

#19 – Summary of The Wisconsin Long Term Care Insurance Partnership Plan Act Effective 1/1/2009©

What Are Your Long Term Care Alternatives in Wisconsin?

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Companies

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Note: This is only a brief summary of laws and contracts. Please refer to the actual regulations, legislation or contracts for more detailed information.

Why an End of Life or Disability Long Term Care Plan is Necessary

You have a Long Term care plan set up by your Government (that you may not like) under Medicare and/or Medicaid. So, why do you need some other plan for your parents' or your own Long Term Care?

- I. The Government won't pay for your care unless you are impoverished.
 - A. Coverage under Medicare is limited to recovery from illness/injury. After 3 days of hospitalization, Medicare will cover 20 days of nursing home recovery with no deductible and another 100 days of recovery with a \$128/day deductible and then Medicare provides no coverage. Also, Medicare requires that you are recovering (getting better) for coverage. Medicare does not pay for maintenance care. There is no Long Term Care in Medicare.
 - B. The State and Federal Medicaid program is going bust under the weight of in-home and nursing home care costs for our aging population. The Deficit Reduction Act of 2005 was passed to reduce government spending. Part of the Act was a 5 year look back penalty.
 - C. Therefore, when establishing Medicaid eligibility, there is a general 5-year look back cash and asset gifting rule that defines your possible penalty period. For example:
 - If you gift \$500,000 over 5 years before you seek eligibility for Medicaid (you don't know when that could be), the \$500,000 is divided by the average nursing home costs in your area.
$$\$500,000 \div \$5,000/\text{mo. (Ave. nursing home cost)} = 100 \text{ months}$$
$$100 \text{ months} \div 12 = 8.33 \text{ years penalty waiting period}$$
You must wait 8.33 years before you are eligible for help from Medicaid. This is your penalty period.
 - This rule requires us to save assets approximately equal to all of your gifting in the 5-year look back period prior to applying for Medicaid because your penalty could equal a longer waiting period to receive Medicaid that must be covered by the cash you must save or be paid for by a Long Term Care Insurance policy.
 - D. So even if you do qualify for Medicaid nursing home care, do you want to spend the rest of your life in a Medicaid nursing home?
- II. Medicare and Medicaid programs are busting the budgets of the Federal and State Government. Benefit increases are not likely.
- III. Your health insurance may provide limited, skilled nursing home and/or hospice coverage for short term care, but only after an insured illness or accident. There is not much help here.

- IV. Your spouse, daughter, son, etc. don't usually have the skills, time, money, or live close enough to care for you.
- A. The 21st century American family is spread across the county, not just across the county or state. They are not close enough to care for you.
 - B. Your sons, daughters (and their spouses) have to work to support their family and can't afford to quit their job to care for you.
 - C. The highest lifestyle risk for depression is care giving. Seventy-one percent of caregivers suffer from periodic depression, as compared to 34% of the general population.
 - D. A working caregiver suffers a 50% loss of productivity on the job.
- V. Your assets paying for Long Term Care is a very expensive plan of \$6,000/mo. for an undetermined time.
- VI. You can save your spouse, your family and your wealth with a Long Term Care Plan. The Wisconsin Long Term Care Insurance Partnership Plan Act (effective 1/1/2009) which allows purchasers of qualified Long Term Care Insurance to:
- A. Shelter (credit) more of your income if you apply for Medicaid.
 - B. Allows you and/or your spouse to keep more assets as some are disregarded.
 - C. Reduces the amount of state recovery of your Medicaid costs when you die. It limits recovery.
 - D. Allows you the freedom to have better care where you want it. A Medicaid nursing home or community facility may not even be available.
As an option, it can return your premium to your heirs with no tax. Your cost of insurance is only loss of use of the money and interest cost.

- VII. For 3-10% the cost of Long Term Care, on a monthly basis, you may purchase a qualified Wisconsin Long Term Care Partnership Plan Insurance Policy. For most insureds, all premiums are tax deductible on a favorable Federal basis for qualified Long Term Care plans (see page 7) or on a State basis for any Long Term Care insurance coverage.
- A. An employer may also pay the premium for anyone on a logical basis and it is tax deductible to the company with no income to the employee and the benefit is received tax free. The employer can discriminate.
 - B. Self employed owners/employees of non C-Corp's (pass-through tax entities) also have the premium tax deductible at annual premium deduction limits established by the IRS.

