

# **GUIDE TO LEGAL AND FINANCIAL PLANNING NEEDS OF SENIORS**

*Helping people understand how to plan for their own future  
and the future of their senior loved ones*

**Homewatch  
CareGivers®**

*Let our family care for yours.™*

By the year 2020, one in six Americans will be a senior; the baby boomer generation will swell the senior population from 39 million to 53 million within ten years.

It might seem like the distant future, but 2020 is nearer to us than we may think.

For example:

<b>Those born in...</b>	<b>Will be...</b>	<b>Those born in...</b>	<b>Will be...</b>
1945	75	1956	64
1946	74	1957	63
1947	73	1958	62
1948	72	1959	61
1949	71	1960	60
1950	70	1961	59
1951	69	1962	58
1952	68	1963	57
1953	67	1964	56
1954	66	1965	55
1955	65		

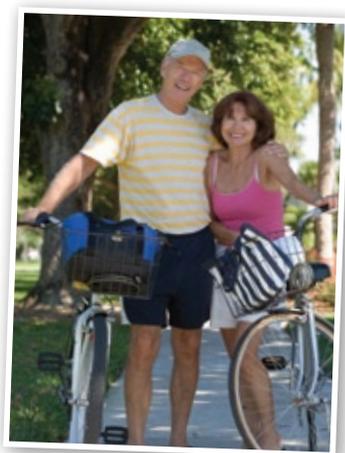
This unprecedented growth in the United States' senior population will come at a cost. The Centers for Medicare and Medicaid Services estimate that 60 percent of people over the age of 65 will need some form of long-term care.

Although long-term care needs become mandatory for many people, most wait too long to prepare for their financial needs as an older adult.

## THE FINANCIAL PLANNING DICTUM: “THERE’S NO TIME LIKE THE PRESENT.”

Especially for people born between 1945 and 1965 the time for planning finances—particularly for needs related to health care in retirement years—couldn’t be more appropriate. For those who want some control over the transitions from working years to retirement to end-of-life care—and the spectrum of possibilities in between—now is the perfect time for financial planning.

Planning is critically important for those who want to stay in their own homes and maintain their independence as they age.



For many people, the very thought of “financial planning” conjures feelings of dread and panic. The topic unsettles some people, who assume they ought to understand it by this point in life. Or they feel embarrassed because they’ve remained frozen rather than risk making the wrong move. The good news is, financial planning need not be intimidating or overwhelming. In general, a financial plan simply refers to a budget—a map for spending and saving. It allocates future income to expenses and to short- and long-term savings. A financial plan can also be an investment plan, allotting savings to investments or to projects expected to produce income (for example, a new business or product line, shares in an existing business, or real estate).

*It is the greatest of all mistakes to do nothing because you can only do a little.  
Do what you can. - Sydney Smith*

Being proactive now means taking that first step toward planning our finances so that our “future self” will thank us for having the vision to be our own best caretaker. Call it “20/20” vision for the year 2020. The simple fact remains: Forewarned is forearmed. There’s no substitute for steadfast planning or for the advantages such planning can offer.

## An Important Component of Financial Planning: Long-Term Care Insurance

Long-term care insurance is a policy an individual buys specifically for their own needs. Often, it is used to pay for care in non-institutional settings at home and in the community. Long-term care insurance gives people more options to decide how they want to be taken care of and how they want to live toward the end of their lives.

If you are thinking about long-term care insurance, the American Association for Long-Term Care Insurance lists these items as most important to know:

**1. You must health-qualify for long-term care insurance.** Not everyone can. Because health changes, especially as you grow older, it's smart to look into this insurance well before you reach retirement age (your 50s are generally the best time to start). Health qualifications can vary by insurer.

**2. Long-term care insurance can be far more affordable than most people think.** Cost is an issue, so you need to know there are many ways to make this protection affordable.

**3. Rates (Premiums) can vary significantly from one insurer to another.** Each insurer has pricing "sweet spots" based on a person's age at the time of application. Available discounts and options can vary, too. It's a good reason to work with someone who has access to policies from multiple insurers.

**4. You're only going to buy long-term care insurance once.** Deciding to buy long-term care insurance is a financial as well as emotional consideration. It's almost never economically advantageous to switch providers, primarily because costs are based on your age at application.

