



7 Costly Mistakes in Planning for Elder Care and Nursing Home Expenses

What You Don't Know About Medicaid Could Cost You Everything.



**PORTLEGAL
ELDERLAW**

A FUTURE WORTH PROTECTING



GREGORY PORT

J.D., M.B.A

A personal & professional introduction

This introduction and the information presented on the following pages has both personal and professional roots in the concern for families. I'm an attorney who specializes in elder care law, and specifically to help families protect their home and life savings in the event long term skilled nursing care is needed. It is crucial to understand and plan for the possible need for long term care.

There are plenty of dangers in the assumptions many of us have of the support anticipated through Medicaid. The assumptions and missteps can cost everything.

I grew up in Columbus, received a degree in business from Ohio State University, and earned an MBA and law degree from Capital University. The early years of my law career centered in business and divorce litigation where the parties were in conflict and all avenues of agreement had vanished. It was stressful and I tired of the continual bickering with opponents, judges and clients. But, later in my career I discovered an area of the law where the need was crucial and less stressful for me personally. I could help clients gain positive, life-changing outcomes by helping them through the difficult maze of long term care. Not only was this new practice area less confrontational, it also carried the benefit of very appreciative clients where everyone wins.

This new direction was Elder Law, and finding it was very personal. Growing up in the 1960's and 70's, my parents' families had many holiday and birthday get togethers each year. My parents, aunts and uncles were all great role models. The men were war veterans, tempered by experience that made them strong, hard-working, with a great appreciation for

life and family. The women were equally strong and brilliant, who supported their families with purpose, love and commitment.

As the families aged into the 2000s, the effects of late-life medical issues arose. In-home care, assisted living and nursing home costs eroded lifetime savings. The financial cost created strife, confusion and discord among family members adding a cost to relationships as well. When my parents went through this stage, I saw 70% of their lifetime earnings eaten away by in-home care costs. Struggling through their issues I decided I wanted to understand this phase of life and help family, friends and clients make better decisions.

I was very familiar with Estate Planning but had a lot to learn about how to deal with debilitating elder care costs. Medicaid law is not for the weak of heart. I took hundreds of hours of additional education and training. Through the last decade I have gained a huge base of knowledge and experience helping families through these difficult times.

Think of how you would pay for a nursing home if a family member were admitted and the stay lasts for one, two, three or more years. Can your family write monthly \$7,000 checks indefinitely?

Knowing how to plan and pay for nursing home care is essential. Perhaps you or your spouse anticipate the need or have parents who must consider assisted living or nursing home care. Whether the need is immediate or you're planning for the future, these pages will cover the basics and give you the facts along with showing you how to plan and pay for a nursing home without you or your family going broke. Planning will save your legacy for your children.

A handwritten signature in black ink that reads "Gregory Port".

Gregory Port, J.D., M.B.A

Port Legal Elder Law provides legal services to individuals and families needing estate planning and assistance with long-term medical needs.

Greg has been providing legal representation to clients in Central Ohio since 1990.

1981 B.S., Ohio State University

1990 MBA, JD Joint Degree from Capital University



The Challenge of Elder Care for Families

Once upon a time, a heartwarming television series called 'The Waltons' offered a nostalgic depiction of extended family at the heart of American society. Households of four generations living under one roof or homes side by side. The elders imparting their expertise and wisdom to the young, and the young working and caring for their elders.

That characteristic of family life has been lost, but not for lack of caring or love. Today, by choice or necessity, many families are two income households, both adults working full time, unable to care for older family members. Young adults leave the nest, often across great distances for education or employment and are having their children later in life. Regardless of distance, career and lifestyle demands make elder care at home less and less common. Adding to a century of change and progress is the happy dilemma of longevity. We are living much longer than just 50 years ago which carries with it late life medical needs and potential conditions that require professional long term care.

The challenge is clear. Your family needs to plan for the prospect of elder care resources; in-home care, assisted living, or nursing home care. You need the insight and planning to manage the costs and to plan for the quality care your loved ones while protecting their home and life savings.





Who Will Need Elder Care?

More of us than we'd likely imagine. Most of us refuse to believe a nursing home is in our future. This non-belief creates danger. The statistics are eye opening, and many of us will need in-home or nursing home care.

Of adults who reach the age of 65, 70% will need Long Term Care Support Services sometime in their lives.