FEDERAL PREMIUM DEDUCTION LIMIT			
Age Before Close of Tax Year	2007 Tax Year	2008 Tax Year	2009 Tax Year
40 or younger	\$290	\$310	\$320
41 to 50	\$550	\$580	\$600
51 to 60	\$1,110	\$1,150	\$1,190
61 to 70	\$2,950	\$3,080	\$3,180
71 or older	\$3,680	\$3,850	\$3,980

* Per Diem Tax Free Benefit Limit is \$280 per Day.

- C. For the general tax-paying employee, there are only two tax deductions. The first is bad, the second is good.
 - 1. The Long Term Care Insurance premium can be added to your non-reimbursed medical expenses for a year and any amount exceeding 7.5% of your gross taxable income is deductible, for the amount you exceed the 7.5%.
 - 2. Tax Deduction
 - a. "Wisconsin law allows individuals to claim a deduction from income on the Wisconsin income tax return for the amount paid during the taxable year for a long-term care insurance policy that covers the individual or his or her spouse. Long term care insurance policy means a disability insurance policy or certificate advertised, marketed, offered or designed primarily to provide coverage for care that is provided in your home or in an institutional or community based setting. The care must be convalescent or custodial care for a chronic condition or terminal illness. A worksheet is provided in the Wisconsin Department of Revenue Form 1 (Line 11) with instructions for computing the deduction for long-term care insurance."
 - b. Minnesota Laws allow a direct tax reduction, or credit, of \$100 per year for the insured or spouse for qualified Long Term Care Plans only.

- D. The cost of Long Term Care insurance not taken as a federal tax deduction (all or a portion left after self employed table is taken or if you don't accumulate 7.5% in unreimbursed medical expenses) can just be deducted from your Wisconsin taxable income. This deduction includes yourself and your spouse.
- E. No matter what your employment or tax status, you may pay Long Term Care insurance premiums from your Health Savings Account with 100% tax deductible dollars per year up to the HSA deduction limits (\$3,000 per Single and \$5,950 per Family for 2009).

VIII. Here is your Government Long Term Care Plan (at least for most) if you need Medicaid. (Due Diligence by all professional advisors is needed in Giving and Asset Management for all clients.) The following Government Long Term Care Plan is for a single person applying to Medicaid.

A. You can keep these Excluded Assets up to a \$2,000 Value

- | | |
|-------------------------|-----------------------------------|
| ● Cash | ● Bonds |
| ● Checking Account | ● Non-Homestead Property |
| ● CD's | ● Property Agreements – CFD |
| ● Life Insurance Policy | ● Any Liquid Assets |
| ● Stocks | ● <u>ALL ONLY EQUAL TO \$2000</u> |

B. You can also keep these other Excluded Assets if allowed by Medicaid

- Your Homestead if a spouse or family member still lives there
- Some Trusts
- \$1500 Burial Policy
- One Vehicle
- Some Federal Payments – No Social Security, only V.A.
- Household Property
- Personal Items (Clothing and Jewelry)
- Long Term Care Verified Benefits paid out are disregarded assets sheltering assets \$1.00 for \$1.00
- Income Limit for 2008 is \$45.00 to \$31,320.00 (with spouse or dependent family member)

- C. A Single Persons Deductible for Medicaid eligibility with No Long Term Care Policy is:
(If giving away assets, remember the 5 year look back and waiting period penalty to be eligible for Medicaid.)

Keep	Your Deductible to Liquidate to Receive Medicaid
\$1,500 Burial Policy	Your house and cottage
\$2,000 in Assets	All other Assets
1 Vehicle	Your second car
	Your Toys
\$45/mo.	All 401(k) Qualified Plans
	Any business interests

- D. A Married Persons Deductible for Medicaid eligibility with no Long Term Care Policy is:
(Remember the 5 year look back period and eligibility penalty - What is documented as assets of the couple “community spouse assets share” (CSAS) are totaled).

Keep	Your Medicaid Deductible
One House	Cottage
One Vehicle	Second Car
\$2000 Excluded Assets	All other Assets
\$1500 Burial Policy	All other Insurance
\$104,400 CSAS	All Above \$208,800
\$2,610/mo. Spouse Income	\$1,400/mo. Medicaid Share

* See Wisconsin Spousal Impoverishment Fact Sheet attached.