Northwestern Long-Term Care Insurance Company recommends planning your long-term care insurance as early in life as possible. They also suggest you schedule time to do the following:

- Evaluate and discuss your options with your family
- Analyze your needs
- Review a personalized solution
- Start moving toward financial security

*The importance of money flows from it being a link between the present and the future. - John Maynard Keynes*

## What precisely is “long-term care”?

The U.S. Department of Health and Human Services’ National Clearinghouse for Long-Term Care Information says:

“Long-term care is a variety of services and supports to meet health or personal care needs over an extended period of time. Most long-term care is non-skilled personal care assistance, such as help performing everyday Activities of Daily Living (ADLs), which are:

- Bathing
- Dressing
- Using the toilet
- Transferring (to or from bed or chair)
- Caring for incontinence, and
- Eating

The goal of long-term care services is to help you maximize your independence and functioning at a time when you are unable to be fully independent.”

**Traditionally, long-term care insurance will pay for all of the following:**

- Home care and home health care
- Community care, like adult day care or residential care facilities \*
- Assisted living facilities
- Nursing homes

*\*Refers to care in various non-institutional settings in the community*

**Policies for long-term care insurance are created based on the following:**

- Physical need or cognitive impairment of the client
- How much it pays in daily, weekly, monthly vs. lifetime benefits
- Where the policy holder currently resides
- Where the policy holder will live in the future
- How much the policy holder is willing and able to pay

Policies will vary depending on the cost of care in a geographic area and the beginning and end dates of the policy. Other factors include: how much the policy holder is willing or able to pay out-of-pocket before the insurance begins to pay, life expectancy, and medical advances during the lifetime of the policy. Often, a waiting period may be required before funds are accessed. A given policy, for example, might allow claimants to start collecting benefits on the day they begin receiving assistance, whereas another policy might require a waiting period of anywhere from 30 to 120 days. The waiting period often corresponds to the benefit period, or the maximum amount of time the insurance company will pay benefits. Often, the longer the waiting period before benefits begin, the longer the insurance policy will pay for your care.

Benefit periods are typically three to five years, and correspond to the lifetime benefit cap, or the maximum dollars that will be paid by the insurance company on the policy.

It is important that individuals ask questions and get advice from their broker when choosing a policy.

Weigh options carefully. Consider needs and consequences of various illnesses and events such as cancer, stroke, dementia, or other situations where the potential is high for living a long time and needing just a little bit of help to stay in the home.



Homewatch CareGivers offers a wealth of resources to help people prepare for the future. Among them is the Society of Certified Senior Advisors, a large network of professionals who believe that the right kind of planning, recommendations and referrals can make aging a time to be savored instead of a fate to be feared.

### **Legal planning is your best protection.**

The financial planning accomplished today impacts the choices we are able to make later on. Similarly, the legal planning can work to our favor as we age—and we can help our older loved ones prepare themselves for contingencies.

Broaching the subject of legal matters connected to physical and mental aging can bring nervous tension to adult children looking at their own future. The tension can magnify when these children think about bringing up the topic with their parents. Yet the upshot is that legal planning is a bit like having a good résumé ready: It's there when you need it.

No one wants to make decisions under pressure only to later second-guess their reasoning. If a parent becomes ill or injured, that crisis is stressful enough. Moreover, legal fees may be much higher than necessary if there has been incomplete or inadequate legal planning.

## THE VALUE AN ELDER LAW ATTORNEY BRINGS

Elder law attorneys help people prepare for the time when they or their loved ones will face issues such as aging, incapacity, disability, professional long-term care, and death. Specialists in this area of law understand the difficult conversations and decisions made during these life transitions. They advocate for and educate individuals about their rights and options.

### What exactly is “elder law”?

The National Academy of Elder Law Attorneys, Inc. says:

“Rather than being defined by technical legal distinctions, Elder Law is defined by the client to be served. In other words, the lawyer who practices Elder Law may handle a range of issues but has a specific type of client—seniors.

Elder Law attorneys focus on the legal needs of the elderly, and work with a variety of legal tools and techniques to meet the goals and objectives of the older client.

