The Caregiver's Guide to

# MEDICAID & LONG-TERM CARE PLANNING

IN MARYLAND

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Your parents have worked hard to ensure that they have the financial security they need during their golden years. In addition, they've proactively planned for the curve balls that life may throw at them in the future. However, sometimes the best laid plans may not be enough to prepare your loved ones for the unexpected costs associated with long-term care. That's okay! At McDonald Law Firm, we're here to help you consider the key aspects of long-term care. If you have questions that are not answered below, simply give us a call at (443) 741-1088 to schedule a consultation.

# What is Long-Term Care?

In layman's terms, long-term care (LTC) is a wide range of services and support an individual may need to meet their personal care needs. For the most part, long-term care is not medical care, but rather assistance with the Activities of Daily Living (ADL) or basic personal tasks of everyday life. Long-term care encompasses ADLs such as: bathing, dressing, eating, transferring to or from a bed or chair, using the toilet, and caring for incontinence (the inability to maintain control of one's bowel or bladder functions).

# How Likely Will My Parents Need Long-Term Care?

Very Likely! Most American believe that they will not need long-term care assistance during their lifetimes. However, there are several important factors that can help in determining how likely your parents will need long-term care at some point in their life. An individual's personal risk of needing long-term care depends on the following factors:

(a) *Life Expectancy* – Is there a history of your parents' family members living long lives? The longer your parents live, the more likely they will need long-term care assistance.

- (b) *Support System* Are your parents married? If your parent has a spouse, partner, family, and/or friends nearby, they are more likely to have informal care available at home if it becomes necessary.
- (c) *Gender* Women are more likely to provide LTC assistance for their spouses, friends, or other family members, and are also more likely to be single and living alone by the time they require LTC assistance. The duration and level of long-term care varies from individual to individual and the level of care also changes overtime.
- (d) *Health* Is there a history of chronic illnesses in your parents' family? If your parents have been diagnosed with or treated for certain chronic illnesses (i.e., heart disease, cancer, and/or diabetes), they may be at greater risk of needing long-term care services than another person of the same age and gender without a chronic illness. Chronic illness increases one's chances of needing LTC assistance.

The following is some food for thought:

- If your parent(s) is 65 or older, there is almost a 70 percent probability that s/he may need some form of long-term care service and support in their remaining years.
- In comparing the genders, women require long-term care assistance longer than men 3.7 years compared to 2.2 years, respectively.
- Twenty percent of today's 65-year-old consumers will need LTC assistance for longer than 5 years.

# **How Can My Parents Pay for Long-Term Care?**



There are a wide range of long-term care services available to seniors; likewise, there is a wide range of costs associated with these services. While some seniors may qualify for Medicaid to help pay for their long-term care services, most people use a variety of options, including long-term care insurance, private pay (personal income and savings, life insurance, annuities, and a reverse mortgage), or Veterans

Pension Benefit to pay for long-term care services. Below is a list of several options for paying for long-term care:



(a) *Medicaid* – Medicaid is a joint state and federal program that pays for long-term nursing home care and home care for people who cannot afford to pay for their own care. In Maryland, Medicaid is known as the Maryland Medical Assistance Program. In addition to paying for the cost of care for an institutionalized individual, Medicaid also protects spouses who would otherwise

become impoverished because of the cost of long-term care. It does this by safeguarding a significant part of the couple's combined income and assets. But even with these special rules for couples, known as Medicaid's spousal impoverishment protection, the amount of assets and income a couple is allowed to keep while one of them is receiving Medicaid is limited.

- (b) *Private Pay Option* Pensions, interest income, dividends from investments, payments from an IRA or 401(k), cash, savings, stocks and bonds, annuity payments, or real estate are all straightforward resources for funding long-term care. However, the real issue boils down to whether or not these funds are sufficient on their own or in conjunction with others to cover care expenses for an extended period of time.
- (c) *Long-Term Care Insurance Option* The sole purpose of buying a long-term care insurance (LTCI) policy is to ensure that monies will be available to pay long-term care bills for a set period of time. Insurance companies will typically only approve individuals under age 84 who do not have dementia or memory issues, mobility issues and/or diabetes, so it is essential to purchase one of these policies while you are still healthy. There are various kinds of LTCI available, and each has its own perks and drawbacks.



(d) **Veterans Pension Benefit Option** – There are a number of different compensation and benefits programs available to veterans and their surviving spouses. One of the most popular benefits used to help pay for long-term care services is the Aid and Attendance. This program provides funds for care at home, in assisted living, independent living, or a nursing home to veterans who require regular

assistance of another person in order to perform activities of daily living (bathing, toileting, dressing, etc.) because they are bedridden, living in a nursing home due to physical or mental incapacity, blind, or permanently and substantially confined to their home due to a disability.

# What is Medicaid Planning?

In layman's terms, Medicaid Planning is any assistance provided to a potential Medical Assistance applicant in advance of and in preparation for the filing of their Medical Assistance application with the local department of social services. Medical Assistance or Medicaid planning can be as simple as assistance with the collection and preparation of a Medical Assistance application and ancillary documents or as complicated as a complete re-structuring of an individual's financial assets in order to qualify for Medical Assistance.

# Will Medicaid Pay for My Parents' Long-Term Care?

Maybe! Long-Term Care can be a great financial burden on your family, particularly if a family member has to leave his or her job to provide care. Knowing the range of possible financing arrangements for LTC ahead of time allows you to avoid the stress of having to make critical life-changing decisions suddenly, with possibly disastrous consequences for both you and your family.

### What does Medicaid Cover?

Medicaid covers a wide range of long-term care services and support for individuals with limited income who meet specific eligibility requirements. Covered services under Medicaid include skilled nursing care in a nursing home, group home or other home and community-based settings as well as personal care services that assist people at home with activities of daily living.

