Alzheimer's or a related dementia or no diagnosis of mental illness or mental retardation; and
 - Age 55 or older.
 - Eligibility follows Auxiliary Grant covered group and applicants are not determined as institutionalized individuals.
 - There are no post-eligibility requirements.

Medicaid continued

- ▶ Alzheimer's Assisted Living Waiver (AAL) cont.
 - Services Available:
 - Assistance with activities of daily living;
 - Medication administration by licensed professionals;
 - Nursing services for assessments and evaluations;
 - Therapeutic social and recreational programming which provides daily activities for individuals with dementia.

Medicaid continued

- ▶ Individual and Family Developmental Disabilities Support Waiver (DD Waiver)
 - Targeted Population:
 - Individuals with a diagnosis of developmental disability attributable to cerebral palsy, epilepsy or autism, or
 - Any condition other than mental illness, found to be closely related to mental retardation.
 - The developmental disability must have been manifested prior to the individual reaching age 22 and must be likely to continue indefinitely.
 - Income – If income exceeds 300% SSI, the individual is not eligible for services under this waiver and no month-to-month spenddown is available.

Medicaid continued

- ▶ Individual and Family Developmental Disabilities Support Waiver (DD Waiver) cont.
 - Services Available:
 - Support coordination (case management);
 - Adult companion services;
 - Assistive technology;
 - Crisis Intervention/Stabilization;
 - Environmental modifications;
 - Residential support;
 - Skilled nursing;
 - Supported employment;
 - Therapeutic consultation;

Medicaid continued

- ▶ Individual and Family Developmental Disabilities Support Waiver (DD Waiver) cont.
 - Services Available cont.:
 - Respite Care;
 - Personal attendant services; and
 - Consumer-directed personal and respite care.

Medicaid continued

- ▶ Spenddown for Patients Receiving CBC with income in excess of 300% SSI
 - Meets definition of “institutionalization” when he is screened and approved for Medicaid waiver services AND the services are being provided.
 - Only eligible AFTER he meets the monthly spenddown.
 - Determinations are made monthly, retrospectively, after the month has passed, and the expenses have actually been incurred.

Medicaid continued

- ▶ Spenddown cont.

- Calculate monthly spenddown

Total GROSS Income	\$2,305.90
–\$20.00 general exclusion	–\$20.00
=Countable Income	= \$2,285.90

Total Countable Income	\$2,285.90
–Medically Needy Income Limit for Group I, II, III	–\$352.03 (Group II)
=SPENDDOWN LIABILITY	= \$1,933.87

Medicaid continued

▶ Spenddown continued

◦ Calculate Private Cost of Care

- If spenddown liability $<$ Private Cost = ELIGIBLE
 - Full-month of coverage begins 1st of the month and ends the last day of the month.
- If spenddown liability $>$ Private Cost = Continue to deduct allowable incurred expenses
 - Old bills;
 - Carry-Over expenses; and
 - Medical/remedial care expenses.
 - Once spenddown met, full-month of coverage begins 1st of the month and ends the last day of the month.

Medicaid continued

- ▶ PACE (Program of All-Inclusive Care for the Elderly)
 - Community – based alternative to institutional long-term care.
 - Empowers participants to remain in their homes.
 - Target population:
 - Age 55 or older;
 - Reside in PACE service area;
 - In need of nursing home level of care; and
 - Able to live safely in the community with help.

Medicaid continued

- Non-financial requirements.
 - Follows basic Medicaid requirements
 - Citizenship, Residency, Aged/Blind/Disabled;
- Financial requirements.
 - Very similar to other Long-Term care programs
 - Income, Assets, Transfer penalties; and Patient Pay Liability
- Medical requirements.
 - Must meet Nursing Home level of care criteria as determined by a Uniform Assessment Instrument (UAI) screening.

Medicaid continued

- Services provided
 - Adult Day Primary Care.
 - Medical services, recreational therapy.
 - Most medical services provided on site at the PACE Center.
 - Transportation to and from PACE Center.
 - Respite care.
- Benefit received
 - Remain in own home with familiar surroundings.
 - Maintain community connections.
 - Continuity of daily routine.
 - Respite for primary caregivers.