Under this holistic approach, the Elder Law practitioner handles general estate planning issues and counsels clients about planning for incapacity with alternative decision making documents. The attorney would also assist the client in planning for possible long-term care needs, including nursing home care. Locating the appropriate type of care, coordinating private and public resources to finance the cost of care, and working to ensure the client’s right to quality care are all part of the Elder Law practice.”

*When we were children, we used to think that when we were grown-up we would no longer be vulnerable. But to grow up is to accept vulnerability. To be alive is to be vulnerable.*

Madeleine L’Engle

The National Academy of Elder Law Attorneys lists the following as within the purview of elder law:

- Preservation/transfer of assets seeking to avoid spousal impoverishment when a spouse enters a nursing home
- Medicaid
- Medicare claims and appeals
- Social security and disability claims and appeals
- Supplemental and long-term health insurance issues
- Disability planning, including use of durable powers of attorney, living trusts, “living wills” for financial management and health care decisions, and other means of delegating management and decision-making to another in case of incompetency or incapacity
- Conservatorships and guardianships
- Estate planning, including planning for the management of one’s estate during life and its disposition on death through the use of trusts, wills and other planning documents
- Probate
- Administration and management of trusts and estates
- Long-term care placements in nursing home and life care communities
- Nursing home issues including questions of patients’ rights and nursing home quality
- Elder abuse and fraud recovery cases
- Housing issues, including discrimination and home equity conversions
- Age discrimination in employment
- Retirement, including public and private retirement benefits, survivor benefits and pension benefits
- Health law
- Mental health law

Not only are elder law attorneys educated about senior issues, they possess a true understanding of their clients’ circumstances and understand the physical and mental aspects of aging. Elder law attorneys are connected to senior advocacy groups and social workers. Well-versed in legislation affecting seniors, they work toward helping the elderly resolve legal problems and guide them through specific issues.

An elder law attorney can help people complete documents designed to protect financial interests and assets, as well as help people plan for their future. Putting these documents together will take some time, but families find it fosters honest conversation and promotes feelings of security for all involved in the process.

**For legal protection of retirement accounts, insurance products and health care, speak with an elder law attorney about the following documents:**

### **Testamentary will**

A testamentary or self proving will sets forth one's wishes regarding the distribution of property and the care of any minor children after death. This document should be prepared with the help of an attorney and signed in the presence of a witness.

### **Living will**

Also known as an advance directive, a living will discloses what is wanted regarding life-prolonging medical treatments if a person is unable to speak for themselves. The living will indicates which treatments are desired if a person suffers from a terminal illness or is in a permanent vegetative state. A living will becomes effective only if the person is incapacitated, which must be confirmed by doctor's certification. A living will is only used when ultimate recovery cannot happen.

### **Health care proxy**

A health care proxy authorizes another individual to speak for someone and make medical decisions in situations when he/she is incapacitated and cannot speak for themselves. The designated individual should be prepared to consider what the person they are speaking for would want in the given situation. This means a conversation with the loved one before such a medical situation might happen.

### **Durable power of attorney**

A durable power of attorney (POA) authorizes another individual to act and speak on someone's behalf on financial matters if the person is physically and mentally unable to do so. This individual is legally allowed to sign checks, pay bills and manage assets in the person's name. (Durable means this individual maintains POA if the person is unhealthy and incapacitated and cannot speak for themselves. In contrast, a non-durable POA only exists while the person is sound in mind and health.)

## Living trust

Especially important for people who have many different assets, a living trust puts a person's assets (home, bank accounts and stocks, for example) into the trust, administered for their benefit during their lifetime and then transferred to their beneficiaries when they die. There are several kinds of trusts that may need to be activated; an elder law attorney can help people understand their options and rights.

These documents are not useful if no one knows about them. Plus, it's a good idea to have more than one copy of each. The originals can be kept at the elder law attorney's office, and copies in a safe place. People should designate one outside person, either a family member or trustworthy friend, who knows where the documents are.

## These legal issues and official forms might seem daunting

Therefore, it may feel more comfortable to delay or avoid financial and legal planning. Procrastination seems to offer a modicum of safety. Perhaps we fear jinxing our future—that by bringing up the issue of unpleasant circumstances, we're summoning bad luck. It's one thing to cope with the consequences of choices we've made for ourselves, but how could we bear the thought of a less-than-optimal decision for our senior loved ones?

