LONG-TERM CARE PLANNING WORKSHOP

An Advanced Planning Seminar

Presented by

Reaves Law Firm, P.C.

Elder Law Attorneys
WORKSHOP OBJECTIVES

- Explore the problems you may confront
- Review solutions to the long-term care crisis
- Provide strategies to protect Your assets
An Overview of the Long-term Care Crisis
THE STRAINS ON THE LONG-TERM CARE SYSTEM

American Population in Millions

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Population</th>
<th>Age 65+</th>
</tr>
</thead>
<tbody>
<tr>
<td>1900</td>
<td>100</td>
<td>4%</td>
</tr>
<tr>
<td>1930</td>
<td>200</td>
<td>12%</td>
</tr>
<tr>
<td>1960</td>
<td>300</td>
<td>14%</td>
</tr>
<tr>
<td>1996</td>
<td>400</td>
<td>20%</td>
</tr>
<tr>
<td>2013</td>
<td>500</td>
<td>-- %</td>
</tr>
<tr>
<td>2025</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

America in 2013
65+ 44.6 Million, 14.1% of population
85+ 6.1 million, 1.9% of population

THE STRAINS ON THE LONG-TERM CARE SYSTEM

Average Life Expectancies

<table>
<thead>
<tr>
<th>Years of Age</th>
<th>1900</th>
<th>1930</th>
<th>1960</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Average Life Expectancy</td>
<td>50</td>
<td>60</td>
<td>70</td>
<td>78.8</td>
</tr>
</tbody>
</table>

Years of Age: 1900, 1930, 1960, 2015
WHO WILL NEED LONG-TERM CARE?

Projected LTC Need for People

<table>
<thead>
<tr>
<th>Category</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lifetime</td>
<td>50%</td>
</tr>
<tr>
<td>All turning 65</td>
<td>69%</td>
</tr>
<tr>
<td>Men turning 65</td>
<td>58%</td>
</tr>
<tr>
<td>Women turning 65</td>
<td>79%</td>
</tr>
</tbody>
</table>

## WHO WILL NEED LONG-TERM CARE?

Projected LTC Need for People Turning 65 in 2005

<table>
<thead>
<tr>
<th>Type of Care</th>
<th>Average Years of Care</th>
<th>% Using Type of Care</th>
<th>Distribution by years of Care (% of People)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any LTC</td>
<td>3.0</td>
<td>69</td>
<td>None</td>
</tr>
<tr>
<td>At Home</td>
<td>1.9</td>
<td>65</td>
<td>None</td>
</tr>
<tr>
<td>In Facility</td>
<td>1.1 (up to 2.29 in 2014*)</td>
<td>37</td>
<td>None</td>
</tr>
</tbody>
</table>

WHO WILL NEED LONG-TERM CARE?

Rates of Institutionalization Among Elderly People, by Age, 2010

(Percentage of age group)

Ages 65 to 74
Ages 75 to 84
Age 85 or Older
Age 65 or Older

Source: Congressional Budget Office. Rising Demand for Long-Term Services and Supports for Elderly People, June 2013.
# Median Annual Cost of Long-Term Care

<table>
<thead>
<tr>
<th>Type of Care</th>
<th>2016 USA Median Annual Cost</th>
<th>2017 USA Median Annual Cost</th>
<th>5 Year Annual Growth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adult Day Care 1</td>
<td>$17,680</td>
<td>$18,200</td>
<td>3%</td>
</tr>
<tr>
<td>Assisted Living 2</td>
<td>$43,539</td>
<td>$45,000</td>
<td>3%</td>
</tr>
<tr>
<td>Homemaker Services 3</td>
<td>$45,760</td>
<td>$47,923</td>
<td>3%</td>
</tr>
<tr>
<td>In-Home Health Aide 3</td>
<td>$46,332</td>
<td>$49,192</td>
<td>3%</td>
</tr>
<tr>
<td>Nursing Home (semi-private room) 4</td>
<td>$82,125</td>
<td>$85,775</td>
<td>3%</td>
</tr>
<tr>
<td>Nursing Home (private room) 4</td>
<td>$92,378</td>
<td>$98,455</td>
<td>3%</td>
</tr>
</tbody>
</table>

