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Long-term care insurance: Is it right for me?

According to the U.S. Department of Health and Human Services, more than two-thirds of all Americans 65 and older will need some form of long-term care at some point, whether it's in a nursing home, assisted living facility or in their own home.

While you can't know in advance whether you or a loved one will fall into that category, if the need arises you have to be able to pay for it, and that can be very expensive.

One common option for paying for such care is long-term care insurance. But before going out and purchasing a long-term care policy, it is important to understand how it works and the costs and benefits.

A policy will lay out the amount of benefits you would receive either daily or monthly, up to a specific lifetime maximum or a specific term of years. As with a car or life insurance policy, you pay through periodic premium payments. The amount and cost varies based on the type of care covered and the setting in which it's being provided.

Once you have a policy in place, your benefits typically kick in if you're unable to perform certain daily tasks on your own, such as bathing, dressing and eating, or if you are suffering from cognitive impairment.

Should you buy coverage? That depends on your circumstances. A policy provides assurance that you'll have support as you age, and it



may be worth paying the relatively expensive premiums associated with long-term care insurance if you think it's likely you will need it. For example, if you have a family history of Alzheimer's disease or another physical or mental condition that could compromise your ability to live independently, it may be worth considering.

Additionally, as expensive as long-term care insurance is compared to other types of insurance, out-of-pocket costs for long-term care are higher. According to the U.S. Department of Health and Human Services, you can expect to pay, on average, \$225 per day or nearly \$7,000 per month for a semi-private room in a nursing home.

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Benefits of a ‘no-contest’ clause in estate planning



Regardless of the size of your estate, if you are thinking of making a will or creating a trust you probably care a great deal about what happens to your property once you're gone. That means you likely don't want your heirs and beneficiaries engaging in acrimonious conflict over it.

One way to protect against this is by being transparent about your intentions when you're still around to discuss them with your loved ones. But including a “no-contest” clause — also known as an “in terrorem” clause — in your estate planning documents can also help head off intrafamily disputes.

A no-contest clause states that an heir or beneficiary will lose whatever they were set to inherit should they challenge the will or trust in court. This generally only works, however, if the particular heir or beneficiary

is inheriting something of legitimate value, because otherwise they have no incentive not to go to court in hopes of receiving a bigger distribution in the end.

The benefits of a no-contest clause is that it can help reduce strife while lessening the likelihood of expensive, drawn-out legal battles that end up dissipating your assets. On the other hand, not every state enforces no-contest clauses. Plus, a disgruntled beneficiary may challenge the clause itself, claiming that someone unduly influenced you into including it. If your will or trust is executed according to all required formalities, it'll probably be enforced, but there are still no guarantees as to how a judge may view the situation.

In the end, the decision to include a no-contest provision in your estate planning documents really depends on your individual situation. An elder law attorney with estate-planning experience can help talk you through the process.

Getting assistance with veterans' benefits

If you are military veteran who served your country, you deserve every benefit the government has made available to you. But you may not be aware of all the benefits for which you may qualify. An elder law attorney can help you navigate the maze of benefits and the associated bureaucracy to ensure you're receiving everything you're entitled to.

For example, many veterans aren't aware of the Veterans Administration (VA) Aid & Attendance Special Care Pension. Aid & Attendance entitles veterans over age 65 who served as little as one day during an eligible wartime period, as well as their surviving spouses, to monthly aid for personal assistance in their daily activities, whether it's for in-

home care, assisted living or nursing home care.

Meanwhile, the VA and Department of Defense will provide up to \$2,000 in burial and funeral expenses for service-related deaths and up to \$762 for non-service-related deaths, and veterans who suffered injuries that occurred on active duty or which were made worse by active duty are entitled to disability compensation.

Beyond helping you identify which of these and other military benefits you're entitled to, an attorney can help you with the application process. This is important because requirements for different programs can be complicated and if your application is rejected due to problems with paperwork and documentation, it can take months, if not years, to overcome.

