

“My neighbor said I should...”

A lot of advice is given by friends, family, and neighbors who have gone through the Medicaid process in the past. However, the Medicaid rules are extremely complicated and change all the time.

For example, in the past it may have been an option to give your house to your children while keeping a life estate. But the rules have changed. What worked for one person might not work for you. In this case, you would be giving away an asset (your home) that Medicaid allows you to keep and then be subject to a penalty period. Even if you make it through the five year period, your home is still subject to your *children's* creditors, the risk of divorce or simply selling it. Always talk to a qualified professional before making any transfers.

Another piece of advice you might receive is to spend as much as you can before you go into the nursing home to qualify. Again, this advice is not right for everyone. While spending money on things such as home improvement, paying off loans or mortgages or burial costs can be a planning strategy, doing it at the wrong time or without the guidance of a professional can be devastating to what remains available for your spouse to live on. Attempting to save or protect assets without professional guidance often causes more harm than good.

Is it illegal to shield assets in order to qualify for Medicaid?

No. Some people worry they are "cheating the system" by doing this type of planning. But wouldn't you go to your accountant to minimize the amount of taxes you are required to pay each year? Many people feel they should not be penalized and required to spend their entire life savings to pay for care while those who haven't saved anything receive free care. Middle class seniors are forced to spend their life savings because they do not qualify for medical care. If it can be accomplished, most individuals would like to leave assets available for their spouse, children and future generations rather than spend their entire life savings on nursing home care.

Do I really need an attorney to get on Medicaid?

Just as you can prepare your own taxes, you can file your own Medicaid application. The application is burdensome and requires gathering and submitting financial documentation from the past five years. There are private companies that claim to file your application for no charge or guarantee you will qualify for Medicaid if you use their services. Be very careful with these claims and be aware they will need access to all of your financial information. Social workers at nursing homes or your local senior center can be helpful in completing the application, but these individuals cannot give legal advice, help you qualify or protect assets. Filing on your own could also present risks you were not aware existed. If you attempt to spend down or transfer assets on your own and miscalculate penalties, you could end up with no money and a long penalty period, leaving you with no way to pay. This happens because the penalty period does not start to run until after you are otherwise eligible and have already applied for Medicaid. **Medicaid rules are complex and always changing. It is best to work with a professional who knows the Medicaid rules and can advise you on the best plan and options for your situation.**

Ross Estate Planning
218 North 14th Avenue
P.O. Box 317
Sturgeon Bay, WI 54235
Phone: (920) 743-9117
Fax: (920) 743-9180

Frequently Asked Questions: Long Term Care

What is long term care?

Long term care encompasses any care or service an individual receives to carry out daily functions and self-care. There are generally three categories of care. First, you can be cared for in your home through the use of home health aides and assistance with cooking and cleaning. Second, you can receive care in an assisted living facility. These services vary greatly from simply having services available should you need them, to regular meals, cleaning and check-ins. The third option is a skilled nursing facility (nursing home) offering around the clock care.

Do I need long term care planning?

Studies show 70% of people over age 65 will need some type of long term care. Planning allows more control in what type of services you receive and how you will afford them. It is never too early to start planning, because planning early affords you greater options.

How much does long term care cost?

At-home care can be the cheapest option if you only need a few hours of service per week. The typical rate is \$20/hour. Assisted living facility pricing varies greatly depending on the amount of services. Average costs in Wisconsin are between \$3000-4000 per month. Nursing homes are the most expensive with the average rate in Wisconsin around \$7500 per month which comes out to \$90,000 per year.

 **Ross Estate Planning**
Estate planning is all we do!

I already have Medicare, is that enough?

No. Medicare only covers short term stays (up to 100 days) in a nursing home for rehabilitation after at least three days in the hospital. After that, it is your responsibility. Medicare does not cover at-home care or assisted living.

How do I pay?