Based on:
1. 5 days/week for 52 weeks
2. 12 months care, private, one bedroom
3. 44 hours/week for 52 weeks
4. 365 days of care

Source: Genworth 2016 Cost of Care Survey, April 2016 & 2017 Survey  June 2017
AVERAGE NURSING HOME COST
Semi-Private Room

<table>
<thead>
<tr>
<th>Location</th>
<th>1997</th>
<th>2017</th>
</tr>
</thead>
<tbody>
<tr>
<td>National</td>
<td>$107/Day</td>
<td>$236/Day</td>
</tr>
<tr>
<td></td>
<td>$39,005/Year</td>
<td>$86,136/Year</td>
</tr>
</tbody>
</table>

5 year Annual Growth rate 3%

Source: Genworth 2016 Cost of Care Survey, June 2017
LONG-TERM CARE COSTS

Nursing Home Stay in Months

28 Months in KC, MO = $172,900
28 months in Kansas = $155,428
Thousands of families a year become impoverished due to long-term care costs
HOW WILL YOU PAY FOR LONG-TERM CARE?

Source of Long-Term Care Expenditures 2011

- Medicaid: 62%
- Out-of-Pocket: 22%
- Other Private: 12%
- Other Public: 4%


'Other Private' includes LTC Ins.

'Other Public' includes VA and state programs
LONG-TERM HEALTH CARE COSTS

- Single largest out-of-pocket expense for the elderly
- 81% of all health care expenses are long-term care costs
WILL YOU NEED LONG-TERM CARE?

If you wait until you do to make plans, *it’s too late to plan effectively!*
LONG-TERM CARE PLANNING IS PART OF ESTATE PLANNING

- Accumulating Wealth
- Preserving Wealth
- Distributing Wealth

Accumulating Wealth
Preserving Wealth
Distributing Wealth
THE FOUNDATION OF
WISE ESTATE PLANNING

1. Revocable Living Trust with Long-term care planning powers
2. Pour Over Will
3. Health Care Directive
4. Financial Durable Power of with Long-term care planning powers
5. Health Care Durable Power of Attorney
THE FOUNDATION OF ESTATE PLANNING . . .

- Helps us control the care we receive.
THE FOUNDATION OF ESTATE PLANNING . . .

- Helps us avoid living probate
  (Guardianship and Conservatorship)
THE FOUNDATION OF ESTATE PLANNING...

- Helps us avoid death probate.
THE FOUNDATION OF ESTATE PLANNING . . .

- Helps us reduce taxes while we live:
  - Income taxes
  - Capital gains taxes

- Helps us reduce taxes on our legacy after we die:
  - Estate taxes
THE FOUNDATION OF ESTATE PLANNING . . .

- Helps us protect our assets from the high-cost of catastrophic illness.
THE FOUNDATION OF ESTATE PLANNING . . .

Helps us find cost-effective ways to pay for long-term care.
FOR THE LADIES . . .

Life Expectancies

Men: 76 Years
Women: 81 Years
FOR THE LADIES . . .

- The average age at which a wife becomes a widow is . . .
The average age at which a wife becomes a widow is . . . 56!
WHAT HAPPENS TO WIDOWS

- Four times more widows than wives are poor.
- Half of all poor widows weren’t poor until their husbands died.
WOMEN AS CAREGIVERS

- 75 percent of all caregivers are women.
- The average age of a caregiver is 57.
WHEN DO YOU NEED LONG-TERM CARE?

When you suffer “cognitive impairment”, such as dementia or Alzheimer’s disease
WHEN DO YOU NEED LONG-TERM CARE?

When you can no longer perform at least 2 of these six activities of daily living without assistance ("functional impairment")

- Eating (feeding yourself without assistance)
- Dressing (dressing yourself without assistance)
- Bathing
- Continence
- Toileting
- Transferring (Ex: moving without assistance from bed to chair)
LONG-TERM CARE SERVICES & SUPPORTS OPTIONS

- In the Home
  Family, friends, home health agency, church, community services, such as Meals on Wheels

- In the Community
  Adult day services center

- In Residential Settings
  Assisted living communities, Continuing Care Retirement Communities, Nursing homes
WHO WILL PAY FOR THIS CARE?