While these feelings may seem perfectly logical, we need to face the truth. Deciding to do nothing is in itself a decision. And it's not a decision that works in anyone's favor!

Don't neglect legal paperwork that may very well be indispensable to your well-being.

***Remember: Planning never implies a callous or calculating nature. Quite the opposite—planning for one's own financial and legal future, as well as helping seniors with their legal concerns—reflects a loving and caring approach to self and to family and friends.***

In view of the host of health and legal issues that most seniors will need to face, the repercussions of preparedness seem clear.

**Consider this:**

Medicare research reports that in 2009, about nine million men and women over the age of 65 will need long-term care.

## A LOOK AT THE COSTS FOR LONG-TERM CARE

### Home Health Care Aides

Hourly high: \$28.00 (Minneapolis/St. Paul, MN)

Hourly Low: \$12.00 (Shreveport, LA)

National median hourly rate: \$20.00

Median yearly rate, assumes 5 hours a day, 5 days per week: \$26, 000

### Assisted Living–Base Rate

Monthly high: \$4,708 (Maine - Southern Maine)

Monthly low: \$1,980 (North Dakota - Statewide)

National monthly average: \$3,031

National average yearly rate: \$36, 372

### Nursing Home Costs for Semi-private Room

Daily high: \$566 (Alaska - Statewide)

Daily low: \$121 (Minnesota - Rest of State and  
Oklahoma - Rest of State)

National average daily rate: \$191

National average yearly rate: \$69, 715

All costs listed above are subject to changes and increases over time.

*Survey based on the MetLife Mature Market Institute 2008 MetLife Market Survey of Nursing Home & Assisted Living Costs*



A study by the U.S. Department of Health and Human Services says that people who reach age 65 have a 40 percent chance of entering a nursing home. Only 10 percent of the people who enter a nursing home stay there five years or more. Of the other 90 percent, many recover (within an average stay of 23 days) from the illness or accident that landed them in the nursing home but will need long-term care at home or at another facility.

The reality is, most people will need long-term care, but most don't understand the cost or the options for paying for it. Naturally, most people prefer to stay in the comfort of their own home to receive long-term care.

The cost of care depends on the amount of care and length of time needed, as well as the geographical location. To truly understand long-term care, people need to understand their options and the services and financing for which they may be eligible.

***The U.S. Department of Health and Human Services says:***

“If you have sufficient income and assets, you are likely to pay for your long-term care needs on your own, out of those private resources. If you meet functional eligibility criteria and have limited financial resources, or deplete them paying for care, Medicaid may pay for your care. A common misconception is that Medicare will cover all long-term care needs.”

## INITIATING THE CONVERSATION WITH YOUR AGING PARENTS

Family dynamics and the ways that family members have always related to each other can sometimes get in the way of discussing legal and financial issues. Here are five steps to help:

1. **Don't take the person by surprise.** Tell him or her that you have something important you want to talk about and do it in a comfortable, pleasant setting.
2. **Use a situation you have gone through as a lead-in to your conversation.** “Mom, remember when Aunt Marilyn fell and broke her hip? And her kids ended up selling her house to pay for the years of rehabilitative care she needed? It's the kind of situation we would like to avoid if we can. If we plan in advance, we can be better prepared and be proactive in what options would be available.”
3. **Ask if they should ever need care—short- or long-term—who they are counting on to take care of them.** Spouse? Family members? Kids? Outside professional help? How would that decision impact the family dynamics and finances?
4. **Listen carefully and stay focused on concerns.** Let the parents or loved one talk—about their fears and dreams for the future. There can be unexpected rewards from communicating honestly, such as getting to know someone in a whole new way and encouraging future discussions. This should be an ongoing conversation; as situations evolve the conversation should, too.
5. **Create a strategy and put it down in writing.** From your conversation, what does this future look like? Financial planning, estate planning and long-term care planning are all connected. It's important that the person write down specific wishes so that everyone involved knows what is expected both today and in the future.