- IX. If you do not like your Government Long Term Care plan you can use a qualified Wisconsin Long Term Care Partnership Plan as of 1/1/09 for better Long Term Care and to protect your family assets.
- A. Premium Credits so you can (or you and your spouse) keep more income above the \$45/mo. or 2,610/mo. while you are receiving Medicaid.
 - B. Allows a disregard or shelter of assets equal to benefits paid out under a Wisconsin Long Term Care Partnership contract.
 - C. Limits recovery of Medicaid services revenue from you and/or your spouses estate at your death equal to the benefits paid by your Long Term Care policy.
 - The Wisconsin Long Term Care Partnership plan shelters assets for you and your spouses use and protects your estate assets from Wisconsin recovery of costs from your estate. This is \$1.00 for \$1.00 asset protect by benefits purchased at a discount.
 - To design your Long Term Care Plan the Wisconsin Long Term Care Partnership Plan of 1/1/06 allows the purchase of a “qualified long term care plan”

- X. A Qualified Wisconsin Long Term Care Insurance Partnership Plan must contain these basic coverages (HIPAA 1996). This describes a federally qualified plan.
- A. Benefits are tax-free
 - B. An MD must declare your need for Long Term Care
 - C. You can have no greater than a 90 day elimination period (your deductible – you pay the first 90 days of Care)
 - D. Your plan must pay after you can't perform 2 of 6 ADLs
 - 1. ADL's (Activities of Daily Living) Bathing, Dressing, Eating, Toileting, Maintaining Constinance and Transferring
 - 2. Severe Cognitive Impairment – Alzheimer's, Dementia, Parkinson's Disease
 - 3. Only need one or the other – not both.
 - E. There must be a non-forfeiture of value option after 3 years premium payment if there is a level of rate increases. You will receive benefit equal to premium when needed.
 - F. The policy must contain at least a 3% compound inflation clause if under age 61 and 3% simple after age 61.

- XI. There are three basic types of Wisconsin Long Term Care Partnership policies (besides life insurance and annuities with Long Term Care rider) that can sometimes qualify as a Wisconsin Long Term Care Policy Partnership Plan. They are 1) Reimbursement (you pay less premium), 2) Indemnity (you pay a little more premium), and 3) Cash (best but more premium).
- 1. Reimbursement – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim, submit proof of loss and be reimbursed for actual expenses up to daily, weekly or monthly benefit
 - 2. Indemnity – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim, submit proof of loss and benefit indemnified up to daily, weekly or monthly benefit. If benefit exceeds actual cost, client gains additional funds.
 - 3. Cash Benefit – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim and insurer sends a periodic check for the insured's discretionary use.

XII. Some Main Policy Definitions

A. Care

- 1. Substantial Assistance (or hands on assistance) which is physical assistance (minimum, moderate, maximum) of another person without which you would not be able to perform the activity of daily living.
- 2. Standby Assistance: The presence of another person within arm's reach of you that is necessary to prevent, by physical intervention, injury to yourself while you are performing the activity of daily living.

B. Cognitive Impairment (60-85% of all claims for Long Term Care)

1. Severe Cognitive Impairment is a loss or deterioration in intellectually capacity that:

- Is comparable to (and includes) Alzheimer's disease and similar forms of irreversible dementia: and
- Is measured by clinical evidence and standardized tests that reliably measure impairment in a person's:
 - Short term or long term memory
 - Orientation as to people, places or time
 - Deductive or abstract reasoning
 - Judgment as it relates to safety awareness

C. A Plan of Care – Needs to be submitted before benefit paid and developed before or after the first day of eligibility for benefit that begins the elimination period. Note: 75% of claims begin at home; a generous modification benefit is advisable.

1. A blueprint that describes needs and services to care for the person needing care. The plan of care will also drive the ancillary benefits of a Long Term Care Insurance policy. Such as assistive devices like grab bars in a bathing or toileting area, wheel chair ramps, etc. If these things are not in a plan of care, the carrier will typically not cover the costs.
2. These are prepared by several different people. Could be hospitable discharge, independent care management of care coordination services associated with a Long Term Care Insurance Policy.

