



Weatherby & Associates, PC
Counselors at Law

Helping Families Preserve and Protect Assets and Values

A Guide to Long-Term Care: Planning for Aging Parents (and for Yourself)

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A lot of us would like to think that we will never need long-term care. We often associate long-term care with loss of freedom and loss of choice. As a result, many people choose to simply close their eyes to the issue and hope that they are part of the minority that will not need long-term care services in the future. One recent national poll by Public Opinion Strategies found that 65% of Americans surveyed have made no long-term care plans at all for themselves or their spouses.¹ Despite the fact that we don't want to think about it, 70% of those over 65 will need some sort of long-term care during their lifetimes, according to the U.S. Department of Health and Human Services.² So, rather than avoiding the issue, it is important to educate yourself about available options and discuss with aging family members what they would like for themselves, as well as think about what you would like to happen if you end up needing long-term care services in the future.

Long-term care does not have to mean the end of an active and fulfilling life. With appropriate prior planning, many different long-term care alternatives may be available, especially if you would prefer - as many people do - to receive long-term care services in the home. Long-term care does NOT always mean care provided in a nursing home. In fact, almost 80% of the long-term care³ provided in the United States is being provided in the home. Yet, without proper planning, you may find yourself in the midst of a crisis with significantly fewer options available for your parent, your spouse, or yourself.

The goal of this guide is to help you begin the process of educating yourself about long-term care and to gain a better understanding of what long-term care is, the different forms it may take, and the various ways you may be able to plan for it and pay for it.

¹Long-term Care: Perceptions, Experiences, and Attitudes among Americans 40 or Older, The Associated Press-NORC Center for Public Affairs Research, 2013

²Administration on Aging. 2011. Supporting data for the Profile of Older Adults.

http://www.aoa.gov/aoaroot/aging_statistics/Profile/2011/docs/2011profile.xls, accessed April 17, 2012

³Administration of Aging, LongTermCare.gov "Who Will Provide Your Care?"

Life Care Planning- What It Means

Traditionally, law firms specializing in elder law and Medicaid planning would focus on protecting and saving the elder's money for the next generation. By contrast, law firms who practice life care planning use the elder's money first and foremost to maximize his or her quality of life and independence. This type of planning helps clients identify and obtain good quality care with a holistic approach including asset protection, public benefits qualification, care coordination, nursing home advocacy, and crisis intervention. The most important goal of a good life care plan is to ensure that your (or your loved one's) needs are met and that you are able to receive care that provides for your health, safety, and well-being. A life care planning firm helps you make decisions regarding your long-term care needs and acts as a resource for information, support, and objective advising. We can review the available options in order to find sources to pay for high quality long-term care while still working to protect your assets. We have the knowledge and experience to answer care-related questions as well as legal and financial questions. This allows us to assist you in working out the details of your life care plan while keeping in mind the big picture, so that you and your loved ones are able to make informed choices you are comfortable with at every step in the planning process.

What is Long-Term Care?

Long-term care describes a range of services that address a person's medical needs as well as their non-medical personal care needs. The need for long-term care often arises when a person can no longer independently and safely perform everyday activities of daily living (ADLs) due to chronic illness, disability, or loss of function due to the normal aging process. With our increased longevity (due to health maintenance drugs and advances in medical technology), comes an increased risk of developing the types of conditions that result in the need for assistance with ADLs. Although long-term care can include more complicated clinical services, it most often refers to assistance with ADLs such as bathing, dressing, and eating. If people continue to stay in their homes, they will also often need help with household chores and errands, such as grocery shopping, cooking, and laundry.

Care can be provided from a number of different sources. Often, services are provided by friends and family members. However, the more comprehensive or complex a person's needs are, the more likely it is that additional services will be required from other sources. Home-care agencies may provide medical or non-medical services in a person's home. Adult day care centers can also provide care during the day. If a person is unable to live completely independently but does not require more extensive care, he or she may choose to move into an assisted-living facility. Nursing homes are the most common way to provide higher levels of care, and the clinical capabilities of different nursing homes may vary.

The Cost of Long-Term Care

The cost of long-term care can cause tremendous devastation to families and individuals and is the number one reason people outlive their money. The cost of nursing home care in Connecticut is the second highest in the country, behind only Alaska.⁴ The average daily rate in 2015 for a private room in a nursing home was \$435 and for a semi-private room the average rate was \$400. The average monthly base rate in an assisted living community was \$5,575 in 2015, not including any extra services. The average hourly rate for a home health aide was \$22 and for a homemaker was \$20. The average daily rate for adult day care was \$77.50.



