

Long Term Care Options

Home Care, Nursing Homes, Assisted Living, with
or without Long Term Care Insurance

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Medicare

- ❖ Non-means tested
 - ❖ Requires work history
- ❖ Eligibility based on age or disability
- ❖ Has deductibles and co-payments
- ❖ Covers rehabilitative stays in a nursing home
 - ❖ 100 days maximum (first 20 full coverage – next 80 at \$209.50/day)
 - ❖ *Jimmo v. Sebelius* – no improvement standard
- ❖ Covers home care with rehabilitative component
- ❖ **Does not pay for long-term care**

Costs of Long Term Care

- Long term care is very expensive. Most people cannot afford to privately pay for long term care services for very long.
- The cost of home care is in excess of \$30 an hour or more for skilled services averaging over \$5,700 per month.
- Downstate, average nursing home costs vary from \$466 per day in the Northern Metropolitan area to \$488 per day in Long Island, which is approximately \$169,980 per year in the Northern Metropolitan area to \$176,016 per year in Long Island. It is estimated that persons in nursing homes stay for less than 2½ years on average.

(Source: New York State Partnership for Long Term Care)

Long Term Care Insurance

- ❖ Long Term Care Insurance may be able to cover some of the costs of home health care, assisted living or nursing home.
- ❖ They can provide reimbursement for out of pocket, pay providers directly, or provide a fixed payment
- ❖ Usually there is an “elimination period” of 90 days.
- ❖ Premiums are based on age and health.
- ❖ Look for “inflation riders” and premium waivers.
- ❖ NYS offers a tax credit for some qualified policies.

New York State Partnership for Long Term Care



- Starting in 1993, providers began offering policies under this New York State approved program which allowed people to protect assets.
- After the benefits paid under the program are exhausted, e.g., after 5 years of home care or 3 years of nursing home care, then the policy holder will receive Medicaid automatically, regardless of their assets (total protection) or up to a certain amount (dollar for dollar).
- Income must still be paid to the nursing home.
- Portability is limited to participating states which have similar programs.

Where can one get Long Term Care Insurance Coverage?

Most Long-Term Care Insurance Policies are extremely expensive and difficult to get. Many insurers have left the space.

There are some Life Insurance Policies with Long Term Care Riders, but there are health and underwriting requirements and premiums for someone over 60 are extremely high. One out of three people do not qualify.

Lifetime Benefit Annuity Products are a possible solution, but they are not readily available in New York.

Home Care - Threshold questions

- ❖ Can the patient's health and safety be maintained in a community setting?
- ❖ Is the patient self-directing? If not, is there individual who can take responsibility for directing the patient's care?
- ❖ What Activities of Daily Living does the patient need assistance with?

What are Activities of Daily Living (ADLs)?

ADL's are generally considered to be the following:

- Eating
 - Bathing
 - Getting dressed
 - Toileting
 - Transferring
 - Continence
-
- Currently, long term care insurance usually requires assistance with two Activities of Daily Living (ADLs) to authorize care. Medicaid now requires assistance with more than 2 ADLs or, if there is a diagnosis of dementia, more than one ADL to receive MLTC.

Home Care Options

- Licensed Home Care Services Agency (LHCSA)
 - Generally privately paid. The average is \$30 hourly.
 - Can be covered through Long Term Care Insurance.

- Medicaid Programs:
 - Managed Long Term Care (MLTC)
 - Personal Care
 - Consumer-Directed Personal Assistance
 - Adult Day care services
 - PACE (All inclusive care)
 - Nursing home transition and diversion

Home Care Options

- **Certified Home Health Care Agencies (CHHA)**
- CHHA's provide skilled services, including nursing and therapy
- Generally covered by Medicare, but in some cases can also be paid by Medicaid.
- Generally must have a rehabilitative component and are usually offered as part of a hospital discharge plan.

Residential Options

- Assisted Living Facilities
- Adult Care Facilities (Independent Living)
- Continuing Care Retirement Communities
- Skilled Nursing Facility

Residential Options

❖ **Assisted Living Facilities**

- ❖ Home Health Aide services are provided in a residential setting, with meals and supportive services
- ❖ Rates are established, similar to a nursing home and include room and board
- ❖ Medicaid home care can also be provided in a non-Medicaid assisted living residence

Residential Options

❖ **Assisted Living Facilities**

- ❖ Adult Care Facility – non-medical
- ❖ Enhanced Housing – personal care and nursing services available.
- ❖ Special Needs Assisted Living Residence – Dementia care

- ❖ Rates are established, similar to a nursing home and include room and board

- ❖ Medicaid home care can also be provided in a non-Medicaid assisted living residence

Residential Options

Type of Service Offered	Assisted Living Residence	Enhanced Assisted Living Residence	Special Needs Assisted Living Residence	Independent Senior Housing
24 Hour Supervision/Oversight	X	X	X	
Social Activities	X	X	X	X
Home-like environment	X			X
Health-Related Services	X			
Skilled Nursing		X		
Case Management	X	X	X	
Medication Management	X	X	X	
Assistance with Personal Care (bathing, dressing, toileting)	X	X	X	
Assistance with finances	X	X	X	
Meal Preparation	X	X	X	X
Transportation	(varies by provider)	(varies by provider)	(varies by provider)	(varies by provider)
Housekeeping/Laundry	X	X	X	(varies by provider)
Individualized Service Plan	X	X	X	
Landlord/Tenant Agreement				X
Residency Agreement	X	X	X	