— United States Office of Disability, Aging and Long-Term Care Policy, April 2019

Nursing Home admittance becomes necessary when Skilled Nursing Care is required. Skilled Nursing includes tasks only performed by a nurse daily, supervision of special diets, administration of medications, observation for fall risk, memory complications, catheterization or an “unstable condition”. Certain conditions such as diabetes, prior stroke, dementia and mobility problems lead to a higher percentage of eventual nursing home need.

Who Will Need Long Term Care Support Services or Nursing Home Care?

- Of adults who reach the age of 65, 35% will enter a Nursing Home.
- Works out to 57% probability that either person in a couple will stay at a nursing home during their life.
- Average nursing home stay is 272 nights. Some shorter, many longer.
- 10% of those admitted to a nursing home will stay 1000 days or longer.
- Life Expectancy of a male reaching age 65 is + 18.2 years, or 83.
- Life Expectancy of a female reaching age 65 is + 20.8 years, or almost 86.
- 10% of Americans reaching age 65 will be diagnosed with Alzheimer's Disease.
- 38% of Americans reaching age 85 will be diagnosed with Alzheimer's Disease.
- 22% of men entering a nursing home will be there more than one year.
- 36% of women entering a nursing home will be there more than one year.



What You Don't Know About Medicaid and Long-Term Care Could Cost You Everything.

You are probably here because you have a basic interest in how to pay for long term care such as a nursing home. Alternately, your social worker or a health professional made this presentation available to assist your education and help you plan ahead, especially for the financial cost of long-term care in the face of challenging Medicaid qualifications. We are going to review the basics and how you can pay for a nursing home without you or your family going broke; providing the essential care needed while protecting home and savings for your children.

How much does long term care cost?

Most of us really don't realize how expensive a nursing home stay can be unless we've written the checks for a loved one.

- Average cost of a nursing home in Ohio is \$76,000 a year
- Some facilities are as costly as \$144,000 a year
- Can you write a \$6,300 or \$12,000 check every month for this?
- How will this be paid?

What is Medicaid and Who Qualifies?

Medicaid is a joint program between the federal government and the State of Ohio which provides nursing home coverage for those disabled or over the age of 65. Sounds meaningful, but there are three critical qualifications.

Medicaid is available to Ohioans who have...

- Under \$2,000 in assets
- With no gifts above \$2,000 in the past five years
- Income under \$2,523 per month

These qualification boundaries hold profound impact on a family's financial future. Families sometimes wrongly assume some form of government benefit will be available to cover Nursing Home costs. But this is false. If a family member is admitted and the stay lasts for one, two, three or more years, the monthly cost can be crippling. You can see how quickly a lifetime savings can be wiped out leaving no legacy to your family.



The 7 Costly Mistakes... And Planning To Avoid Them

There are solutions, and they begin with avoiding crucial assumptions and mistakes.

Most people are unaware that careful planning can qualify even someone worth over \$1,000,000 for Medicaid coverage and allow their family to retain most if not all of the legacy.

Mistake 1 — Believing one needs to SPEND-DOWN all assets below \$2,000 to qualify for Medicaid

To qualify for Medicaid, it's easy to assume one needs to SPEND-DOWN all assets below \$2,000 on Exempt items to gain Medicaid coverage. Some elder care facilities and counselors may recommend this, BUT RARELY, IF EVER, is it necessary to spend-down all assets. Careful planning can keep a major proportion of the assets in the family and allow almost anyone to qualify for Medicaid!

Mistake 2 — Believing Medicare will pay for my nursing home needs

Medicare is a federally run program open to every citizen disabled or age 65 and older which provides health insurance benefits. Who Qualifies for Medicare? Every citizen disabled or age 65 or older. Pay the monthly premiums and coverage is guaranteed. BUT MEDICARE HAS VERY LIMITED ELDER CARE COVERAGE. Medicare has a maximum nursing home stay limit of 100 days and only for rehabilitation, usually only 25 - 50 days. When your doctor reports that you have reached maximum medical recovery, Medicare benefits stop. Medicare is healthcare coverage, and a great benefit to seniors, but it provides little benefits for long term care.

Mistake 3 — Thinking one can just transfer house and money to children to avoid Medicaid asset limits.

