

Using a Trust to Provide for Long Term Care

By Denice A. Gierach

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As long term health care continues to spiral upwards, it is a good idea to have long term care insurance, which will provide something for both nursing home care and at home care. Beyond long term care insurance, which has its limits, an elder person can plan for long term care while protecting their assets. They do this by using a particular trust known as a Medicaid Trust.

The Medicaid Trust is particular type of trust which allows an elder person to obtain Medicaid assistance to cover the costs of long term care, without using up their own personal assets. In this trust, the individual who creates the trust retains the right to income for life. For most elders, this right to income is the only way they can maintain their standard of living. If the trust is created at least 60 months before the elder person applies for Medicaid benefits, the existence of the trust will not preclude the elder from qualifying for Medicaid benefits to pay for the cost of nursing home care. In addition, the entire principal of the trust may then be protected from the cost of long term care.



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There are several issues that an elder needs to be aware of when using this type of trust. First, the elder does not have control of the principal of the trust. While the elder can still control the ultimate beneficiary of the trust when the elder dies, the elder does not control the payment of principal out of the trust from the date of the trust's creation. These trusts are set up with another trustee involved who will determine how much principal will be paid to or for the benefit of the elder person. If the elder retained control and could pay out principal to or for his or her benefit, the elder may be deemed to be in control of the assets despite the trust and the elder may be denied coverage under Medicaid. This lack of control by the elder may be a problem for many elders, although their children may like it since there may be more assets available for them at the death of the elder person.

Another issue is that as more and more baby boomers need assistance to pay for the cost of nursing home care and apply for Medicaid benefits, there may be less money to go around. As a result, the funds in the trust may have to be used for the care of the elder person, which may result in less to be inherited by the elder's family.

In addition, the Medicaid law may also change to have a longer look back provision than 60 months, as a result of the financial pressures of more and more baby boomers applying for Medicaid.

All in all, if the elder person plans ahead and is not bothered by the lack of control or the uncertainty of the law, the Medicaid trust can have advantages for that person. As this is a specialty type of trust, the elder person should consider hiring an expert in this area to help to draw this trust for them.

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