XIII. Do you or your family want the Government Long Term Care Plan, or do you want guaranteed better care and protection for your families' assets?

"A Qualified Wisconsin Long Term Care plan gives you freedom."

If you have any questions please call Dave Trapp of Armitage, Inc.
at 800-952-0263 or 608-784-5433.



Wisconsin Medicaid

Spousal Impoverishment Protection

"Spousal Impoverishment Protection" refers to special financial provisions in Medicaid law regarding income and assets that affect certain married couples receiving or applying for nursing home or community waiver services. Community waivers programs, such as the Community Options Program (COP Waiver), Family Care or Community Integration Programs (CIP), provide a home care alternative to a nursing home. These protections apply to persons who are elderly or have disabilities.

Medicaid pays for health care and long term care services for low-income people of all ages. Medicaid is a state and federally funded government program. To qualify for Medicaid, a person's income and assets must be below specified levels.

Spousal impoverishment protection affects legally married couples when one spouse is in a nursing home or participating in a community waiver program and the other spouse is not residing in a nursing home or other medical institution for 30 days or more. The person in the nursing home or the community waiver program is referred to as the "institutionalized spouse." The other spouse is the "community spouse."

ASSETS

Counting Assets

There are special rules for counting assets and allocating the assets between the spouses. When you or your spouse first enter a medical institution, nursing home, or request a community waiver program, the county/tribal human or social services agency will, if requested, conduct an assessment of your total combined assets. The amount of your total combined assets at the time of institutionalization determines the amount of assets you may keep.

If you have assets of \$100,000 or less, you can keep \$50,000 for the community spouse and \$2,000 for the institutionalized spouse. If your assets are over \$100,000 you should contact your local county/tribal social or human services agency for help in determining the amount of assets you can keep. The community spouse share can be higher than the standard if a court or administrative hearing officer orders a higher amount.

Assets Allocated Between the Spouses

Once the couple's assets are at or below their asset limit, they have one year in which to assure the institutionalized spouse has no more than \$2,000 worth of assets in his/her name. During this time period, the institutionalized spouse usually transfers all but \$2,000 of his/her assets to the community spouse.

Countable Assets

Examples of countable assets may include, but are not limited to:

- Cash
- Checking Accounts
- Savings Accounts
- Certificates of Deposit
- Life Insurance Policies

Assets Not Counted

Medicaid does not count some assets. Those not counted include:

- Your home (as long as the community spouse or other dependent relative lives there).
- One vehicle.
- Burial assets (including insurance, trust funds, and plots).
- Household furnishings.
- Clothing and other personal items.

Reducing Assets to the Allowable Limit

"Excess" assets (assets which are above the asset limit) can be reduced to allowable limits if they are used to pay for nursing home or home care costs, or for other things such as home repairs or improvements, vehicle repair or replacement, clothing or other household expenses. If excess assets are not reduced, the institutionalized spouse cannot become eligible for Medicaid.

INCOME

Counting Income

There are special rules for counting income and the amount of income that can be transferred from one spouse to another. Only the institutionalized person's income is counted in determining eligibility. The community spouse cannot be required to pay for the institutionalized spouse's care except when there is a court order to do so.

Transferring Income

An institutionalized person who qualifies for Medicaid may be allowed to protect some of his/her income by transferring it to the community spouse, depending on the amount of income the community spouse has. The institutionalized person can also transfer income to other dependent family members. To find out the amount that can be transferred, contact your local county/tribal social or human services agency.

Income and Asset Limits

The institutionalized spouse must meet the same income and asset tests as a single person applying for Medicaid in a nursing home or community waiver program. The assets directly available to the institutionalized spouse are limited to \$2,000. Except for a small personal needs allowance, the institutionalized spouse must either transfer his/her income to the community spouse or use it to pay for nursing home or home care. The spousal impoverishment protection applies only when one spouse is institutionalized and the other is not. If both of you are institutionalized, the single individual income and asset limits apply. The purpose of the spousal impoverishment protection is to prevent the community spouse from being impoverished by his or her spouse's institutionalization.