Most people think of these options:

- Medicare
- Veterans’ Administration
- Regular health insurance
- Long-term care insurance
- Personal income of family
- Liquidating assets of family
- Medicaid
WHO WILL PAY FOR THIS CARE?

Option 1: Medicare

- Primary government health insurance plan for those on Social Security
- Covers over 55 million Americans (in 2015)
MEDICARE COVERAGE

Medicare covers:
- Acute medical care
- Skilled nursing care
- Some rehabilitation

Medicare does **not** cover:
- Custodial care
- Long-term rehabilitation
WHAT COSTS WILL MEDICARE PAY?

For Skilled Nursing Care:

If “admitted” to hospital for 3+ days, and within 30 days of discharge enter NH for same reason:

- 1st 20 days: Covered by Medicare
- 21 - 100 days: All but $167.50 per day (2018)
- After 100 days: Nothing
Only 12% get Medicare help in nursing home, and only for Skilled Care, for limited time.

No coverage for everyday custodial care.
Cognitive Diseases

- High percent of all nursing home patients
  - Alzheimer’s, Parkinson’s, etc.

- No Medicare coverage:
  - No skilled medical personnel needed
  - Health is not expected to improve
Option 2: Veterans’ Administration:

- No long-term care services unless:
  - Illness is service-related, or
  - 1. Served active duty 90+ consecutive days, including one day during war-time period;
  - 2. Not enough income to pay for care; and
  - 3. Low assets

- Possible benefits for Veteran and spouse
Option 3: Private Health Insurance:
(Blue Cross, HMOs, Commercial Insurers)

- Payments for skilled care Medicare co-pay days only, if Medicare supplement plan covers

- No payments for regular custodial care
WHO PAYS FOR LONG-TERM CARE?

Shocking Summary:

- Medicare will not pay
- Veterans’ Administration will not pay for most people
- Private Health Insurance will not pay
- HMOs will not pay
WHO PAYS FOR LONG-TERM CARE?

These options will pay:

- ✔ Long-term care insurance
- ✔ Personal income of family
- ✔ Liquidating personal assets of family
- ✔ Medicaid
WHO PAYS FOR LONG-TERM CARE?

Option 4: Long-term Care Insurance
LONG-TERM CARE INSURANCE

Types of Policies:

1. **Group**
2. **Individual** – paid for by individual or employer
   - Stand alone
   - Combined with annuity or life insurance
3. **Long-Term Care Partnership**
   - Allows Medicaid while protecting extra assets
LONG-TERM CARE INSURANCE

What’s covered?

- Skilled nursing care
- Custodial care
- Nursing homes
- Home care
- Assisted living
LONG-TERM CARE INSURANCE

How strong is the coverage?

• What is the daily nursing care benefit?
  • Amount
  • Integrated (pooled)
  • Inflation protection
LONG-TERM CARE INSURANCE

How strong is the coverage?

- **What is the daily nursing care benefit?**
- When does coverage start & stop?
  - Deductible or waiting period
  - Length of coverage
  - Confinement required for new waiting period
LONG-TERM CARE INSURANCE

How strong is the coverage?

• What is the daily nursing care benefit?
• When does coverage start & stop?
• What care is covered?
  • All levels of nursing home
  • Home care and assisted living
  • Who can provide care?
    • Licensed providers, or
    • Family members
LONG-TERM CARE INSURANCE

How strong is the coverage?

- What is the daily nursing care benefit?
- When does coverage start & stop?
- What care is covered?
- What triggers coverage?
  - ADLs – cannot perform 2 of 6
  - Cognitive impairment
    - Organic brain disease
  - No prior hospitalization or skilled care
  - Watch for pre-existing conditions
LONG-TERM CARE INSURANCE

How strong is the coverage?

- What is the daily nursing care benefit?
- When does coverage start & stop?
- What care is covered?
- What illnesses are covered?
- Are there premium waivers?
LONG-TERM CARE INSURANCE

How strong is the coverage?

