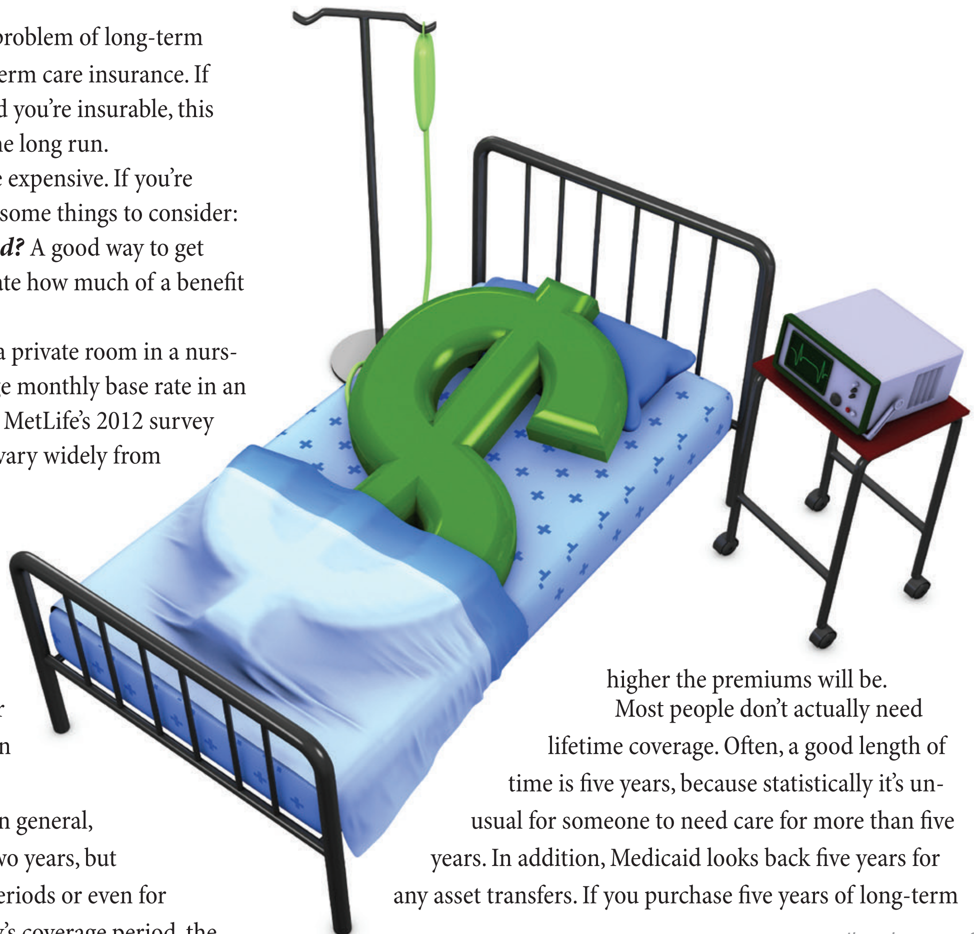
Legal Matters®

Elder Law
spring 2013

How to save money on long-term care insurance



Often, the best way to handle the problem of long-term health care costs is to buy long-term care insurance. If you can afford the premiums and you're insurable, this can save you a lot of money in the long run.

However, long-term care insurance can be expensive. If you're thinking about purchasing a policy, here are some things to consider:

How much coverage do you really need? A good way to get started, and to avoid overpaying, is to calculate how much of a benefit you actually require.

For instance, the national average cost of a private room in a nursing home is about $250 a day, and the average monthly base rate in an assisted living facility is $3,550, according to MetLife's 2012 survey of long-term care costs. These numbers can vary widely from location to location.

One easy way to calculate a daily benefit is to take the average cost of care where you live (or are likely to live when you'll need care), and subtract from that your daily income. For instance, if nursing homes cost $300 a day in your area, and your income is $3,000 a month, or $100 a day, then your daily benefit should be about $200.

Check what period the policy covers. In general, the shortest period of coverage available is two years, but policies can be purchased for much longer periods or even for your lifetime. Of course, the longer the policy's coverage period, the higher the premiums will be.

Most people don't actually need lifetime coverage. Often, a good length of time is five years, because statistically it's unusual for someone to need care for more than five years. In addition, Medicaid looks back five years for any asset transfers. If you purchase five years of long-term

continued on page 3

J&S
Jones & Smith
123 Main Street
Boston, MA 00000
(617) 123-4567
www.website.com

Nursing home residents’ rights: what you need to know

Many people incorrectly believe that once seniors enter a nursing home, their freedom is over. In fact, nursing home residents have many rights, and it is important to know those rights and to be able to enforce them.