These costs can quickly add up. Privately paying for long-term care would require the average person to find an additional \$20,150 to \$158,775 per year in his or her budget just for ONE person to receive care depending on the level of care required. Most people cannot afford to pay privately for long-term care for an extended period of time. Even if a person does have enough assets to pay for their own long-term care, this often means they won't be able to use those assets to provide for the future well-being of their spouse, children, and other loved ones. Therefore, the vast majority of those needing long-term care will need to look for alternate sources of funding. There ARE different funding sources available, but they may be difficult to find or their requirements hard to understand. This is why it is helpful to seek the advice of a trusted advisor when determining what funding options might be available to you.

Paying for Long-Term Care

So what avenues are available to help seniors pay for long-term care services? The government is the number one payor for long-term care services. According to the Health Policy Institute at Georgetown University, 69% of national spending on long-term care comes from government sources. Private pay, the second largest source of long-term care spending, makes up only 18%, with long-term care insurance accounting for 7% and other sources 6%.

⁴See, Genworth 2015 Cost of Care Survey.

Medicare

Many people erroneously believe that Medicare coverage will pay for long-term care. However, Medicare is a program designed to cover short-term rehabilitative services, not long-term care services provided over an extended period of time. Medicare will pay for a maximum of 100 days of skilled care in a nursing facility. However, there are many requirements needed to qualify for a Medicare-covered stay in a skilled nursing facility and the average length of such a stay is only about 23 days according to the Center for Medicare and Medicaid Services. Medicare coverage of home-care services is minimal. These services must be ordered by a physician and will only be covered if the patient is homebound. Care covered under Medicare must be delivered by a licensed professional (e.g. RN, Physical Therapist, Occupational Therapist). Due to these limitations, Medicare is obviously not a viable source of funding for most long-term care services.

Medicaid

The government program that does pay for long-term care services is Medicaid. Medicaid will cover medical costs and long-term care costs as long as you are receiving services at a Medicaid-licensed facility. The majority of long-term care facilities in Connecticut are Medicaid-licensed. However, Medicaid is designed as a payor of last resort for those who cannot afford to finance their care in any other way. In order to qualify for Medicaid, you must meet strict financial eligibility requirements. There are strict asset limitations for an individual to qualify for Medicaid and many rules regarding how you can spend or transfer your assets in order to qualify. In addition, because Medicaid is a joint state and federal government program, eligibility requirements and benefits vary from state to state. You apply for Medicaid in the state in which you are a resident.

Usually, long-term care services are provided to Medicaid-covered seniors in a nursing home setting. However, Medicaid does have certain waiver programs that pay for long-term care services outside of a nursing home. These community-based services may have different eligibility requirements and limitations. One of these programs is called the Connecticut Home Care Program for Elders. In order to be eligible, an applicant must be a Connecticut resident, be 65 years or older, be at risk of nursing home placement (determined by looking at certain functional indicators), and meet the program's financial eligibility criteria.

As you begin considering Medicaid as a long-term care funding option, you may encounter terms and concepts you are unfamiliar with. The term "look-back" period refers to the period of time prior to applying for Medicaid for which you will have to provide financial records. Transfers and gifts made during the "look-back" period must comply with certain requirements and failure to comply with these requirements may jeopardize an applicant's Medicaid eligibility. Also important is the penalty period, which refers to a period of ineligibility imposed because of an uncompensated transfer of assets during the "look-back" period. There is no cap on the length of a penalty period, which is calculated by dividing the

value of the transfer in question by the “regional rate.” For this reason, applicants should have a plan in place to deal with the penalty period should it become necessary to file a Medicaid application within 5 years of the date of any uncompensated transfer. Due to the numerous and complex rules and regulations, Medicaid planning can be challenging and it is best to consult an advisor who can assist with your application and help avoid preventable problems.

Long-Term Care Insurance

Private long-term care insurance is another option that can be used to pay for long-term care services. Although this is a lesser known alternative, recent federal and state legislation has created incentives to encourage consumers to purchase long-term care insurance. The State of Connecticut offers the Long-Term Care Partnership Program. This program gives dollar for dollar asset protection for benefits paid from a qualified policy. Policies must be tax-qualified, must be issued after the State Partnership effective date, and must meet specific age-based inflation requirements. Another law encouraging the purchase of long-term care insurance is the Pension Protection Act, which allows consumers to withdraw cash value from life insurance or funds from existing annuities, tax-free, to buy long-term care insurance; to exchange an existing annuity for a long-term care policy on a tax-free basis; or to access funds from certain types of long-term care annuities tax-free to pay for actual long-term care expenses. Benefits to look for in a long-term care insurance

policy include: nursing home and home-care coverage, sufficient daily payouts (\$350 per day is a good start), elimination periods (the number of days you must be in a nursing home before benefits begin, typically 0 to 100 days), duration of benefits (two years, five years, a lifetime), renewability (look for a plan that is guaranteed renewable); waiver of premiums (allows you to stop paying premiums during the time you are receiving benefits); inflation protection, etc. There are many different types of



long-term care insurance with a wide variety of benefits. As with life insurance, the older an applicant is, the harder it is to obtain a policy and the more expensive the coverage will be. The options may be overwhelming to those unfamiliar with this type of insurance and it may be helpful to meet with an advisor to discuss what types of benefits would be most useful in a given situation and what insurance products would best meet an individual’s specific needs.

