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Alternatives to Medicaid: A Long-Term Care Insurance Primer

Get the basics on choosing the right policy

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Medicare's limited coverage

Don't look to Medicare to cover much, if any, nursing home care. Medicare Part A covers only up to 100 days of care in a "skilled nursing" facility per spell of illness. The care in the skilled nursing facility must follow a stay of at least three days in a hospital. And for days 21 through 100, you must pay a co-payment of $167.50 a day (in 2018). (This is generally covered by Medigap insurance.) In addition, the definition of "skilled nursing" and the other conditions for obtaining this coverage are quite stringent, meaning that few nursing home residents receive the full 100 days of coverage. As a result, Medicare pays for only about a fifth of nursing home care in the United States.

If you can afford the premiums and are insurable, the best solution is long-term care insurance.

That said, all Medicare beneficiaries should make sure they get their full benefit. Typically, after a certain amount of time in a skilled nursing facility, the facility informs the patient's family that he or she is no longer making progress with physical therapy or other skilled treatment and that the Medicare coverage will end. To be effective, the notice must be in writing. It is a misconception that a patient must be making progress to merit Medicare coverage. Any benefit from the treatment, even if it simply slows down deterioration, merits its continuation and the continuation of Medicare coverage. Family members should advocate for continued physical or other therapy for the patient both due to the benefit of the treatment and to extend Medicare coverage.

If the institution insists on terminating coverage, the written notice will give the patient or family member the opportunity to ask for a review. There's no cost for the review, so there's no reason not to request it. While the fiscal intermediary – the insurance company under contract to administer the Medicare program – conducts its review, the patient does not have to pay for his care. However, if the fiscal intermediary

agrees with the termination of benefits, the patient will be responsible for the cost of care back to the date of the termination notice. Further appeals are possible but should be done with the help of a lawyer.

Long-Term Care Insurance

If you can afford the premiums and you are insurable, the best solution to the prospect of significant long-term care costs is long-term care insurance. Most long-term care insurance policies today pay for home care and assisted living as well as for nursing home care. The problem is choosing a good policy and being able to afford it.

Long-term care insurance is a contract between an insurance company and a policyholder to pay for certain types of coverage under certain conditions. In general, long-term care policies are sold to policyholders by insurance agents, although group policies are becoming increasingly available as an employee benefit, through membership organizations like AARP, and from health maintenance organizations.

Despite the wide range of policy options, there are a few rules of thumb for purchasing a policy. Following these rules tends to drive up the insurance premium, but if you are going to invest in long-term care coverage, you should buy a good policy.

1. Buy enough coverage for what you want to cover. While nursing homes are increasingly expensive, more alternatives to nursing homes exist than ever before. If you cannot afford to purchase sufficient coverage to pay for nursing home care (including anticipated inflation), you may be able to cover the cost of home care or assisted living.

2. Most advisors recommend purchasing five years of coverage. After moving to a nursing home or assisted living facility, you may want to transfer assets to your children, or to whomever you would like to benefit, if you haven't done so already. Medicaid looks as far back as five years to identify asset transfers that could result in a period of ineligibility. After

that five-year lookback period has passed, you can qualify for Medicaid to pay your nursing home costs (provided the assets remaining in your name do not exceed Medicaid's limits).

Here's a formula for figuring out how much long-term care coverage to purchase: the average daily cost of a nursing home today times 2, minus your monthly income divided by 30, equals the amount of coverage to purchase. For instance, if the average nursing home in your area costs $200 a day and your projected retirement income is $2,400 a month ($80 a day), you should buy coverage of $320 a day ($400 – $80 = $320). Somewhat less coverage can be purchased if an inflation rider is bought (meaning that the insurer's payments rise with inflation) or if you are prepared to contribute some of your savings to the cost of care.

3. Buy a home care option or rider. One of the problems with Medicaid is that although it pays for nursing home care, in most states it pays for only limited home care. (New York State is a notable exception.) Thus people often feel financially compelled to move to a nursing home, where the state will pick up the cost. Until there is a change in the law, most home care will have to be paid for out-of-pocket or by insurance. It doesn't make much sense to pay insurance premiums to replicate what Medicaid covers – nursing home care but not home care.

Some long-term care insurance agents have begun to refer to long-term care insurance as "avoid nursing home" insurance, since the availability of home care coverage can help the beneficiary avoid moving to a nursing home.

4. Fill out the application truthfully and make sure the insurance company evaluates it before issuing the policy. If in completing your application for insurance you fail to tell the insurer about an illness or a doctor's visit, the company may refuse you coverage at the time benefits are needed. It is better to be denied a policy and to be able to plan knowing that coverage is not available than to believe that coverage will be forthcoming, only to have it denied when it is

needed. Likewise, you should make sure that you purchase from an insurance company that evaluates – or, in insurance company parlance, "underwrites" – the policy from day one. If not, the company could refuse you coverage when it evaluates the application at a later date.

5. Compare insurance companies and rates. Make certain that the insurer is rated A or A+ by A.M. Best or another service that rates insurance companies. Your coverage will not be very effective if the insurer goes out of business. In addition, rates charged by insurance companies in the long-term care field tend to vary widely. Compare different companies' rates and offerings before making a decision. Unfortunately, each company offers slightly different benefits and coverage definitions, which makes comparison difficult. The best bet is to work with a qualified long-term care insurance broker (see below). The American Association for Long-Term Care Insurance has a useful page on insurer ratings. Visit aaltci.org/long-term-care-insurance/learning-center/company-ratings.php for more details.

Which spouse gets the coverage?