• What is the daily nursing care benefit?
• When does coverage start & stop?
• What care is covered?
• What illnesses are covered?
• Are there premium waivers?
• Can the company cancel coverage?
  • Guaranteed renewable, non-cancelable
LONG-TERM CARE INSURANCE

How strong is the coverage?

- What is the daily nursing care benefit?
- When does coverage start & stop?
- What care is covered?
- What illnesses are covered?
- Are there premium waivers?
- Can the company cancel coverage?
- Do premiums increase with age?
How strong is the coverage?

- What is the daily nursing care benefit?
- When does coverage start & stop?
- What care is covered?
- What illnesses are covered?
- Are there premium waivers?
- Can the company cancel coverage?
- Do premiums increase with age?
- What other provisions are there?
  - Return premium; Restore benefits
How strong is the company?

- Time in business
- Success of investments
- Rating
LONG-TERM CARE INSURANCE

Should you wait?
The longer you wait, the higher the premiums

<table>
<thead>
<tr>
<th>Age</th>
<th>Yearly Benefit</th>
<th>Yearly Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>55</td>
<td>$36,000</td>
<td>$1,200 - $3,200</td>
</tr>
<tr>
<td>65</td>
<td>$36,000</td>
<td>$1,300 - $5,000</td>
</tr>
<tr>
<td>75</td>
<td>$36,000</td>
<td>$2,500 - $9,450</td>
</tr>
</tbody>
</table>
WHO PAYS FOR LONG-TERM CARE?

Option 5:
Personal income of family
WHO PAYS FOR LONG-TERM CARE?

Option 6: Liquidating family assets
Option 7: Medicaid:

- Federal and state funded health insurance for the needy (i.e. Welfare)
- More than $117.1 billion spent by Medicaid on long-term care in 2015

Source: Kaiser Family Foundation. Medicaid in the US, January 2017
MEDICAID: HOW DO YOU QUALIFY?

Medicaid Qualifications

- Must be 65, blind or disabled
- Must have minimum income
- Must have minimum assets (resources)
MEDICAID: HOW DO YOU QUALIFY?

Resources - What do they include?

- Everything you own that has value
MEDICAID: HOW DO YOU QUALIFY?

Two categories of resources:

- Countable (or Available)
- Exempt (or Excluded)
MEDICAID EXEMPT ASSETS

Resources you *can* keep and still qualify:

- Primary residence
- Up to $572,000 of net equity (in 2018)
MEDICAID EXEMPT ASSETS

Resources you *can* keep and still qualify:

- A motor vehicle
Resources you *can* keep and still qualify:

- Prepaid irrevocable burial plan
- $1,500 in revocable burial fund plan
- Burial plots
Resources you *can* keep and still qualify:

- Life insurance with face value of $1,500 or less (otherwise cash surrender value is countable)
- Unlimited term life insurance
MEDICAID EXEMPT ASSETS

Resources you **can** keep and still qualify:

- Normal household goods and personal effects, plus wedding/engagement rings
- Illiquid assets
- Tools of your trade
Resources you *can* keep and still qualify:

- $2,000 cash, if Kansas resident
- $2,000 cash, if Missouri resident
Medicaid Countable Assets

Resources you can **not** keep:

- Stocks, Bonds
- IRAs, Keoghs
- CDs
- Savings Bonds
- Investment property
- Vacation home
- Second vehicle
- All other non-exempt resources
DO NOT

Try to give away or hide your assets...

You may disqualify yourself from Medicaid for a long time.
MEDICAID
TRANSFER PENALTY

Five-year look-back period for:

- Gifts
- Sale of assets
- Any transfer of assets or income

Apply for Medicaid Today

Look-back period
MEDICAID TRANSFER PENALTY

Five-year look-back period for:

- Gifts
- Sale of assets
- Any transfer of assets or income

Make Gift Today

Future “Look-back” period

2018 Jan 25
2019 Jan 25
2020 Jan 25
2021 Jan 25
2022 Jan 25
2023 Jan 25

Penalty Imposed if Apply for Medicaid Prior to
Most gifts (transfers for less than fair market value) during 5 years before applying for Medicaid cause a “transfer penalty”.