Veterans Administration Benefits

For those who qualify, the Veterans Administration provides a home care/assisted living benefit, the VA Improved Pension or Aid and Attendance Benefit, which can be used to pay for these services. In order to qualify, the veteran must not have been dishonorably

discharged, must have served at least 90 days active duty with at least one day served during a declared state of war, and must be either disabled or over age 65. Spouses or widows of veterans may also qualify for benefits. It is estimated by the Department of Veterans Affairs that nearly 2 million veterans or their widows are missing out on as much as \$22 billion a year in pension benefits. Only 1 in 7 widows of veterans who could probably qualify for this benefit actually receive monthly checks. This program can provide veterans and their spouses with up to \$24,448 per year, tax free, to pay for long-term care services.

What is Long-Term Care?

If possible, it is best to do a careful analysis of an individual's personal and financial situation before long-term care becomes necessary in order to formulate an appropriate plan. To help our clients identify all potential options and formulate individualized plans, we consider a variety of factors, including all sources of income, expenses, cash flow, taxes, current asset allocation, economic variables, and health/longevity risks. Most importantly, we want to analyze all of the relevant facts and create a comprehensive written plan *that you can understand*. Be aware that our job is not over once we have developed an appropriate plan together. We must also determine how best to implement the plan, periodically review the plan, and maintain communication on a regular basis. A plan may meet all of your needs at the time it was created, but changing circumstances often necessitate revisions and updates.

What If There Is No Time to Plan Ahead?

Even when there is no time to plan ahead, you can still implement strategies to more effectively care for an aging loved one. Just because a plan has not been put in place before a crisis occurs does not mean that there are no options available, although the number of options is likely to be more limited. You can still learn how to choose the right long-term care providers either in the home or in a nursing facility, identify what government benefits may be available to help ease the financial burden of paying for care, and determine what legal strategies you can potentially take advantage of to protect some of your loved one's assets, even after your loved one has entered a nursing home. It is helpful to have an advisor assist you with applying for programs such as Medicaid, for example to assess what assets are exempt from a Medicaid spend down, and to help to transition assets (such as into a Medicaid qualifying annuity). We may also be able to assist you in negotiating with care providers (like nursing homes) or insurance companies. The goal is to maintain quality care and preserve assets through whatever means are still available. This may mean being creative with the strategies we use to achieve these goals, and there are fewer strategies available the later planning begins, but in the vast majority of situations we are still able to do *something* to help.



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YOUR PARTNER IN CREATING A BETTER FUTURE

For over 20 years, the attorneys at Weatherby & Associates, PC have helped Connecticut families set goals and turn them into reality, creating a better, more secure future. From estate planning and asset protection strategies to business succession planning, administering probate estates and ensuring the best health care possible for loved ones in need, Weatherby & Associates, PC takes a close look at the unique needs of every individual, family or business to develop a truly individualized strategy that is sure to achieve their objectives.

YOUR FAMILY IS OUR FAMILY

We understand how important your family is to you, how well you want them to be cared for, and the important role your hard-earned assets or business play in the future of your family. As a firm, Weatherby & Associates, PC is committed to caring for your assets, business, health care needs and plans for the future as if they were our very own. Every step we take is designed to give you peace of mind and security, right down to our unique approach for ensuring your plan and documents stay current with our exclusive LifeBridge™ program.

Honoring parents and aging loved ones with the best of care and a home they can enjoy for the remainder of their days is a desire that simply comes naturally. Unfortunately, many families put off planning for the potential needs of aging members until illness or disability compels them to action, often forcing them to accept less than optimal solutions and burdening them with sudden financial strains they are not prepared for. Onset of illness or disability shouldn't mean surrendering to a lifestyle of dreary environments, loneliness and hardship. The Weatherby & Associates, PC Life Care Planning team can help with a wide variety of services and solutions to give your loved ones a better life in their aging years. Get started on a plan to ensure the best possible care and living opportunities for your parent or other aging loved one. Call our Life Care Planning attorneys today to schedule an initial consultation: 888-822-8778 (Toll Free)

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