Nursing home residents’ rights are protected under federal law. In broad terms, nursing homes are required to ensure that every resident be given whatever services are necessary to function at the highest level possible. Here are some of the specific protections that residents have:

©istockphoto.com

- Residents have a right to privacy in all aspects of their care. This means that phone calls and mail should be private, and residents should be able to close doors. Residents may bring belongings from home, and nursing home staff members are required to assist residents in protecting those belongings.
- Residents have the right to go to bed and get up when they choose, eat a variety of snacks outside meal times, decide what to wear, choose activities, and decide how to spend their time. The nursing home must offer a choice at main meals, because individual needs vary.
- Residents have the right to leave the nursing home and belong to any church or social group they choose.
- Residents must be allowed to participate in planning their care.
- Residents have a right to manage their own financial affairs.
- Residents may not be moved to a different room, a different nursing home, a hospital, back home, or anywhere else without advance notice and an opportunity for appeal.

If a disagreement with the nursing home does arise, there are a number of steps you can take to enforce the resident’s rights. The first step is to talk to the nursing home staff directly. This may be all it takes to solve the problem. If that doesn’t work, then you may need to talk to a supervisor or administrator.

If you’re still unable to resolve the issue, the next step is to contact the ombudsperson assigned to the nursing home. He or she may be able to intervene and get an appropriate result. You can find contact information for the Ombudsman Program in your state at: www.ltcombudsman.org/ombudsman.

Additional steps include reporting the nursing home to its licensing agency and hiring a geriatric care manager to intervene. If the direct approach isn’t working, you may need to hire a lawyer to resolve the issue. The last resort is to move the resident to a different facility.

Annual gift tax exemption has been increased to $14,000

If you’re thinking about making gifts to children and grandchildren, you might want to consider setting up a trust.

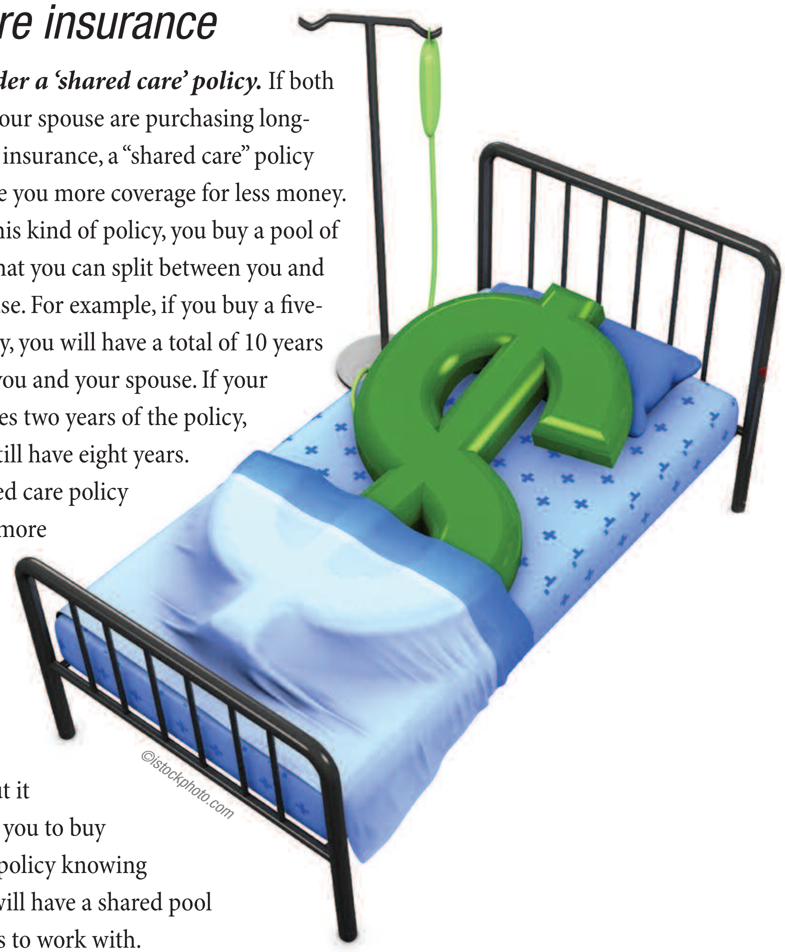
The annual gift tax exemption has been increased to $14,000 in 2013, up from $13,000 last year. That’s due to an adjustment for inflation.

This means that you can give any person $14,000 this year without any gift tax liability at all. Making annual gifts of the exemption amount is one of the best and easiest forms of estate planning, because it transfers assets from one generation to the next without any tax liability whatsoever.

If you have multiple heirs, the amount you can give away tax-free multiplies quickly. For instance, if you have two children, and each child is married and has two children, you can give $14,000 to each child, spouse and grandchild. That’s eight recipients at $14,000 each, or a potential maximum gift of $112,000 a year. If your spouse gave an additional $14,000 to each recipient, that would be $224,000.

Of course, very few people can afford to make gifts of this magnitude. But if you’re thinking about making gifts to children and grandchildren, regardless of the size, you might want to consider setting up a trust for your beneficiaries – especially if they are young. There are many practical as well as tax benefits to making gifts by means of a trust, and doing so can further increase the value of your gifts.