This disqualifies applicant from Medicaid for a period of time.

The Medicaid applicant must:

- Wait to apply for Medicaid until 5 years after the transfer,
- or
- Have a way to pay for care during the penalty period.
MEDICAID
TRANSFER PENALTY

Penalty imposed if gift made within 60 months prior to entering nursing home and applying for Medicaid

2018 penalty is disqualification from Medicaid for:

- One day for every $197.88 gifted (in Kansas)
  - ($5,936.40 = 30 days disqualification)
- One month for every $4,889 gifted (in Missouri)
MEDICAID TRANSFER PENALTY

If apply for Medicaid in 2017 –

- Missouri resident:
  - $48,890 given away / $4,889 = 10 months
  - $488,900 given away / $4,889 = 100 months

- Kansas resident:
  - $48,890 given away / $197.88 = 247 days
    (little over 8 months)
3 years ago had a stroke, but recovered.

2 years ago gave $40,000 to four grandchildren to help pay for college.

Early last year entered nursing home.

Today all money spent on care and she applies for Medicaid help.
$40,000/197.88 = 202 day penalty

STARTS to run when APPLY for Medicaid

- AFTER she has NO MONEY LEFT
- How can she pay for her care?
- What will nursing home do?
The penalty for applying for Medicaid when you’re not eligible . . .

- Disqualification from Medicaid for the entire penalty period,
- And it starts on day you apply for Medicaid, Not when gift is made
MEDICAID
RULES FOR SPOUSES

What if one spouse enters a nursing home?

What resources can the “at-home (community) spouse” have?
Community ("at-home") spouse:

- Spousal Impoverishment Act 1988
- "Division of Assets"
- Designed to protect the community spouse
Calculation for Division of Assets:

Step 1: Determine the date spouse is “institutionalized”

Step 2: List all countable resources of both spouses as of that date (the “financial snapshot”)

Step 3: Community spouse can keep the lesser of 1/2 of all countable resources or $123,600 with a minimum of $24,720 (in 2018)
MEDICAID MARITAL ASSETS

$50,000 Countable Resources

Bill  Mary
Mary keeps just $25,000
MEDICAID
MARITAL ASSETS

$250,000 Countable Resources
MEDICAID
MARITAL ASSETS

$250,000

$2,000

$123,600

$124,400 must “Disappear”
MEDICAID
MARITAL ASSETS

Countable:
• stocks, bonds
• Bill’s IRAs and 401(k)s
• savings bonds
• investment property
• vacation home
• second vehicle
• all other non-exempt assets

Exempt:
• cash, personal, and household effects
• wedding and engagement rings
• residence ($572,000 net equity limit)
• one motor vehicle
• irrevocable prepaid burial plans and plots
• life insurance (face value under $1,500)
• Mary’s IRAs and 401(k)s (Kansas only)
• maximum $123,600 for Mary
• assets that can’t be converted to cash
The couple can keep:
- $2,000 countable resources, in Kansas (less than $1,000 in Missouri)

The community spouse can keep:
- All exempt resources, and
- Lesser of:
  - $123,600 countable resources (2018)
  - 1/2 countable resources
MEDICAID
MARITAL INCOME

Community spouse:

- Keeps all of her own income no matter how large, and
- If not at least $2,030 can receive income from spouse in nursing home up to this amount. (Sometimes can increase to $3,090)
Nursing home resident:

ALL INCOME USED FOR:

- Part B Medicare premium
- Part D Medicare premium
- Medicare Supplement Insurance premium
- Community Spouse Income Allotment, if any
- Personal Needs Allowance (2018)
  - $62/month in Kansas; $50/month in Missouri

ALL REMAINING INCOME TO NURSING HOME
Nursing home spouse:

- Personal Needs Allowance (only income can keep)
  - $62.00 in Kansas
  - $50.00 in Missouri

Community spouse:

- Minimum of $2,030 (in 2018)