Veterans Administration (VA) Programs

- ▶ Aid & Attendance Pension and Housebound Pension
 - Non-financial requirements.
 - 90 days active duty (at least 1 day during a period of war), honorably discharged, 65 or older OR totally disabled;
 - Financial requirements.
 - Asset restrictions, Income means test.
 - Medical requirements.
 - Physician Affidavit and medical expenses.
 - Benefit received.
 - Monthly payment based on status of applicant (veteran, veteran with dependent, surviving spouse).

Private Resources

- ▶ Investments & Income.
- ▶ Reverse Mortgage.
- ▶ Long-term Care Insurance Policy.
- ▶ Life Insurance.
- ▶ Negative Inheritance (filial support obligation).

Investments & Income

- ▶ Use available excess income.
- ▶ Kiplinger – Without LTCI, a couple should reserve \$200k to \$400k (depending on income and projected length of care) to pay LTC expenses.
 - Morningstar – only 44% of seniors have liquid assets of \$100,000 or more.
- ▶ Investments to pay for LTC should be in a conservative asset allocation.
 - However, there is a danger from the high rate of inflation for LTC expenses.
- ▶ Income tax deduction for payment of Qualified LTC services expense – See IRS Pub 502.

Reverse Mortgage

- ▶ Borrower (s) are loaned a percentage of home value based upon age.
- ▶ No payments required while borrower resides in residence.
- ▶ Loan is FHA Insured – Non–recourse loan.
- ▶ FHA now requires use of CREDIT and INCOME as part of the qualifying process.
- ▶ Closing costs – Avg. 3–5% of value
- ▶ Must be the primary residence if more than one home is owned.

Long-term Care Insurance

- ▶ National Bureau of Economic Research – Only 10% of seniors own LTCI, which pays only 4% of LTC expenses.
- ▶ Types of Policies
 - Traditional
 - Monthly premium payments.
 - LTCI Partnership Plans.
 - Hybrid
 - Life Insurance + LTC benefits.
 - Annuity + LTC benefits.
 - Typically one large single premium payment.
 - Policy benefits will always be paid.
- ▶ Concerns about using LTCI
 - Affordability.
 - Pre-existing conditions.

Life Insurance

- ▶ Accelerated Death Benefits
 - Rider that permits withdrawal of death benefits during lifetime for extended LTC expenses.
 - Typically 2% of Death Benefit per month limit.
 - Not all Life Insurance policies have this rider.
- ▶ Life Settlements
 - Sale of policy for a % of death benefit.
 - Possibly taxable.
- ▶ Viatical Settlements
 - Sale of policy by terminally ill insured.
 - Tax free.

Negative Inheritance

- ▶ Negative Inheritance occurs when the children of a senior:
 - Pay for the senior's long term care expenses.
 - Leave employment to provide long term care to their parent.
- ▶ Obligation of support of parents by children (filial support law) – Virginia Code §20-88.

Elder Law is Changing

- ▶ Financial Planners, Accountants, Social Workers, and Geriatric Care Managers are providing many of the services traditionally provided by Elder Law attorneys.
- ▶ The Internet is having a **DRAMATIC** effect. See use of IBM Watson on <https://carefamily.interactiveplanning.com/>
- ▶ Consider comprehensive professional services.
- ▶ Efficiency and Project Management are **ESSENTIAL**.

Conclusions

- ▶ Comprehensive Prior Planning with a professional is essential to good quality Long Term Care at home.
- ▶ Include Social Work, Financial and Legal planning in the LTC plan.

Appendix

- ▶ Virginia Medicaid Manual Sections for Community–Based Care Waiver Services and Covered Services
- ▶ Virginia Medicaid Manual Section for Spenddown For Patients Receiving CBC
- ▶ Virginia Department of Medical Assistance Services Patient Pay Fact Sheet 2015
- ▶ Virginia PACE Fact Sheet
- ▶ PACE Sites in Virginia
- ▶ States that offer PACE
- ▶ Elder and Disability Planning: Help Clients Assess Alternatives to Nursing Home Care by Laura T. Tetrault and William J. Brisk; published February 3, 2015

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