How to save money on long-term care insurance



continued from page 1

care coverage, you could transfer most or all of your assets to your children or to a trust, pay for your care with insurance over five years, and then qualify for Medicaid coverage.

Consider a smaller benefit. A policy that pays $200 a day for five years might stilwwl be expensive, especially if it includes an inflation rider. If you can't afford such coverage, you could think of long-term care insurance as "avoid nursing home" insurance. Under this approach, you could purchase just enough insurance to pay for home care or assisted living care, which are usually not fully covered by Medicaid.

For example, if you purchased insurance with a daily benefit of $100, you would have about $6,000 a month to cover your living expenses plus home care or assisted living costs. The premium for such a policy would likely be much more affordable than one for a policy with a daily benefit of $200.

Buy when you're younger. Long-term care insurance premiums rise as you age, so the younger you buy, the cheaper your premiums. Be careful, however, because insurance premiums can, and often do, increase considerably from your initial purchase price. Even if you have a policy that is "guaranteed renewable," your premiums could still increase.

Limit coverage to one spouse. Often, a married couple will be able to afford coverage for only one spouse. This can be a reasonable option, particularly because the Medicaid rules provide some protection for the spouse of a nursing home resident.

If you have no specific reason to think that one spouse is more likely to require long-term care than the other, then looking at statistics alone, the wife should probably purchase the policy. In our society, women tend to live longer than men, and are much more likely to end up in a nursing home for a long period of time.

Of course, this amounts to playing the odds and is not a sure thing. On the other hand, some companies offer incentives for both spouses to purchase coverage, such as a premium discount for the second spouse.

Consider a 'shared care' policy. If both you and your spouse are purchasing long-term care insurance, a "shared care" policy might give you more coverage for less money.

With this kind of policy, you buy a pool of benefits that you can split between you and your spouse. For example, if you buy a five-year policy, you will have a total of 10 years between you and your spouse. If your spouse uses two years of the policy, you will still have eight years.

A shared care policy may cost more than separate policies with the same benefit period, but it will allow you to buy a shorter policy knowing that you will have a shared pool of benefits to work with.

Choose a longer waiting period. Most policies have a waiting period before coverage begins, typically 30 to 90 days. The longer you make this waiting period (which policies typically refer to as an "elimination period"), the cheaper your premiums. Keep in mind, however, that you will have to pay for your care out-of-pocket until the waiting period is over and the insurance begins its coverage.

Be careful with inflation protection. Inflation protection increases the value of your benefit to keep up with inflation, and is generally recommended. But you should give some thought to whether you want compound-interest increases or simple-interest increases. If you're purchasing a long-term policy and you're age 62 or younger, then you'll most likely want compound inflation protection. But if you're 63 or older, some experts believe that simple inflation increases may be enough, and you'll save considerably on premium costs.

Most people don't actually need lifetime coverage. Often, a good length of time is five years, because it's unusual for someone to need care for that long.

We welcome your referrals.

We value all our clients. And while we're a busy firm, we welcome all referrals. If you refer someone to us, we promise to answer their questions and provide them with first-rate, attentive service. And if you've already referred someone to our firm, thank you!

'Do it yourself' will-writing websites panned by *Consumer Reports*

©istockphoto.com

A growing number of websites now allow people to plug in information about themselves and write their own will. But doing so can be very dangerous and can lead to big problems, according to an independent review by *Consumer Reports*.

The magazine analyzed three such sites – LegalZoom, Rocket Lawyer, and Quicken WillMaker Plus – and ran the results by a law professor who specializes in tax and estate law. All three websites had a variety of problems, according to the study.

The problems included:

Outdated information. Two sites applied federal tax rules that were already months out-of-date.

Not state-specific. The law of wills varies from state to state, but the programs didn't take into account variations in state law.

No tax advice. None of the programs offered tailored advice on how to reduce taxes – a critical flaw.

Incomplete. The websites often lacked provisions on how to handle business interests, electronic assets, trusts for children with special needs, domestic partnerships, multiple trustees, etc.

No flexibility. The websites frequently made arbitrary choices and didn't allow bequests to be handled differently. And some added additional provisions to trusts without any warning.

The professor described one will produced by Rocket Lawyer as "primitive," and another as "a mess."

The magazine noted that LegalZoom allows you to pay extra money to receive attorney "support," but when it contacted the company, it was told to type questions about arbitrary or missing provisions into a box and that these would be handled later in a hard copy of the will. According to the magazine, even though it paid the extra fee, this never happened.

Using a do-it-yourself website to write a will can be "like removing your own appendix," according to the *Consumer Reports* article. There's simply no substitute for a lawyer who can understand your wishes and goals, and provide legal and tax advice that's suited to your specific needs.

Jones & Smith
123 Main Street
Boston, MA 00000
(617) 123-4567
www.website.com