Medicaid has a Five Year Lookback rule which means that any amounts transferred in the past 60 months are counted as current assets. Chances are a transfer of a home to a child will be counted as a non-exempt transfer and put the applicant over the \$2,000 limit. If someone needs a nursing home within 5 years of a house transfer, they will probably not qualify for Medicaid at all. It's possible this can completely ruin an estate plan.

Mistake 4 — Not Understanding Medicaid Estate Recovery

Certain assets are exempt from being counted in Medicaid eligibility but can be recovered from your estate after you pass away. Medicaid may allow you to keep your house and qualify for Medicaid but will place a lien on your home and eventually seek Medicaid Estate Recovery for the ENTIRE nursing home cost. That lien will stay on the home forever until satisfied. That leaves less to pass onto one's spouse and children.

Mistake 5 — Believing all assets are the same.

There are different asset classes within Medicaid regulations, some count, some do not. Planning can move counted assets to non-counted assets.

Mistake 6 — Believing that a revocable living trust or prenuptial agreement will shield assets.

This is false. A revocable living trust or prenuptial agreement will not shield assets from being counted towards Medicaid eligibility.

Mistake 7 — Believing that Nursing Homes which accept Medicaid patients are of a lesser quality than those which do not accept Medicaid patients.

Nursing Homes which accept Medicaid must pass the same cleanliness and medical standards by the State of Ohio as those which do not, although facilities certainly will vary from building to building. Take in person or virtual tours which will allow you to compare and notice that many nursing homes that accept Medicaid patients are equal if not superior to private pay only nursing homes.



How Do We Start? Develop a Game Plan with Goals.

If you aim at nothing you will hit it every time. If we develop a plan, we will always come out better in the end. We need to be Proactive NOT Reactive. From a life-priorities point of view consider the things you plan for and protect by purchasing insurance.

Health Insurance, Average Lifetime Cost, \$270,000
Car Insurance, Average Lifetime Cost, \$78,000
Home Owner Insurance, Average Lifetime Cost, \$126,000
Disability Insurance? Life Insurance?

As a society we don't insure against large long term care costs, but as you can see from what you have learned in this brochure, we definitely should. A nursing home stay could be the most expensive occurrence of one's entire life. Let's take a look at the basic goals of Medicaid planning.

In any financial planning we have three concerns;

- *Family: Self and Spouse, Parents, Healthy Adult Children, Minor or Disabled Children*
- *Finances: Tax Reduction or Avoidance, Expense Reduction or Avoidance, Keep Maximum Control*
- *Health: Best Medical Care Possible, All stages of physical and mental capacity*

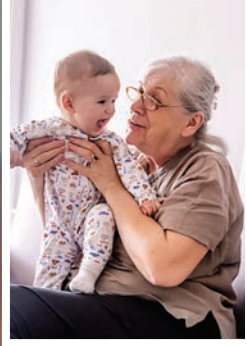
We provide Maximum Family Protection from Long Term Care Costs By:

MINIMIZING ASSETS TO BE COUNTED — Categorizing assets properly and re-categorize when applying for Medicaid.

SHIELDING ASSETS FROM MEDICAID ESTATE RECOVERY — After the death of the nursing home resident, Medicaid will seek to recover it's costs from the deceased's estate. Plan to minimize exposed assets.

MINIMIZING INCOME TO BE COUNTED — Reduce exposed income.

TAKING ADVANTAGE — Of Medicaid's Five-Year Lookback Rule.



Two Types of Medicaid Planning:

Advance Planning • Crisis Planning

ADVANCE PLANNING — Expensive

- *Long-Term Care Insurance.* Very Expensive even if healthy and will not cover all long term care costs.
- *Give Away Property.* No longer yours and hope 5 years pass.
- *Could put you in jeopardy to qualify for Medicaid.*
- ** Very dangerous gamble*