Combined Monthly Income: $2,092 (in Kansas)
MEDICAID MARITAL INCOME

Total Income
$2,700/month

$2,100 per month
Social Security and pension

$600 per month
Social Security
MEDICAID MARITAL INCOME

$62.00/month personal needs allowance

$600.00 of her income

$1,430.00 of Bill’s income

$2,030.00 Total

$608 of Bill’s income plus Bill’s Medicare and Medigap insurance

FAIRVIEW REST HOME
MEDICAID
MARITAL INCOME

Total Income
$2,700/month

$600 per month
Social Security

$2,100 per month
income
MEDICAID MADRITAL INCOME

$62.00/month personal needs allowance

$2,100 of her income

$ zero of Bill’s income

$2,100 Total

$538 of Bill’s income

FAIRVIEW REST HOME

plus Bill’s Medicare and Medigap insurance
MEDICAID PLANNING TIME FRAMES

TWO TIME FRAMES:

1) Nursing Home Expected Within 5 years and Not Enough Income = “Crisis” Planning

2) Planning for Possible Future Long-Term Care = Foundation Estate Planning Documents With Long-Term Care Planning Powers
What if you’re caught in a “crisis” and don’t have enough income and not “poor” enough to qualify for Medicaid?
Objectives:

- Make excess “available” resources “disappear” in a way that benefits the Medicaid applicant or spouse
- Maximize income and assets for the community spouse
Making excess available resources “disappear”

• Spend
  • Consume
  • Convert into exempt resources
  • Convert into income, or

• Give Away
  • Create a transfer penalty
  • Avoid transfer penalty
CONVERTING AVAILABLE TO EXEMPT

$250,000

$123,600

$2,000

Must make $124,400 “Disappear”
SUCCESSFUL PLANNING STRATEGIES

- Convert your available assets to exempt assets
CONVERTING AVAILABLE TO EXEMPT

Planning Strategies:

• Pay off existing mortgage
• Max $572,000 net equity
CONVERTING AVAILABLE TO EXEMPT

Planning Strategies:

• Make home improvements
CONVERTING AVAILABLE TO EXEMPT

Planning Strategies:

- Buy a new home
- Max $572,000 net equity limit
CONVERTING AVAILABLE TO EXEMPT

Planning Strategies:

• Pay off debts
• Purchase prepaid funeral and burial plots
• Purchase motor vehicle
Convert Available resources into income:

- Purchase “Medicaid Qualified” annuity
  - Not normal annuity
  - Not deferred, must be immediate
  - Strict requirements
- MUST comply with strict laws
There are successful strategies for Medicaid planning:

- Gifting Strategies
  - With and Without Transfer Penalties

- Income Strategies

- Asset Ownership Strategies
  - Exempt Resources: house, business, burial plan, etc.

- Durable Power of Attorney with LTC Planning Powers

- Revocable Living Trust with LTC Planning Powers
PLANNING STRATEGIES

Be careful, don’t:

• Sell assets
• Give assets away
• Divorce a spouse, or
• Try any planning strategy

Without professional advice
PLANNING STRATEGIES

Beware of Medicaid Estate Recovery!

The state demands repayment of all Medicaid benefits paid from your (or your spouse’s) estate after the death of both of you.

Proper planning will protect your estate.
Here are your options:

- Self-insure *(Income and Assets)*
- Long-term care insurance
- Medicaid planning
Long-Term Care Planning is Part of Estate Planning

金字塔图示：

1. **Accumulating Wealth**
2. **Preserving Wealth**
3. **Distributing Wealth**
4. **Long-Term Care Planning**
THE FOUNDATION OF WISE ESTATE PLANNING

1. Revocable Living Trust with Long-term care planning powers
2. Pour Over Will
3. Health Care Directive
4. Financial Durable Power of with Long-term care planning powers
5. Health Care Durable Power of Attorney
WHAT DO WE DO NOW?

What to do...
What to do?
WHAT ARE OUR OPTIONS?

- Work on your own
- Get some professional advice
BEWARE OF IMPOSTORS!

- Non-attorneys are committing the unlawful practice of law
- Can cost you thousands of dollars!
Where’s the bathroom?

ANY QUESTIONS?
LONG-TERM CARE PLANNING WORKSHOP

An Advanced Planning Seminar

Presented by

Reaves Law Firm, P.C.

Elder Law Attorneys