What you should know about paying nursing home care

By Linda T. Cammuso

Receiving care in a nursing home is a scenario that many seniors will face. Whether it's a short-term rehab stay following an illness or operation, a hospice stay at the end of life, or simply a need for daily care due to aging, nursing home stays are a reality for today's growing senior population.

Legal Briefs

Short-term rehab is generally covered by Medicare (or the equivalent senior HMO plan). When it comes to long-term care, including facility-based hospice, there are generally three ways to pay:

1: Long-term care insurance — private insurance policies that pay a daily rate based on amount of coverage the insured purchased;

2: Private payment — spending one's own resources/assets at the facility's private daily rate; and

3: Medicaid (called "MassHealth" in Massachusetts) — a federal and state-funded benefit that pays for daily nursing home care of individuals who meet the financial criteria — most critically, "countable" assets of less than $2,000.

With the average long-term nursing home stay exceeding two years, planning ahead for the cost of long-term care is more critical than ever. Still, many people are unprepared for the financial realities of a nursing home.

When that day comes, people tend to either do nothing and start writing checks each month for private pay — without even exploring their options — or they panic and begin gifting or moving assets without proper legal advice.

A common myth about nursing homes is that they will take your assets. Nursing homes do not take ownership of your accounts or real estate; they simply charge the private rate until another source of payment, typically MassHealth, is secured.

Unfortunately, many people inadvertently jeopardize their eligibility for MassHealth because they are ignorant of the rules. For example, under the "five-year look back" rule, a person will be penalized one day of MassHealth coverage for every $300 that he/she gifts. This means that a widow who moves her $50,000 savings account to her son's name and applies for MassHealth within five years will be penalized 167 days — or almost six months of MassHealth coverage.

Another sad but all too common scenario is a person who pays privately for care while a spouse remains at home in the community. These couples likely do not realize that the Medicaid rules are designed to avoid impoverishing the at-home spouse and that viable options exist to secure MassHealth and terminate private payment obligations.

When is it too late to plan?

Any individual, single or married, healthy or already in the nursing home, may be able to take steps to preserve all or a portion of their assets through legal planning.

•Advance planning, typically done while healthy or when dealing with larger estates, involves trusts and other estate planning vehicles that individuals, single or married, can use to exempt certain assets from "countable" status under the MassHealth rules.

•Last-minute planning, typically when nursing home admission is imminent, involves: Utilizing available exceptions to the transfer penalties to shield assets; converting countable assets to non-countable with the use of annuities, special needs trusts and other vehicles; and spend downs that are beneficial to the applicant and the family.

Linda T. Cammuso, a founding partner at Estate Preservation Law Offices and an estate planning professional, has extensive experience in estate planning, elder law and long-term care planning. She may be reached at www.estatepreservationlaw.com or by calling 508-751-5010. Archives of articles from previous issues may be read at www.fiftyplusadvocate.com.