

LEGALEASE

Long-Term Care Insurance



This pamphlet, which is based on New York law, is intended to inform, not to advise. No one should attempt to interpret or apply any law without the aid of an attorney. Prepared by The Committee on Client and Consumer Issues. Produced by the New York State Bar Association Elder Law Section.

What is long-term care?

Long-term care is ongoing custodial or skilled care for persons unable to care for themselves. Long-term care may be provided at home, in an adult home or assisted living facility, or in a nursing home.

Why do people need long-term care?

People need long-term care when they are no longer able to provide for themselves and need assistance with personal care, or “activities of daily living” (ADLs), such as bathing, eating, dressing, moving about (mobility), using the toilet, managing bladder and bowel incontinence, and transferring (getting in and out of bed or a chair). People who have chronic and debilitating medical conditions and/or a need for supervision because of cognitive impairments also require long-term care.

How is long-term care paid for?

Long-term care is paid for by:

- A person spending his or her own resources (“private pay”)
- Long-term care insurance benefits
- Medicare, in extremely limited circumstances
- Medicaid, and often
- A combination of more than one of the above

Private pay is also referred to as “self insuring” or a “spend down” because the individual uses his or her own assets to pay for long-term care costs.

Medicare only pays for long-term care in a nursing home or rehabilitation center for persons who have a continuing need for skilled nursing care or therapies after a hospital admission and stay of at least three days. Medicare may pay up to 100 days, if the necessity for the skilled care continues, or the

patient continues to improve with therapy. Of this 100 days, Medicare will pay for 100% of the costs for the first 20 days and requires a co-pay for the next 80 days.

Medical Assistance, known commonly as **Medicaid**, is a federal, state and locally-funded program for people who qualify financially. For those who qualify, community-based Medicaid pays for care provided in one’s home and institutional Medicaid pays for care delivered in a nursing home or for special (waivered) services provided in one’s home.

What is long-term care insurance?

Long-term care insurance is a special type of insurance that provides a variety of long-term care benefits.

Definitions of features and options of a long-term care insurance policy:

Daily Benefit is the amount the policy will pay for each day long-term care services are provided. Unless a lifetime policy is purchased, all policies contain a specific number of days that a **daily benefit** will be paid.

Elimination Period (waiting period) is the period of time a person must require long-term care before the policy will begin paying daily benefits. A longer elimination period reduces the premiums for a policy.

Bed Reservation is the length of time a policy will pay to reserve an insured’s bed if a nursing home resident is hospitalized.

Waiver of Premium is an option that provides for cessation of premiums if the benefits of the policy are being used.

Guaranteed Renewable means that policy premiums cannot be altered without the



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insured's approval and the policy cannot be canceled as long as premiums are timely paid. All policies in New York are **guaranteed renewable**.

Inflation rider is the option that annually increases a policy's daily benefit before the insured begins using it. Typically, an **inflation rider** increases the daily benefit amount by 5% on a simple or compound basis depending on the option selected, each year. Additional **inflation rider** options are available. The younger an insured is when purchasing a policy, the more important the **inflation rider** becomes due to the ever increasing costs of long-term care.

How are the premiums for long-term care insurance determined?

Premiums are determined by the benefits selected and the age and health of the insured when purchasing the policy. Premiums remain at a level rate unless rates are increased for all persons who have purchased that particular policy. The younger a person is at the time of original purchase, the lower the annual premium the individual will pay.

How are long-term care insurance benefits paid?

Long-term care insurance policies use two different payment methods: (1) The "expense-incurred method" provides for payment to the insured or the care provider when the insured is eligible for services and receives eligible services. Most policies purchased today use

this method to pay benefits. (2) The "indemnity method" provides for payment if the insured is eligible for benefits. The insurance company pays the benefits directly to the insured if the eligibility criteria for benefits are met.

How are the benefits from a long-term care insurance policy triggered?

Needing assistance with a certain number of the activities of daily living (ADLs)—typically two or three ADLs—will trigger the benefits of a long-term care policy. The number of ADLs required will be specified and defined in the policy. Policies also typically pay benefits for long-term care necessitated because of "cognitive impairment" or mental incapacity due to Alzheimer's disease or other causes of dementia.

What is the NYS Partnership for Long-Term Care?

It's a partnership among the State of New York, private long-term care insurance companies, and the consumer. With the purchase and subsequent use of a "Partnership" (Long-Term Care Insurance) Policy, the insured will be eligible for Medicaid to pay for ongoing long-term care without the need to first spend down personal assets. The person's income will not be protected and, depending on the amount and the budget, some may need to be contributed for the cost of care, but Medicaid will pay the balance of the medical expenses.

Should I consider the purchase of long-term care insurance?

You should consider the purchase of long-term care insurance and discuss the advisability with an elder law attorney if:

- you have substantial assets and/or income and you wish to protect some or all of your assets and/or income from the costs of long-term care;
- you want to ensure that your spouse is not impoverished because of the cost of your care;
- you want to stay in control of your assets;
- you want to pay for your own care; and/or
- you want to leave a legacy for your children or other loved ones.

What do I need to do to purchase long-term care insurance?

First, speak with your attorney and with the people who sell long-term care insurance policies to educate yourself about the types of long-term care insurance policies available to you and what might be appropriate for you. Determine the cost of an appropriate policy based on your age and other personal circumstances, and whether the premiums are affordable. Complete an application. Long-term care insurance policies are "medically underwritten", meaning that persons with certain medical conditions may not be able to purchase such policies.

Should I buy long-term care insurance?

Medicaid currently pays for a high percentage of all nursing home costs. However, Medicaid rules are tightening because of the strain on state and local treasuries. The purchase of long-term care insurance should be considered by consumers as part of a comprehensive long-term plan.

Resources:

- National Association of Insurance Commissioners
2301 Mc Gee Street, Suite 800
Kansas City, MO 64108-2662
<http://www.naic.org>
- New York State Department of Health
NYS Partnership for Long Term Care
1 Commerce Plaza, Room 826
Albany, NY 12210
<http://www.nyspltc.org>