FOUR STRATEGIES FOR NURSING HOME MEDICAID PLANNING:

PROTECT WHAT YOU OWN WHILE GETTING THE CARE YOU NEED

A WHITE PAPER PRESENTED BY

Douglas H. McPhail, PLC

ESTATE PLANNING & ELDER LAW FIRM

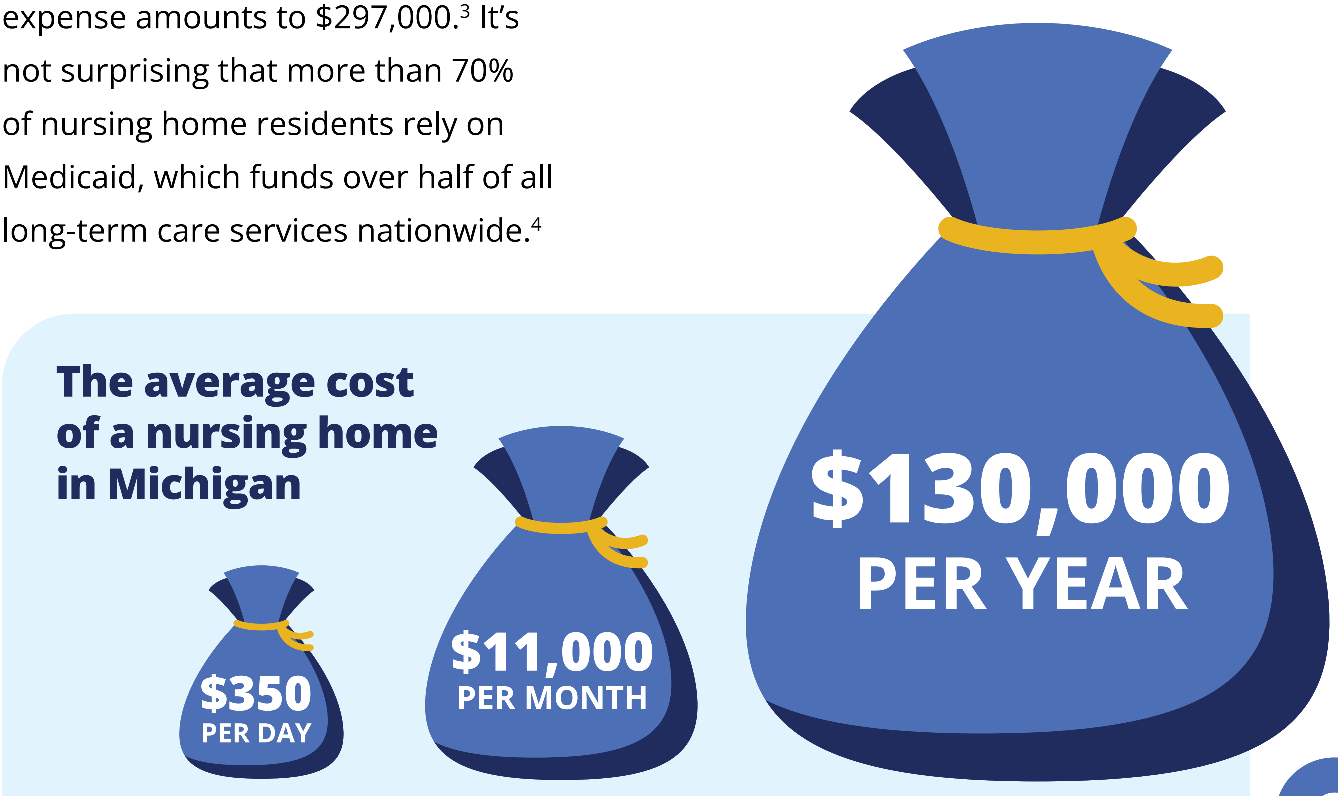
Long-term nursing home care is a reality that many Americans face as they age. Statistics indicate that over half of those over age 65 will require some form of long-term care services during their lifetime.[1] Unexpected health issues, such as catastrophic accidents or disabling illnesses, at any stage of life can also necessitate long-term nursing home care.