Spousal Impoverishment Assets (Total Amount)		
If the total countable assets of the couple are	THEN the Community Spouse Asset Share is:	Medicaid Eligibility Limit (CSAS + \$2,000)
\$208,800, or more	\$104,400	\$106,400
Less than \$ 208,800 but greater than \$100,000	½ of the total countable assets of the couple	½ of the total countable assets of the couple + \$2,000
\$100,000 or less	\$50,000	\$52,000

Spousal Impoverishment Income Allocation and Allowances (Monthly Amounts)	
Community Spouse Allocation	The maximum allocation is the <i>lesser</i> of \$2,610 or \$2,281.67 plus an excess shelter allowance. <i>“Excess shelter allowance”</i> means shelter expenses above \$684.50. Shelter expenses are mortgage, rent, taxes, maintenance fees, and a utility allowance. \$684.50 is subtracted from the community spouse’s shelter costs. If there is a remainder, it is added to \$2,281.67.
Dependent Family Member Allocation	\$570.42 per dependent family member living with the community spouse.
Personal Needs Allowance (effective 7/1/01)	\$45 for institutionalized non-veterans
Community Waivers Allowance	\$817 to \$1,911 for a person in Community Waivers

For More Information:

- Contact an Elderly Benefit Specialist through the county aging commission or office of Independent Living Centers (for persons age 60 and above and their families);
- The Wisconsin Coalition of Independent Living Centers (for persons under age 60 and their families). To find the center in your area, call toll-free at (800) 690-6665 or (608) 251-9151 (V/TTY);
- Hospital and nursing home staff;
- Member Services at 1-800-362-3002 (TTY and translation services are available); or
- Your local county or tribal agency.

Information provided is general. For more detailed information, contact your local agency or call 1-800-362-3002.

The Department of Health and Family Services is an equal opportunity employer and service provider. If you have a disability and need to access this information in an alternate format, or need it translated to another language, please contact (608) 266-3356 or 1-888-701-1251 TTY. All translation services are free of charge. For civil rights questions call (608) 266-9372 or 1-888-701-1251 TTY.

“Past Updates or Publications for Clients of the A Companies”

1. Brief summary for COBRA for the Employer. (10/22/88)
2. Structure and Rationale for Section 89(k) and Section 89. (12/88)
3. Rose E. and Raymond A. Reader’s, Quick and Easy Reading Improvement Book. (4/91) Read faster and better to really be in the technical age. 30 pages.
4. 52 COBRA Questions and Answers. (2/92)
5. Family Medical Leave Act (FMLA) – as it relates to Worker’s Compensation and COBRA. (2/1/96)
6. Due Diligence Risk Evaluation for Mergers and Acquisitions. (4/97)
7. HIPPA- Your Health Insurance Reform Survival Kit. (6/97) Federal effective 7/1/99 and WI #289 Effective 5/1/97.
8. Your Facts 2000-Compendium of Many Facts and All Other Tables of Any Possible Interest. (11/99) 140 pages of everything you need to know.
9. Comparison of Defined Contribution Accounts – FSA, HRA and HSA. (2/18/04)
10. Helping you with HIPAA(PHI) ©. (3/29/04) The Law, Your Manual and all necessary forms. 36 pages
11. Primer on Group Health Contracts – Different Types of Insuring (12/14/05)
12. Comparative Cost of a Similar Market Basket of Drugs and the PBM’s that Distribute Them ©. (1/23/06)
13. Health Care Reform in the U.S. and Wisconsin: A Comparison of all Plans and Proposals. Care Cooperative’s proposal included. (2/07) 34 pages
14. Pre-tax Plans that can Simplify Your Health Insurance (6/22/07)
15. Plans at a Glance: HRAs, HSAs and FSAs. (8/06) Updated 9/26/07 for 2008 Plan Year
16. How to Use your Health Insurance and Medical Services Wisely (10/10/07) The problem of over treatment and employee instructions.
17. Helping Employers and Employees Understand the Process of Applying for Medicare, Advantage Plans, Medicare Supplement Plans and Part D Plans (4/22/08) Summary of Trigger Events and Dates of Enrollment in Medicare. 2nd Edition (5/13/08), 3rd Edition (12/4/08)
18. Brief Summary of What is Possible and Legal in Designing Employer Wellness Programs (6/24/08)
19. Summary of the Wisconsin Long Term Care Insurance Partnership Plan Act Effective 1/1/2009 (1/12/09)

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