There are three basic options to cover long term care. The first is simply to pay yourself out-of-pocket. While this is the easiest way, many people are not happy to pay nearly \$100,000 per year for care without any type of assistance. The second way is to obtain long term care insurance. This can be a great option if you plan ahead and buy while you are younger and the insurance is more affordable. If neither of these two options are available or affordable, the third way is to have the government pay through Medicaid. The program is needs based, meaning you must have under a certain amount of assets and income in order to qualify for the assistance. In the past, Medicaid only paid for nursing homes. It recently began covering other costs through the Family Care program. A fourth option available to veterans is to receive Aid and Attendance through the VA. This is also a needs based program but has different qualifications than Medicaid. If you are a Veteran, please contact an accredited VA attorney to discuss your options

How do I qualify for Medicaid?

Medicaid only allows you to keep a small amount of assets in order to be eligible for the program. Typically, an individual can keep \$2000, their home, one car and any amount of personal belongings. A married couple can keep between \$50,000 and \$120,000, one car, their home, personal belongings, and the spouse's retirement accounts. Very small insurance policies and pensions are sometimes exempt. Income will not usually be an issue unless it is more than the cost of the nursing home.

Can I just give everything to my kids?

Medicaid will look to see if you've given anything away in the past 5 years. If you have, they will assess a penalty period. For every \$7500 you gave away, Medicaid will refuse to pay one month of nursing home costs. For example, if you gift your \$250,000 home to your children, you will be disqualified from Medicaid for 33 months (over 2.5 years). Anything given away more than 5 years before you apply for Medicaid (regardless of the amount) will not have any impact on your Medicaid eligibility. Early and proper planning is key.

Is it still ok to give my grandkids \$1000 for their birthday each year as I've always done?

Any gift you give in the 5 years before applying for Medicaid will be counted against you. Medicaid uses a different set of rules than the gifting rules you may be familiar with. There is no exception for the annual gifts of \$14,000 per person, gifts to charity, or paying for someone's education or medical needs. Medicaid will assess a penalty period for each of these gifts. Therefore, if you have a habit of gifting, it is important to talk to a professional who can advise you on your options.

Will the nursing home take my house?

As long as you or your spouse are alive, you can keep your house. However, a lien can be placed on the house which the state will try to collect on after both you and your spouse are gone. There are ways to defeat or minimize the lien. Additionally, certain gifts of the home are allowable. If a sibling has an interest in the house and lived with you, you can gift the house to them. If you have a disabled or blind child, you can gift the house to them. If a child has provided you care at home, you may be able to pass the house to them without penalty. Talk to a long term care planning professional about these options.

All of my assets are already in a revocable trust, aren't they protected?

No. A revocable trust does not protect from nursing home costs. An irrevocable trust can. The rule of thumb is that if you can access the money in any way, so can the nursing home. Irrevocable trusts are still subject to the 5 year look back period and the penalty period. Once again, early planning is key. An irrevocable trust is different than a revocable trust. In an irrevocable trust, you must give up control of your assets in order to qualify for Medicaid. However, you may still have some access to the income from those assets. Giving up control of your assets is a big decision and requires careful planning with a qualified professional to ensure you will be able to maintain your lifestyle. A carefully designed plan will allow you to keep the greatest degree of control.

I need nursing home care now. Is it too late to plan?

No. Long term care planning can be done at any time, even if you or a loved one are already in the nursing home. While planning ahead with the use of long term care insurance or irrevocable trusts is ideal, a portion of your assets can still be protected if you need Medicaid immediately.

I gave some things away a few years ago. Do I have to wait 5 years before applying for Medicaid?

It depends. Qualified professionals frequently set up plans that gift away a portion of assets while retaining a portion to cover the penalty period. Medicaid planning is extremely complicated and should only be done with the help of a professional. You may have heard annuities are a good option to qualify. This can be true if they are set up correctly and Medicaid compliant. The typical annuity will not be Medicaid compliant. If you've given things away on your own in the past five years, consult a professional to determine the best plan and when to apply for Medicaid.