The financial burden of such care is substantial. The average cost of a nursing home in Michigan exceeds $350 per day.[2] That amounts to nearly $11,000 per month and approximately $130,000 per year. Given that the average duration of stay in a nursing home is over two years, the total expense amounts to $297,000.[3] It's not surprising that more than 70% of nursing home residents rely on Medicaid, which funds over half of all long-term care services nationwide.[4]

Far too many people are unprepared for these exorbitant costs. They face the prospect of losing everything they own to qualify for Medicaid and pay for care.

However, with strategic planning, it is possible to qualify for Medicaid without exhausting one's life savings. This paper will explore four key strategies for effectively preparing for nursing home care and Medicaid eligibility.

With the right tools in place, you can protect your assets while getting the care you need.



What, Exactly, Is Medicaid?

Medicaid is a government program that provides health care coverage – including nursing home care – for qualifying individuals based on age, income and asset criteria. It's available to those who:

- Are over age 65, blind or disabled
- Have medical expenses that exceed their income
- Whose assets fall below certain limits

For Michigan residents, the Michigan Department of Human Services sets the rules and limits for income and assets that determine who qualifies for Medicaid.[5]

Nursing Home Care Vs. Assisted Living

The phrase "long-term care" can be a source of confusion. Assisted living, independent senior living and nursing home care are all forms of long-term care, yet they differ significantly in terms of cost, funding and the financial planning required. Understanding these distinctions is key to effective financial and care planning.

Nursing home care – the focus of this paper – is the most expensive option, and it requires a meticulous approach to secure Medicaid coverage.

Medicaid Eligibility: Understanding Assets And Income

To qualify for Medicaid, your assets and income must fall below certain limits. Three categories of income and assets aren't counted for eligibility purposes:

- Exempt assets
- Patient and spousal allowances
- Unavailable income and assets

Exempt Assets

These assets are exempt, meaning they won't count toward Medicaid eligibility:

The primary home
(up to $713,000 in equity for an unmarried applicant, or unlimited equity for married applicants)

One vehicle

Personal belongings and household goods

A life insurance policy
(face value of $1,500 or less)

Prepaid funeral and burial expenses
of up to $15,460
effective June 1, 2024
(must be irrevocable)[6]

Spousal And Patient Allowances

Married applicants are entitled to both income and asset (resource) allowances, which don't count toward eligibility limits. The **community spouse** – that is, the spouse who doesn't need nursing home care – receives a minimum **resource allowance** (asset allowance) of $30,828 and a maximum of $154,140. The applicant (patient) gets a resource allowance of $2,000.

The community spouse can also claim income allowances. The **basic spousal income allowance** is $2555.00 per month.[7] Community spouses may also be entitled to a greater allowance for housing and utilities, up to a maximum of $3,853.50 per month.

Unavailable Income And Assets

Not all income sources count as income for Medicaid eligibility purposes. Certain annuities and assets held in certain types of irrevocable trusts are considered unavailable to the applicant. Additionally, some types of assets may be considered "nonsaleable" and, therefore, do not count toward the asset limit.

What About Jointly Owned Assets?

Joint assets are considered fully available to the Medicaid applicant unless proven otherwise. For assets that have equity, such as real estate, the applicant is deemed to have an equal share in the equity unless proven otherwise. Other nuances apply to jointly held assets, so it's important to seek individualized legal advice.

Asset Transfer Rules And Divestment Penalties

Asset transfer rules are critical in Medicaid planning. Any asset transfers within a 60-month period before applying for Medicaid – that is, the **lookback window** – can trigger divestment penalties.

Divestment penalties make you ineligible for Medicaid nursing home care coverage for a certain period of time, which is calculated based on the value of the assets given away. Essentially, it delays your ability to receive Medicaid benefits to help cover the costs of long-term care, and it requires you to spend down more of your assets before you can qualify.

Four Nursing Home And Medicaid Planning Techniques To Consider

There are four approaches to securing Medicaid eligibility for nursing home care while preserving assets and income:

1	**Asset conversion:** Converting countable assets into exempt ones	3	**Making assets unavailable:** Using trusts and other tools to protect assets so they are not deemed available to you
2	**Income conversion:** Converting countable assets into income streams	4	**Maximizing savings through estate planning:** Taking a comprehensive approach through strategic estate planning, which is best done well in advance

Importantly, none of these are a cookie-cutter approach. Your unique circumstances will shape which strategies are right for you. Finding the right planning techniques involves carefully fitting these pieces together to form a cohesive, big-picture strategy – one that protects your assets and maintains your quality of life while securing the care you need.