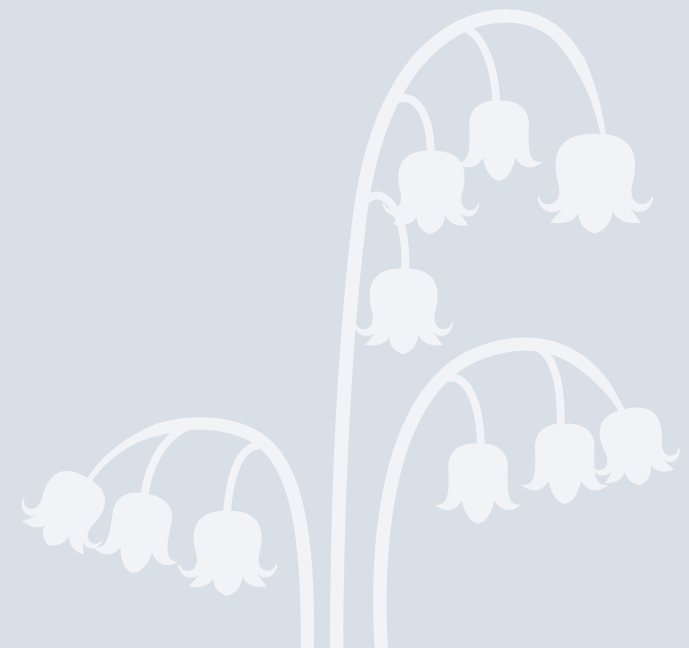
ADVANCE PLANNING — Valuable

- *Take ADVANTAGE of the 5-Year Lookback Rule and place the vast majority of your assets (house, vacation cars, investments accounts) into an approved qualified Medicaid Trust.*
- ** After five years pass assets are untouchable and uncountable.*
- *If Nursing Home care is needed within 5 years, it gives you a wider range of options for qualifying.*
- *Significantly less expensive than Crisis Planning.*

CRISIS PLANNING

When the shock occurs that someone needs long term nursing care relatively quickly, most people do not realize planning can still shield a significant portion of assets from Medicaid. As an example, a couple with a paid for home, two 401(k) accounts, and little savings could easily have an estate of \$400,000. Most will private pay in the nursing home until under \$2,000 limit (unfortunately suggested by some nursing homes), and with nothing left to pass down to family.

This is NOT NECESSARY. Even at the point of having to enter a nursing home, significant assets can still be protected, maybe all of them.



Expensive Crisis Planning Couple

Spend down everything until Medicaid Eligible

Valuable Crisis Planning Couple

For a couple significant assets and income can be shifted to the healthier spouse to protect a tremendous percentage of all their assets. Gifting to family may be wise, if carefully planned and done correctly. IRA's and real estate may possibly be shielded. Exempt spend-down — debt, home improvements (to increase value of home), furniture for nursing home. Lots of work in planning, executing the plan and supplying Medicaid with the proper documentation, but a couple can still save a significant amount of assets and money; sometimes everything.

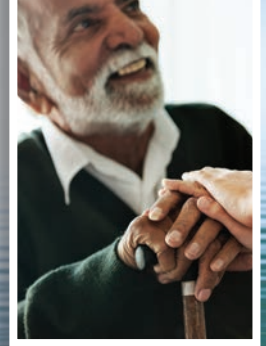
Expensive Crisis Planning Single

Spend down everything until Medicaid Eligible

Valuable Crisis Planning Single

For an individual generally less but still significant assets can be shielded. A widowed or single person needing nursing home care can immediately gift half of their entire value and become Medicaid eligible. More may be saved through utilizing exempt spending.

- *Real estate may possibly be shielded, depends on the exact circumstances.*
- *Exempt spend-down — debt, home improvements. (to increase value of home), furniture for nursing home.*
- *Gifting to family is usually a large part of this type of plan.*
- *Again, lots of work in planning, executing the plan and supplying Medicaid with the proper documentation, but an individual can still save an incredible amount for their family.*



A Future Worth Protecting

Elder Care is expensive and no government guaranteed current benefit exists for coverage. It's vital to avoid the Seven Costly Mistakes. Professional Planning will avoid monetary catastrophe. Advance Planning can shield everything, most important the home and life savings. Crisis Planning can retain the majority if not all assets.

And don't gamble on advice. Seek out an attorney experienced in Elder Care and Medicaid Law. Professionals without this experience may try to charge fees for planning which is not sound, will fail and is not Medicaid compliant. We invite you to contact us for a free consultation to evaluate your needs, whether immediate or to discuss strategies and tactics of advanced planning.

It's your future and the future for your family...

A Future Worth Protecting.



**PORTLEGAL
ELDERLAW**

A FUTURE WORTH PROTECTING

1335 DUBLIN ROAD • SUITE 203 D • COLUMBUS, OH 43215
614.641.7399 • WWW.PORTLEGAL.COM