Source: NYSDOH letter 4/25/2016

Medicaid

- ❖ Means tested – with income and resource limits
- ❖ “Community coverage with Long Term Care” covers adult day care and various home care programs
- ❖ Income limit is \$1,800 monthly in 2025
 - ❖ \$2,433 for a couple
 - ❖ \$20 unearned income disregard
- ❖ Resource limit is \$32,396
 - ❖ \$43,781 for a family of two

Medicaid

- ❖ Financial “Lookback” is 3 months for home care
- ❖ No Transfer Penalty for Medicaid Home Care (right now). Eligibility is established in the month following a transfer.
- ❖ Medical bills can be used to offset excess income or resources
- ❖ For the Managed Long Term Care (MLTC) program, a “community spouse” can keep \$3,948 in income and up to \$157,920 in assets, pursuant to a federal waiver

Home Equity (Home Care cases)

- If the equity value of the home exceeds \$1,097,000 the excess is considered available
- Does not apply if the home is occupied by a spouse, or a minor or disabled child
- For jointly owned property, each individual owner is presumed to own an equal share, and will be entitled to the \$ 1,097,000 exemption
- Home equity can be reduced with use of a reverse mortgage or home equity loan

Medicaid Home Care Options

- ❖ **Consumer Directed Personal Assistance Program (CDPAP)**
- ❖ Allows Medicaid recipients to hire, supervise and direct the activities of their own aides.
- ❖ Personal Assistant is able to perform a wide range of services not allowed under the Personal Care program, e.g., the administration of medications.
- ❖ PPL, a Statewide Medicaid contract agency acts as fiscal agent for the Medicaid recipient and maintains payroll records, pays taxes, and provides employee benefits to the assistant.

Medicaid Home Care Options

- ❖ Programs of All-Inclusive Care for the Elderly (known as PACE) – Called Comprehensive Care Management (CCM) in Westchester
- ❖ Nursing Home Transition and Diversion waiver program is designed to bring home nursing home residents, but also can apply for eligibles
- ❖ These are capitated programs which can cover a variety of necessary services

Managed Long Term Care

- ❖ The MLTC plan now controls access to all Medicaid home care services and other long-term care. This is the only way to obtain these services for adults who are dually eligible, unless they are exempt or excluded from MLTC.
- ❖
- ❖ The provision of MLTC services depends on an initial and followup assessment performed by NYIA, the NY Independent Assessor, which determines how much care a patient will receive.

Managed Long Term Care

Who must enroll?

People applying for the following services:

- ❖ Personal Care/Home Attendant
- ❖ CDPAP
- ❖ Adult Day Care
- ❖ CHHA
- ❖ Private Duty Nursing

Supplemental Needs Trusts

- The most common problem with enrolling in a Medicaid home care program is that all monthly income over \$787 must be contributed to the cost of care.
- Since Supplemental Needs Trusts can be exempt for Medicaid eligibility purposes, if assets and income can be placed into the trust, the assets and income can be sheltered and used for non-medical expenses.
- Instead of having to contribute their income to the cost of care, individuals can put the funds into a trust account and then utilize the funds for a variety of household expenses, e.g., paying for rent, utilities, or taxes.

Supplemental Needs Trusts

- For all SNT's:
- The beneficiary must be disabled
- For SNT's funded with an individual's own funds,
- The trust must be established by the individual, a parent, grandparent, legal guardian or court order, and,
- The beneficiary must be under age 65, and
- The trust must provide that Medicaid is repaid upon the death of the beneficiary;

Supplemental Needs Trusts

- OR
- A disabled individual of any age may enroll in a Community Pooled Trust;
- The Master Trust is established by a not-for-profit organization and the persons enrolling in the trust create their own sub-trust accounts;
- The trust remainder is generally retained by the not-for-profit organization.

Disability Determinations

- Medicaid requires a determination of disability in order to treat the funds as exempt
- Can be either a Federal determination by the Social Security Administration, e.g., in conjunction with the award of SSD or SSI benefits, or
- A determination by the State Disability Review Team, based upon medical documentation submitted.

Institutional Medicaid (Nursing Home)

- ❖ Transfers create ineligibility for nursing home coverage, called a penalty period
- ❖ Penalties begin on the date of application
- ❖ Specific Rules for Annuities, Promissory Notes, and Mortgages

Home Care Lookback

- There is a pending “Lookback” period of 30 months for home care Medicaid. Prior to this there was only a lookback period for nursing home Medicaid.
- The law became effective October 2020, The Department of Health has delayed implementation due to Covid-19, and has indicated that the effective date for requiring the lookback on applications will be pushed back, but federal approval is still pending.
- New home care applications will have to submit up to 30 months (2.5 years) worth of financial records, and, if any gifts or transfers for less than fair market value are made, a penalty period will be imposed, with no Medicaid coverage during the penalty.

Where to Get More Information

- ❖ **Social Security Administration** <http://www.ssa.gov/>
- ❖ **Medicare** <http://www.medicare.gov/>
- ❖ **Centers for Medicare and Medicaid Services** <http://www.cms.hhs.gov/>
- ❖ **New York State Department of Health** <http://www.health.state.ny.us/>
- ❖ **Westchester Dept. of Social Services** <http://www.westchestergov.com/social/>
- ❖ **Westchester Dept. of Senior Programs and Services** <http://www.westchestergov.com/aging/>
- ❖ **Information on Medicaid, Medicaid and other programs** <http://wnylc.com/health/>