## PAYMENT OPTIONS (OTHER THAN PRIVATE PAY)

### Medicare

A federal health program administered by the United States government, Medicare provides health insurance coverage for people 65 and older and those with certain disabilities. Seniors who receive Social Security benefits before age 65 are automatically enrolled in Medicare parts A and B on the first day of the month when they turn 65.

**There are two parts to Medicare; each covers different areas of care:**

**Medicare Part A** (hospital insurance): Pays for hospital charges such as operating room costs, lab tests and bed and board. Premiums for Part A are paid for by the government.

**Medicare Part B** (supplementary medical insurance): Pays for doctors' charges and outpatient treatment. Premiums for Part B are paid for by the individual receiving care.

Medicare does not pay for “custodial care,” which is non-skilled care that helps people with activities of daily living; it only pays for skilled medical care.

### **Medicaid** (Title XIX)

Medicaid is a jointly funded, federal-state health insurance program for low-income and high need people. Depending on the situation, it covers children, the aged, blind, and/or disabled and others who are eligible to receive federally assisted income maintenance payments such as Social Security and state welfare programs. Medicaid coverage benefits for long-term care are very limited, paying only for skilled care deemed “medically necessary.” It does not cover the personal care or home care required by most seniors with chronic, custodial care needs. If seniors don't have another option to pay for long-term care, they must have their assets assessed, and have income at the poverty level. Medicaid primarily pays for nursing home care when all other assets are exhausted. This means that a senior must completely deplete their funds and sell off any assets before Medicaid will consider them.

### **Long-term care insurance**

Neither Medicare nor Medicaid helps cover the non-skilled personal care or home care required by most seniors with chronic, custodial care needs. This is where the role of long-term care insurance comes in.

### **Regarding the term “non-skilled care”**

“Non-skilled” certainly does not mean unqualified or inexperienced. It is a set phrase used in the industry to describe care personnel who assist seniors with specific tasks, such as meal preparation, shopping, laundry, light housekeeping, errands, bathing and dressing.

### **Two lesser-known sources to consider:**

1. For veterans who served during a time of war or for their surviving spouses *The Veterans Aid & Attendance Pension Benefit* can sometimes be used to fund certain types of long-term care. Individuals must contact their local Veterans Service Officer to initiate paperwork to determine whether someone is eligible. Your local Homewatch CareGivers can direct you to the right office.

## 2. The Older Americans Act (OAA)

The OAA distributes federal funds to states through a formula based on the state's share of the aged 60-plus population. Funding has not kept pace with inflation. Many seniors aren't eligible for Medicaid but can't afford long-term care services. The OAA serves some of these people. (Appropriations for the OAA are miniscule compared to Medicaid.)

*Note: The OAA provides support to informal caregivers—important given that family and friends are the sole caregivers for 70 percent of the elderly.*

Your local Homewatch CareGivers or your area's Administration on Aging (the agency who administers state grants) can provide more details on this program.

### EMERGING TRENDS ACROSS THE LONG-TERM CARE SERVICES LANDSCAPE

Genworth Financial Group reports that the cost of care among facility-based providers (like nursing homes and assisted living) has steadily increased while non-skilled care related home care costs have held relatively steady. Home care costs remain flat in part because of increased competition among agencies, availability of labor, and because home care, by its nature, avoids the costs associated with maintaining stand-alone health care facilities.

While none of us want to dwell on a time when we're no longer completely able to take care of ourselves, the earlier we consider our future needs and plan for them, the more likely we are to be prepared and to minimize the stress we and our families feel when the time does come.

*"The future depends on what we do in the present."* Mahatma Gandhi

Homewatch CareGivers advocates preserving dignity, protecting independence and providing peace of mind for our clients and their loved ones by providing exceptional home care. We can also help you find:

- elder law attorneys
- senior advocate groups
- veterans service offices
- education on home care services

**Contact your local Homewatch CareGivers to connect with these resources, and let our family care for yours.**



At Homewatch CareGivers we're not just caregivers, we're an extension of your family. We offer the comfort and security that allow our clients the freedom to remain in their own homes. Homewatch CareGivers offers a variety of services that complement your family member's need for independence and quality of life. From transportation assistance to comprehensive personal care, let our family care for yours.



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