

Legally Speaking

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Iconoclast that I am, I look forward to my golden years, fully intending to spend them being as much of a burden as possible to my children. Even then, with five kids it's unlikely that I can possibly live long enough to fully get even, but I mean to give it a whirl. Yet for most of you gentler souls, burdening your family is exactly what you don't want. It is to you that I address the topic of long term care.

Let's start with a few basic assumptions. The first is that for many if not most of us, our incomes and resources will disqualify us for Medicaid assistance. The formula for assistance is enormously complex, but this year the Medicaid applicant cannot have gross income over \$1,656 or "countable" assets over \$2,000. Since the average cost of nursing home care in Colorado in the last year was \$4,424, we have a problem. Fortunately, in such situations federal law permits an income, or Miller Trust, to cover that gap. In Colorado, there is legislation which caps the income qualifying for a Miller Trust to the average amount of cost for nursing home care in your geographic area. In Denver, for example, the law permits a monthly income for an otherwise qualified Medicaid applicant of up to \$4,747. That income is deposited into the trust then paid to the nursing home on a monthly basis less a \$50 stipend for the resident. Shortfalls are covered by Medicaid. Of course, Medicaid has a claim against the estate of an individual who has received Medicaid assistance for long term care.

Please note. There are a lot of asterisks, whereas's, hereinbefore's, and exceptions associated with Medicaid eligibility, plus the figures change annually. Cumulatively, these exceptions and special rules make the Income Tax Code read with the simplicity of the Cliff Notes version of a knock-knock joke. Although it is well beyond my ability to summarize even a fraction of these in the limited space I have available, it is worth remembering that your home, car, and furnishings can be excluded from "countable" assets in certain circumstances. As well, the assets belonging to the non-applicant spouse are not counted up to a point. Even so, for most of us public assistance for long term care should not be our principal strategy.

A second option is to self-insure. There are those who would argue that retired pay, perhaps in combination with SBP, provides a reasonable guarantee against impoverishing your estate should you or your spouse require many years of care. An important consideration in this case is your family history. If there is a family history of early-onset dementia, Alzheimer's, or stroke, it stands to reason that you are at higher risk, and the cost of long term care insurance might be well worth it for peace of mind, if nothing else. On the other hand, the absence of such a history means the odds against long term care for an extended period (such as more than a year or two), are fairly long. A disciplined savings program and balanced portfolio may be more than sufficient.

Long term care insurance is a third possibility. It too can be very complicated, especially if you're trying to compare value and premiums. Obviously, the premiums are much lower the earlier you start, but of course the expectation is that you'll be paying them over a considerable period of time. What's more, unlike a life insurance policy, there is no guarantee that you or your family will ever get any return on your premium

investment. Statistically, most of us will not spend a great deal of time in a nursing home, and many will never go at all. Purchasing a long term care policy suitable to your needs and desires is also no mean undertaking. Next month, we'll discuss some of the considerations that go into an informed purchase of long term care insurance.