# Will Medicaid Pay for My Parents' Assisted Living?



YES! The State of Maryland will pay for assisted living if an individual requires a higher level of care like skilled nursing care. However, a waiver is required in order to qualify for this program. The Maryland Waiver for Older Adults program permits individuals that need skilled nursing care to obtain it in their own home or at an assisted living facility. Older adults often prefer to live at home and this waiver assists them in doing so. Maryland determined that the cost of care for an older adult at home is less expensive for the state than it would be to place the individual in a nursing home. The cost of care is minimized because home care utilizes assistance from family members. Since the program is so popular in Maryland, there is currently a waiting list.

# As My Parents' Caregiver, Do I Need Powers of Attorney to Act on My Parents' Behalf?

Yes! You never know when something may happen (injury or illness) that renders your parents incapacitated and unable to care for themselves or manage their financial affairs, whether only temporarily or for the long-term. Spouses, friends, family, or caregivers cannot act on your parents' behalf in relation to assets or property solely held in a parent's name. However, by preparing powers of attorney documentation in advance, your parents can choose someone they know and trust, to make financial or legal decisions on their behalf during their period of incapacity. Otherwise, a court may decide these issues for them or appoint a stranger or institution to manage their affairs.

# Can My Parents Transfer Property Prior to Entering a Nursing Home & Still Qualify for Long-Term Care –Medicaid?



Maybe! Ordinarily, an unmarried (single, divorced, or widowed) person entering a nursing home may keep his or her own house without the value of the property disqualifying the person from full Medicaid coverage of the nursing home costs. However, in that situation, Medicaid would be entitled to a lien against the house equal to the total amount Medicaid spends on nursing home care over the lifetime of the home owner. Medicaid

can then collect on that lien when the nursing home resident dies. If, on the other hand, the person entering the nursing home has given the house away to family members (or anyone else) 61 months prior to applying for Medicaid nursing home coverage, Medicaid would have no right to reimbursement from the house. However, Medicaid transfer rules could mean a delay of months or years before Medicaid would begin paying for the nursing home.

Medicaid rules permit someone under the following three circumstances to transfer the home to a family member without either a Medicaid penalty or a Medicaid lien on the property. A home may be transferred, without penalty or lien, to:

- (a) The institutionalized person's (the person in the nursing home) adult child, if (1) the child has lived in the house for at least two years prior to the parent moving into the nursing home; (2) during that time the child cared for the parent; and (3) that care allowed the parent to remain at home instead of entering a nursing home.
- (b) The person's minor child, or blind or disabled child of any age.
- (c) The person's sibling(s) who had an ownership interest in the property before the look back period and has lived in the house for at least the previous year.

# My Parents Always Made Gifts to Family Members and Friends, Will This Cause My Parents to be Penalized by the State?

Not Necessarily! There are many situations where gifts to family members and friends are protected. These include paying for college, helping a family member who is unemployed, and helping a family member with a tragedy, such an unemployment, illness or death. Your parents can give birthday gifts, Christmas gifts, and even donate to charity. The key is that your parents have to explain why they made the gift.

# Do I Have to Cash Out My Parents' Life Insurance Policy?



Maybe! In most cases there are avenues to protect your parents' life insurance policy. A life insurance policy with a face value of \$1,500 can be retained. A life insurance policy with a higher face value can be assigned directly to a funeral home to purchase an irrevocable pre-need funeral agreement. The Medicaid rules also allow for an irrevocable assignment of a life

insurance policy between the Medicaid applicant and his or her representative, in order for the representative to pay for funeral expenses of the deceased Medicaid applicant. In this contractual agreement, the representative agrees to use the policy to pay for the funeral. If the funeral arrangements have already been purchased, the policy ownership can be changed to the well spouse (the spouse not in the nursing home). If these options do not fit your parents' case, then the policy may have to be cashed out, but it can still be used to pay for other things for your parents or your parents' home before using it to pay the nursing home.

# My Mom Paid Me for Taking Care of Her, is that Okay?

YES! If your parents previously paid you for taking care of them without a written agreement, we can prepare documents that explain the agreement between the two of you. In a pre-crisis situation, we can create a Care Management Agreement between the parents and child. This agreement helps to spend down your parents' assets over time in order to qualify your parents for Medicaid, but it benefits you instead of paying someone else for the care of your parents.

# Wait . . . I Thought Medicare Was Supposed to Pay for My Parents' Care?

NO! Medicare is general medical health insurance for seniors over the age of 65 and the disabled. Its coverage is limited to hospital care, physician's care, hospice care, home health care and short-term skilled nursing home care (i.e. rehabilitation). It does not pay for long-term care in a nursing home. Generally, after your parent has left the hospital and needs rehabilitation, Medicare pays for all services in a skilled-nursing facility for first 20 days. The 21st through 100th day, Medicare expects your parent to pay a daily co-insurance. Even with the 21st -100th day range Medicare may decide that your parent has plateaued (no longer getting better) and not pay for care. When Medicare will no longer pay, and there's no long-term care insurance, then applying for long-term care Medical Assistance is an option.

DISCLAIMER: THE INFORMATION PROVIDED IN THIS GUIDE IS INTENDED FOR EDUCATIONAL PURPOSES ONLY AND IS NOT INTENDED TO CONVEY LEGAL OR TAX ADVICE.



# **Call Us Today**

Andre O. McDonald is the founder and principal attorney at McDonald Law Firm, a Columbia law firm serving clients in the areas of **estate** planning, special needs planning, Medicaid/long-term care planning, and business planning.

To schedule an initial consultation, please call us at **(443) 741-1088**.

We look forward to serving you!

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