Finally, an elder law attorney can help you receive military benefits without compromising your eligibility for various nonmilitary benefits like Medicare. Millions of people rely on Medicare to pay for long-term care later in life, but this takes specialized planning and structuring of assets to ensure you qualify. Medicaid eligibility requirements are complex and strict — even stricter than VA requirements — and it's critical that you plan in a way that takes both types of benefits into account. This is a complex process that calls for expert assistance. Interested in learning more? Speak to an elder law attorney where you live.



Reasons to consider setting up a 'special needs trust'

If you have a loved one with a disability, you might want to talk to an elder law attorney to discuss whether to create a “special needs trust.”

A special needs trust is a vehicle to provide funds for the benefit of a person with a disability to help pay for their medical care, food, housing and other important needs.

But why go to the trouble of creating a special needs trust when you can just leave money to a relative with a disability in a will or regular trust? You do this to preserve their eligibility for Social Security Income (SSI), Medicaid and other benefits. By leaving money in a will or standard living trust for someone who is also receiving those benefits, that person may fall into the trap of having assets that exceed the maximum limits for such programs, potentially costing them eligibility.

It doesn't take much to put someone above these limits. For instance, SSI has an asset limit of \$2,000 for an individual, so even a meager direct inheritance could put compromise their benefits. This would be a problem for a disabled person who still needs government assistance for their care and basic needs.

Another reason to consider a special needs trust is that government programs like Medicaid don't provide all the benefits, such as certain types of therapy or medical care, that a person with a disability might



need. But the trustee (the person appointed to manage the trust's assets for the benefit of the beneficiary) can use trust assets to pay for these services. A special needs trust can even be used to pay for things like basic entertainment and travel that government benefits won't cover. While the government may not consider these to be necessities, they do improve a person's quality of life in measurable ways.

Of course, there are very strict rules for how special needs trusts have to be set up and managed. If you are considering setting up a special needs trust on behalf of a loved one, it's important to consult with an elder law attorney who can draw one up that will meet your family's needs.

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Long-term care insurance: Is it right for me?

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On the downside, however, long-term care policies typically contain an “elimination period,” or a specific length of time that has to elapse between your health event and your receipt of benefit payments. So, if you have to go into a nursing home for a short-term stay you might not receive benefits during that time.

It can also be tough to determine how much insurance you need. Long-term care insurance pays a certain amount for a certain period of time, but you don't really know ahead of time what your needs will be. This creates a risk that you will overpay for benefits you don't use or underpay and end up needing more care than your plan pays for. Meanwhile, you need to pass a physical exam before an insurer will

cover you, and if you have a preexisting condition, they'll charge more for your coverage or may refuse to cover you altogether.

Another thing to consider is that long-term care insurance is a relatively new product. Many insurers getting into the business initially underestimated the cost of nursing home care and have since reduced the benefits they offer, raised their premiums or stopped offering long-term care coverage altogether. Plus, some policies allow the insurer to adjust the premium you pay based on costs.

Still, long-term care insurance can be very useful in the right situation. An elder law attorney can help you weigh the pros and cons while also discussing other options to plan for long-term care.

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How do I care for an elderly out-of-state parent?

For adult children, managing everyday things like an elderly parent's medical care, transportation and activities is tough enough when the parent lives nearby. When he or she lives hundreds of miles away, the challenges are at an entirely different level.

If you live far away from an elderly parent and you're concerned they may be in decline, there are a few things you can do to help make sure they're safe and comfortable and their needs are being met.

First, you should make a firsthand assessment

of their needs. This will include making doctor's appointments and meeting with a financial planner and an elder law attorney to appraise their medical, financial and legal situations so you can more knowledgeably make a plan for their care.

You should also stay with

your parent so you have a better sense of how they're doing on a day-to-day basis and whether they can live independently. For example, can they still drive safely? Are they handling their appointments and managing their money competently? Do they have mobility issues? Is their home a safe place for someone in their physical condition? And are there assisted living facilities or geriatric care services nearby that can help your parent when you're far away?

After appraising the situation and figuring out what you can handle from where you live, you should meet with an elder law attorney who can draft documents like a health care proxy and power of attorney to enable you or a trusted person nearby to make important decisions on your parent's behalf. In addition, you should consider engaging a geriatric case manager who can serve as a medical and financial advocate for your parent in your absence.

