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Spokane Estate Planning Council  
Annual Seminar

# Planning for Long-Term Care

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# TRADITIONAL ESTATE PLANNING

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# Tell Clients: “Build Your Team”

Have a plan in place for

- Health
- Legal issues
- Housing
- Financial issues

# Geriatric Care Manager

## Holistically Trained Advocate

- RNs/Social Workers/Counselors
- Accredited & Certified
- Code of Ethics
- Standards of Practice

ALCA

8

knowledge  
areas



# Geriatric Care Manager

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- Free (avoid)
- Charges by the hour (good choice)
- Care Manager “Assessment”



# Geriatric Doctor

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- \* Board certified.
- \* Under 55 years of age.

Find Geriatricians at:  
[www.healthgrades.com](http://www.healthgrades.com)



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# Housing



# Financial

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## Plan for Medicaid and/or VA benefits if:

- Married clients—they have  $\leq$ \$1.5 million/
- Single client—they have  $\leq$ \$1 million.





# Medicaid Eligibility



**Prerequisite:  
powers of attorney  
must have robust  
powers**

# Medicaid Eligibility for Spouses

## Transfer assets to healthy spouse (separate & community):

- Healthy spouse—new will with special needs trust for disabled spouse.
- Quit Claim Deed.
- Revocation of community property agreements (even if no known CPA)
- Separate property agreement.
- Assignment of interest of personal property.
- If disabled spouse has capacity: they sign declination to serve as personal representative.
- If couple has revocable trust, revoke it.

# Housing & Medicaid (“COPES”)

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- Assisted living facilities often do not accept Medicaid in the door.
- Average private pay period is 2 to 4 years.
- Attorneys should review contract.



# Functional Medicaid Eligibility

## ADLs: Activities of Daily Living.

- Bathing or showering,
  - Dressing,
  - Getting in and out of bed or a chair,
  - Walking,
  - Using the toilet,
  - Eating,
  - Medication management.
- Eligible if they:
    - Need extensive help with 2 ADLs
    - Need some help with 3 ADLs
    - Have dementia and need extensive help with 1 ADL.



# Financial Medicaid Eligibility



- 5-yr lookback for gifts  $> \$391/\text{mo.}$
- $\$391 = \text{penalty divisor}$

# Medicaid Eligibility Basics

- Income limits rarely hinder eligibility.
- \$2,000 asset limit plus:
  - 1 house\* (single clients: equity can't exceed \$1,071,000)
  - 1 car
  - personal property
  - prepaid funeral plan
  - burial spaces (incl. for kids, kids' spouses, parents, spouse)
  - life insurance with max \$1,500 cash value.

# Medicaid Eligibility for Spouses

## Community Spouse Resource Allowance

- At time of application for Medicaid, healthy spouse can have resources of up to \$68,301 to a max of \$154,140.
- After the Medicaid application is approved, nobody looks at the healthy spouse's assets anymore. So they can get rich and nobody cares.

# Medicaid Eligibility for Spouses



Problem: Healthy spouse has too much money.

Solutions:

- Spend down: invest money into home, pay off mortgage
- Turn resources into income with Medicaid annuity



# Medicaid Eligibility for Spouses

## “SPIA”

- Single Premium Immediate Annuity
- 5-year payout to healthy spouse
- Irrevocable
- Healthy spouse builds back savings each month.
- If annuitant dies before 5 yrs, remainder goes to the state (up to what state has paid for other spouse)
- Who can issue these? Ronnie Meldrum, Ted Markow, Krause.

# Medicaid Eligibility for Spouses

**Retirement Assets can be tricky.**

## ❑ IRA/401(k) of disabled spouse:

- Convert it to a Roth IRA over several years, if you have enough time.
- Before Medicaid, use to pay for care, then take medical expense deduction.
- If applying for Medicaid, liquidate and transfer to healthy spouse. Pay <40% in taxes.

## ❑ IRA of healthy spouse:

- Liquidate IRA—buy SPIA. Downside: pay <40% in taxes.
- Better idea: turn IRA into tax-qualified SPIA. Very few financial institutions know how to do this right.

# Medicaid Eligibility for Spouses

**Pro Tip: Non-exempt resources that cannot be sold within 20 working days are temporarily disregarded while being sold.**

- ❑ Example: Couple owns a mobile home in AZ—a vacation house. They'll have to put it up for sale while the Medicaid application is being processed. If there's a decent offer on the asset during the application process, they will have to sell it. But if no reasonable offers, the healthy spouse can keep it thereafter.

# Medicaid Eligibility

## Paper Trail

- Clients should use checks, not electronic funds transfer, if possible.
- Do not use cash!



# After Medicaid Eligibility



## Copay

- Generally, all income of the disabled spouse goes to facility. This is called “participation.”
- Sometimes, healthy spouse can get some of disabled spouse’s income.

# VA Benefits



## Aid & Attendance

- For Veteran or Veteran's spouse.
- A&A helps them live at home longer.

# Aid & Attendance

- Served in designated wartime periods. Check DD-214.
- Disability need not be service-related.
- \$2,727/mo. max. pension benefit if vet is married.
- It's easier to become eligible for A&A than for Medicaid.
- A&A pension not sufficient if care costs get really high.

# Important Regulations

- WAC 182-512-0350, Exempt Assets for Medicaid eligibility
- WAC 182-512-0600, Income defined
- WAC 182-513-1315, Single Person Income Limit for Nursing Home Care
- WAC 182-513-1363, Asset Transfers and Gifts
- WAC 182-515, COPES
- WAC 182-516, Trust, Annuities, and Life Estates
- WAC 182-516-0201, Annuity Rules
- 42 U.S.C. §1396p, Liens, adjustments and recoveries, and transfers of assets
- Social Security POMS (<https://secure.ssa.gov/apps10/poms.nsf/partlist!OpenView>)



# Questions

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