



May 2012

## Staying at Home – Considerations for Elders and Their Caregivers

*By Gina M. Barry, Esq.*

Many elders live independently and fiercely guard their independence. When additional care becomes necessary to keep the elder healthy and safe, these elders prefer to stay in their home instead of moving to a retirement community, assisted living facility or even a nursing home. Staying at home often means being at a distance from the primary caregiver. Although staying at home creates many hazards, steps can be taken by the elder and the caregiver to avoid the many medical, legal and financial issues that surround aging in place.

Caregivers, and especially long distance caregivers, should seriously consider hiring a geriatric care manager. A geriatric care manager is a health care professional with training in gerontology, social work and nursing. In most cases, the geriatric care manager will conduct an assessment of the elder and develop an individualized care plan. In the long distance caregiving situation, the geriatric care manager will act as a liaison for the caregiver. Here, the geriatric care manager will oversee the

elder's care, providing a report to the caregiver at regular intervals and alerting the caregiver to any potential problems. The geriatric care manager's additional oversight not only provides peace of mind for the caregiver, but also protects the long distance caregiver from claims that he or she is not conscientiously carrying out his or her duties due to the distance and resulting lack of personal oversight.

Many times, caregiving is interrupted when the elder has not established an effective estate plan. The most common legal issue confronting caregivers is lack of authority to handle financial and medical decisions if the elder becomes incapacitated. By executing a Durable Power of Attorney and Health Care Proxy, the authority to make financial and medical decisions can be granted to the person that the elder chooses. The caregiver should also be sure to discuss end of life decisions with the elder and ensure that the elder's wishes are memorialized in writing within the proper legal document.

Another issue that causes a great deal of stress and concern is determining how the elder will pay for the increased care. Occasionally, the elder has enough resources to privately pay for the care or can access the benefits provided by a previously purchased long term care insurance policy. More frequently, the elder expects that public benefits (Medicaid) will pay for the additional care. In Massachusetts, there are approximately fourteen (14) different MassHealth programs that can provide some level of care at home or in assisted living facility. Each community program has its own set of income and asset limits.

If there is any possibility that the elder will relocate to another state, it is imperative to consider the regulations in both states when planning. Aside from differences in each program, each state has different regulations with regard to obtaining approval for public benefits. There are vast differences between the states as to various issues, including but not limited to asset and income limits, the effect of long term care

insurance and the effect of gifts. In addition, you will find variation in each state's estate recovery rules, which are the rules that allow the state to recover an amount equal to the benefits paid for care from the estate of a recipient who has passed away. Here, proper planning can ensure that benefits will be obtained as efficiently as possible while minimizing the exposure of the elder's estate to recovery efforts.

In some cases, it may be possible to obtain an Aid and Attendance Pension through the U.S. Department of Veterans Affairs ("VA"). There are various eligibility requirements, including the time and type of military service that must have been completed as well as asset and income limits. An Aid and Attendance Pension is available for qualifying veterans and their

spouses who require assistance with their activities of daily living, such as bathing, eating, dressing transferring or toileting or who are blind or nearly blind. An excellent feature of the Aid and Attendance pension is that it can be used for any type of chronic care provider, including home care services, assisted living facilities, adult day care or skilled nursing facilities. It is important to work with someone who is accredited by the VA to assist with the application process when seeking to access this benefit.

Successfully staying at home when care needs increase requires proper planning and ongoing management of the various issues that will continually arise. Although staying at home presents many medical, legal and financial hazards, hiring

professionals in the elder's area, the caregiver's area, or both, can make for safe passage. With proper planning and advice, most elders can successfully stay at home.

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