Often, a married couple will be able to afford coverage for only one spouse. Looking at statistics alone, the wife should purchase the policy. In our society women tend to live longer than men and to provide more care than men. The result is that women are much more likely than men to end up in a nursing home for a long period. In addition, the Medicaid rules provide some protection for the spouse of a nursing home resident. For these reasons, the best bet for most couples who can afford the premiums for only one long-term care insurance policy is to purchase it for the wife. Couples should bear in mind, however, that this is playing the odds and is not a sure thing. And your own health history and that of family members is more relevant than statistics for the general population.

A 'shared care' policy might give both spouses more coverage for less money. With this kind of policy, you buy a pool of benefits that you can

split between you and your spouse. For example, if you buy a five-year policy, you will have a total of 10 years between you and your spouse. If your spouse uses two years of the policy, you will have eight years left.

Purchasing Tip

Some newer long-term care insurance policies are “guaranteed” — that is, if the stated benefit amount is not used during the insured’s lifetime, the policies will pay out the benefit amount upon the insured’s death.

Can you afford long-term care insurance?

A rule of thumb is that payment of the long-term care insurance premium should not affect your standard of living. Thus, premiums are affordable if they are paid with money that you would otherwise set aside to add to savings. An alternative would be to purchase an annuity that pays sufficient benefits to cover the long-term care insurance premiums.

The tax deductibility of long-term care insurance premiums

“Qualified” long-term care insurance policies receive special tax treatment. To be “qualified,” policies issued on or after January 1, 1997, must adhere to specific requirements. Among the requirements are that the policy must offer the consumer the options of “inflation” and “nonforfeiture” protection (you get some money back if you let the policy lapse), although the consumer can choose not to purchase these features.

The policies must also offer both activities of daily living (ADL) and cognitive impairment triggers for coverage and may not offer a medical

necessity trigger. “Triggers” are conditions that must be present for a policy to begin paying out. Under the ADL trigger, benefits may begin only when the beneficiary needs assistance with at least two of six ADLs. The ADLs are: eating, toileting, transferring, bathing, dressing or continence. In addition, a licensed health care practitioner must certify that the need for assistance with the ADLs is reasonably expected to continue for at least 90 days. Under a cognitive impairment trigger, coverage begins when the individual has been certified to require substantial supervision to protect him or her from threats to health and safety due to cognitive impairment.

Premiums for “qualified” long-term care policies will be treated as a medical expense and will be deductible to the extent that they, along with other unreimbursed medical expenses (including “Medigap” insurance premiums), exceed 7.5 percent of the insured’s adjusted gross income (in 2017 and 2018; the threshold is scheduled to rise to 10 percent in 2019). However, the taxpayer’s age determines the maximum long-term care insurance premium that is deductible, as outlined in the chart below (the limits will be adjusted annually with inflation):

Age attained before the end of the taxable year	Amount allowed as a medical expense in 2018
40 or under	$420
41–50	$780
51–60	$1,560
61–70	$4,160
71 or older	$5,200

As you can see, the tax incentive is relatively small for most people. It should not be a reason for purchasing long-term care insurance, but certainly the deduction should be taken if available.

Industry still evolving

Unfortunately, the long-term care insurance industry is still relatively young and continues to experience growing pains. Until Congress began regulating the industry as part of the Health Insurance Portability and Accountability Act of 1996, many of the policies were poor, containing bars to coverage that could make them unavailable just when needed. Some companies that went into the business with great optimism have found that they were not making money and have retreated from the business or dropped out entirely. In recent years, insurers have been hit particularly hard by the climate of historically low interest rates because companies' profits rely on returns from investing policyholder premiums. In addition, policyholders are living longer and fewer are abandoning policies midstream than actuaries had predicted.

A number of large insurers have ended long-term care insurance sales to some or all markets. Companies still writing policies are raising premiums, some precipitously. Long-term care insurance is regulated by the states. Insurers are allowed to raise prices only on a class of policyholders, not on individuals ones, and they must receive state approval for the rate hike.

Whether consumers will be stuck with a long-term care insurance premium increase depends in large part on the state they're in. About half the states have adopted rate stability measures to keep premiums from rising too steeply, but this means that the rest of the country is unprotected. In addition, regulators in the states with the rate stability standards are unsure how well the standards will control future increases, according to a 2008 GAO report (see elderlawanswers.com/report-finds-states-vary-in-ability-to-hold-down-ltc-insurance-premium-hikes-7064).

As long-term care insurance premiums rise and fewer companies offer policies, alternatives to traditional long-term care insurance are springing up. Two new lines of products that can help pay for long term care are annuity "nursing home doublers" and hybrid products

that combine life insurance with long-term care coverage. See more details at elderlawanswers.com/the-benefits-and-drawbacks-of-buying-an-annuity-doubler-to-pay-for-long-term-care--15464 and elderlawanswers.com/hybrid-policies-allow-you-to-have-your-long-term-care-insurance-cake-and-eat-it-too-15541.

Consult with a certified agent

Long-term care insurance has attracted much media attention, and many insurance agents are now selling it. However, long-term care insurance is a complex product, and insurance agents and brokers marketing these policies need to be highly trained and know how to recommend the right coverage based on a client's finances and objectives.

The Corporation for Long-Term Care Certification's professional designation "Certified in Long-Term Care" (CLTC) offers a rigid program that meets these criteria. The Corporation for Long-Term Care Certification is dedicated to training agents to solve clients' long-term care needs. Moreover, the Corporation for Long-Term Care Certification's program is "third party," meaning that it is not affiliated with any insurance company or supported financially by the long-term care insurance industry. When it comes to choosing an agent, you will want one who represents a number of insurance carriers so you can choose from a variety of policies.

For a directory of CLTC-designated agents in your area, visit the CLTC Web site at ltc-cltc.com.

To find a qualified elder law attorney, go to elderlawanswers.com.