



December 2010

## Plan Now to Avoid Paying Nursing Home Costs

*By Gina M. Barry, Esq.*

You have spent the majority of your life working and building your nest egg so that your retirement will be well funded. Unfortunately, retirement comes at a time when the possibility of catastrophic illness is more likely.

Of all Americans aged 65 or older, approximately 43% will enter a nursing home during their lifetime. Given that the average yearly cost of nursing home care is \$100,000 and that the average stay will last 2 ½ years, planning for this need is crucial, as long term care costs will deplete your nest egg at an alarming rate. Planning ahead will mean the difference between spending your nest egg to finance your care and preserving your nest egg for your family.

Long term nursing home care is not paid for by Medicare or Medicare Supplemental Insurance. While Medicare may provide benefits for a short time period, once Medicare benefits end, the nursing home resident must find another source of payment. Medicaid benefits are available to help pay for nursing home care, but they are only available once eligibility requirements, which include strict asset limits, have been met.

Recent changes in Medicaid law have significantly reduced last

minute asset protection opportunities. While there are still a few beneficial options available if you fail to plan ahead, they apply only in very specific situations and are not commonly available. The only surefire way to maximize the assets protected for your family is to begin planning at least five (5) years prior to a nursing home admission.

Assuming that five (5) years will pass before your admission to a nursing home, a gifting plan may be considered. When applying for Medicaid benefits, MassHealth will look at the five (5) year period immediately preceding the application to determine if you made any gifts. If gifts are found within this time period, a penalty period will be assessed, during which time MassHealth will not pay any Medicaid benefits on your behalf.

If at least five (5) years and one (1) day have passed since the date of the gift, under the current rules, the gift will not need to be reported when applying for benefits. Hence, no penalty period will be assessed. A gifting plan may consist of outright gifting, usually to your children, or gifting to an irrevocable trust that can continue to provide you with income until you pass away. There is danger involved in gifting as you may be admitted to the nursing home prior to the expiration of the five (5)

year period. You must plan for this possibility before beginning any gifting. Gifting may also have serious tax consequences that should be discussed before proceeding.

You might also consider purchasing assets that will not count toward the asset limit for Medicaid benefits. Non-countable assets presently include an irrevocably prepaid funeral, a burial account of no more than \$1,500, a car, and in some cases, a home. The payment of outstanding debts, such as a mortgage or credit card balances, can also be beneficial in some cases.

If you are presently being cared for by one of your children, you might consider establishing a paid care agreement with your child. Rather than gifting assets, you pay your child for the care provided to you according to the terms of the agreement. As you pay for care, you are spending down your assets to purchase the services, as opposed to gifting the assets, and you are also benefiting your child by providing your child with additional income. These agreements must be reasonable and fair to you and your caregiving child.

Aside from planning for Medicaid benefits, obtaining long term care insurance can alleviate the draining

of assets and provide increased financial stability. Long term care insurance will pay for long term nursing home care according to the benefits purchased. A wide range of policies is available, including unique combinations of benefits and pricing structures. Some policies will pay for assisted living, home health care expenses and geriatric care management, thus increasing one's long term care options. Some policies provide that if long term care benefits are not used, the premium may be refunded as a death benefit. In order to purchase long term care insurance, you must be insurable, which means that you do not have a

health condition that would prevent the insurance company from providing you with insurance.

The planning strategies mentioned in this article are extremely complex. This article is intended to raise awareness of possible planning opportunities, but a full discussion of the pros and cons of each possibility has not been provided. If you are concerned about protecting assets, it is highly recommended that you seek the advice of an elder law professional before you take any further steps. Do so now to avoid paying later.

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