LONG-TERM CARE: **Planning**

BY Rick Scrimale

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Whether for yourself or your parents, long-term care planning is an area that provides many more options if there is sufficient advance planning. With recent law changes, it is more important than ever to plan in advance for long-term care.

In your planning, you'll want to first and foremost develop your **objective** for long-term care. For instance, if you desire to have in-home care, self-insuring or private self-pay are the most viable options.

Since February 8, 2006, there is a **five (5) year look-back period for any gifts** made (counting back from the first day of the month in which the Medicaid applicant seeks benefits). Therefore, any non-exempt assets which have been transferred within those five (5) years will disqualify an individual from receiving Medicaid benefits for long-term care for a certain period of time, often referred to as the "penalty period." Obviously, **the sooner any gifts or property transfers can be made, then the sooner the five (5) year look-back period commences.**

Exempt Assets

The Law exempts only certain assets when determining eligibility of the Medicaid applicant. If the applicant is married, then the law generally exempts the following (plus certain other limited exemptions):

1. **The couple's home;**
2. **One (1) automobile;**
3. **The prepaid burial and funeral service for the Medicaid applicant;**
4. **Prepaid burial Items for the spouse and certain other family members; and**
5. **Certain assets of the non-applicant spouse ranging from approximately $75,000 to $115,000.**

If the Medicaid applicant is not married, then the applicant is only entitled to exempt far fewer assets such as the prepaid burial and approximately $14,000 of other assets. All other assets have to be available for long-term care prior to Medicaid providing benefits. There are certain other limited exemptions, which may be applicable in certain situations.

Advance Planning

Generally, there are three (3) options for advance planning for long-term care, which are:

1. **Medicaid;**
2. **Long-term care insurance; or**
3. **Self-pay**

In order to protect your assets and provide for your long-term care, realistically a person's options are limited to the purchase of long-term care insurance, the transfer of assets into a Medicaid asset protection trust, or the outright transfers to other recipients, all of which should be in place at least five (5) years prior to seeking Medicaid benefits.

Means Protecting

Crisis Planning

If you do not have five (5) years to plan for long-term care, then the options are much fewer. While it is unlikely that you will be able to protect all of your assets, there are certain sophisticated planning techniques that can be taken to protect some of your assets.

Such planning includes:

1. **The use of a loan and gift to a family member with a period of self-pay;**
2. **Transfers to a community spouse with a spousal refusal of support; and**
3. **Certain exempt transfers for a disabled child, a sibling with an ownership interest in the home or a caregiver child.**

These additional crisis-planning techniques are very complicated and limited in scope.

Moral of the Story

While no one wants to discuss or address long-term care, the more advanced planning that is done, the more one's assets can be protected and the higher level of care that can be obtained. Prior to taking any action, it is wise to first consult with an attorney who practices in this area.