

## Caring for Ailing or Aging Parents: Personal and Financial Ramifications

By Hyman G. Darling, Esq.

### KEY CONCEPTS

- Caring for aging parents is often difficult, but it can also be very rewarding, to give back to parents all that they gave to their children.
- Professional support from a geriatric care manager or a case manager to coordinate necessary health care services can help siblings plan properly for their parents' needs.
- Eligibility for long-term care benefits are defined by state laws and federal regulations and usually require a 5-year waiting period, during which time assets can be depleted, unless long-term care insurance has been secured.

**W**hile caring for a parent is often a difficult job, it can potentially be a rewarding experience that provides the opportunity to give back all of the care and nurturing the parent provided. While the situation may be difficult, caring for a parent may be regarded as a challenge with positive rewards. It is an opportunity to offer care, love, and affection, and to grow in positive ways that might not otherwise be possible.

If a situation arises in which a parent needs care, adult children should begin planning as soon as possible to assess the needs of all parties involved. This includes communication among siblings so they are all on the same page. For example, a sibling may mistakenly perceive the caretaker to be taking "advantage" of the parent because of financial compensation. This is a very real possibility if a parent needs around-the-clock care at home.

Often caregiver children are forced to take a leave of absence under the Medical Leave Act or even terminate a job

to stay home and care for their aging or ailing parent. Vacations may have to be postponed, and respite care may be needed for the ailing parent if the caretaker children need to attend an important family function, such as a graduation or wedding.

To plan properly, caretaker children will probably need the input of a geriatric care manager, who will provide professional support and will suggest and coordinate services as necessary. The focus will have to be on the parent's needs to assure that no third party will be in a position to criticize the services provided, such as hygiene, dietary needs, or medical needs. However, even the best laid plans are not as successful as anticipated, and therefore, backup plans are essential. Examples are day care, permanent institutionalization, or perhaps moving a parent to the home of another sibling. If possible, all children should share in the parental care process.

Support for caregivers is also important so that they do not "burn out" when a parent's medical needs progress and additional services are required. Caregivers may need counseling, especially if a parent has dementia or another memory-related disease. There are many good support groups that can help caregivers deal with the ongoing issues, thereby preserving their own mental health.

Needless to say, it is easy to suggest that adult children should take care of their parents, but it is not appropriate for all families. So planning must occur early in the process to assure the best possible chance of success.

Caretaker children often feel additional stress caused by the overwhelming burden of paying for long-term care in the event that their parent must be placed in a nursing home. It is heart-

breaking to contemplate the reality that a lifetime of savings may be wiped out by long-term care expenses. In an attempt to retain accumulated wealth, many people are tempted to transfer assets as soon as illness strikes, but that is not necessarily an effective means of securing family assets.

Now that the Deficit Reduction Act has been in existence almost 2 years, most states have enacted regulations or laws that define the extended waiting period for long-term care benefits paid by the State. Regardless of the value or intention of gifts, in many cases, a 5-year waiting period for eligibility for Federal and State long-term care benefits remains a concern for most individuals who have assets that must be used for their care, even if the assets have been gifted within the previous 5 years. To protect a parent's assets long-term care insurance can be purchased. This covers the cost of a nursing home or in-home care in the unfortunate event that parents require these services.

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### About the Author

Attorney, Hyman G. Darling, is chairman of Bacon & Wilson, P.C.'s Estate Planning and Elder Law Departments, and he is recognized as the area's preeminent estate planner. His areas of expertise include all areas of estate planning, probate and elder law. Darling is a past president of the Hampden County Bar Association, he teaches elder law at Bay Path College and is an adjunct professor at Western New England College School of Law – LLM program, teaching elder law. He is a frequent lecturer on various estate planning and elder law topics at both the local and national levels, and he hosts a popular estate planning blog at [http://bwlaw.blogs.com/estate\\_planning\\_bits](http://bwlaw.blogs.com/estate_planning_bits).

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care insurance is that parents will not have to give away their assets until they need services or become incapacitated. Then, presuming they have a policy that provides at least 5 years of coverage, they may gift their assets upon entering a nursing home. Their care will be covered by their insurance company for the 5-year look-back/waiting period, and upon termination of that coverage, they will most likely qualify for Medicaid. In the event that a parent is not able to make the gift at the time of institutionalization, his or her attorney-in-fact, who is the person named under the durable power of attorney, will have the authority to make gifts and transfers on the behalf of the parent.

The benefits that should be considered when coaching parents about the purchase of a long-term care insurance policy is determined by their income, tolerance for paying premiums, and the value of the assets they want to preserve. In several states, there is a so-called "partnership" plan, which means that with minimum coverage, such as \$200,000, they will be able to maintain \$200,000 worth of assets without any penalty or waiting period.

In Massachusetts, if a certain minimum coverage is maintained at the time of institutionalization, then assets such as a parent's home may be protected regardless of the value, providing that the coverage at the time of institutionalization meets the requirements of the State Medicaid office. Long-term care insurance should be considered a requirement similar to life, homeowner's, and disability insurance. It is very important that a parent's financial situation be reviewed carefully to assure that the proper amount of coverage is purchased. This will bring peace of mind to both children and their parents. ■