Read on for more detail about each of these strategies.

Asset Conversion: A Simple Technique That Can Save You Thousands

This approach involves converting countable assets into exempt assets that won't be counted against you. There are no lookback periods or divestment penalties for these conversions, provided they're done right.

For many people who can benefit from this strategy, the biggest exempt asset is their home. Investing in a primary residence or upgrading your home are ways to shift resources into non-countable forms. By doing so, you can improve your standard of living and ability to maintain your home as you age while also protecting significant amounts of money that you would otherwise have to apply toward care costs.

Case example: Consider a married couple with a house valued at $150,000 held in a revocable trust and additional savings of $100,000. Under Michigan's Medicaid rules, these assets combined would create a spousal allowance of $125,000.00. If the home is not owned by a revocable trust when care begins, the spouse would only be entitled to a $50,000 allowance. However, by transferring the house from the trust back to the couple's direct ownership after care begins, the home would become an exempt asset under Medicaid rules. This transfer would reduce their spend-down requirement to zero because the remaining countable assets are below the maximum allowance, resulting in a savings of $48,000.00.

This approach alone may be enough for people with modest estates to secure Medicaid eligibility. For those with larger estates, however, more advanced planning techniques are necessary.

Advanced Techniques: Converting Assets To Income Or Making Assets Unavailable

Medicaid rules require that all of your non-exempt assets be directed toward nursing home care costs, with limited allowances. However, in some cases savings can be achieved by converting non-exempt assets into an income stream.

Two effective techniques for income conversion are:

1. **Commercial annuities:** Medicaid-compliant annuities provide a set payout within the annuitant's expected lifetime. By converting a lump sum from a retirement account into a stream of income through an annuity, for example, the original sum will not count as an asset for Medicaid purposes.
2. **SBO trusts:** Standing for "solely for the benefit of," these irrevocable trusts can shelter assets by converting them into an income stream for the community spouse.

Income conversion strategies are particularly important for baby boomers who hold most of their life savings in qualified retirement accounts like individual retirement accounts (IRAs) and 401(k)s. In Michigan, these retirement accounts are included when calculating asset limits for Medicaid eligibility. Extracting retirement funds in a tax-efficient manner requires careful planning. Paying for nursing care from qualified retirements savings pushes most families into a higher income tax bracket and can trigger Medicare premium penalties. Higher income taxes and insurance costs can be reduced or avoided with planning.

Making Assets Unavailable Through Irrevocable Trusts

Another advanced planning tool for those with significant assets involves making assets unavailable for purposes of Medicaid eligibility. Even though they're deemed unavailable – meaning they won't count toward your asset limit – you can still control and benefit from them. This approach is most effective when implemented well in advance of when you anticipate needing Medicaid eligibility for nursing home care.

A primary tool in this strategy is the use of an **irrevocable asset protection trust**. Technically called an **intentionally defective irrevocable grantor trust**, this type of trust allows you to protect assets and any capital gains accrued after their transfer into the trust. These trusts can hold a variety of assets, except qualified retirement accounts like 401(k)s and IRAs. Common assets placed into these trusts include stocks, farm properties and even personal residences.

Case example: A couple nearing retirement has significant equity in their home. They are not ready to sell the home, but they would like the flexibility to do so in the future if they find the upkeep of a large home too burdensome as they grow older. One option is to transfer the home into an irrevocable asset protection trust. That way, if they decide to sell it later, they can benefit from the proceeds and preserve that wealth for their heirs without jeopardizing their Medicaid eligibility.

Beyond asset protection, creating an irrevocable trust offers additional benefits, such as avoiding probate, protecting your privacy, securing tax advantages and preserving your assets for beneficiaries.

It's important to note a common misconception: Revocable trusts do not offer the same protections and will not shield assets from Medicaid considerations. Only the correct type of irrevocable trust will provide the necessary legal shield for assets in the context of Medicaid planning.

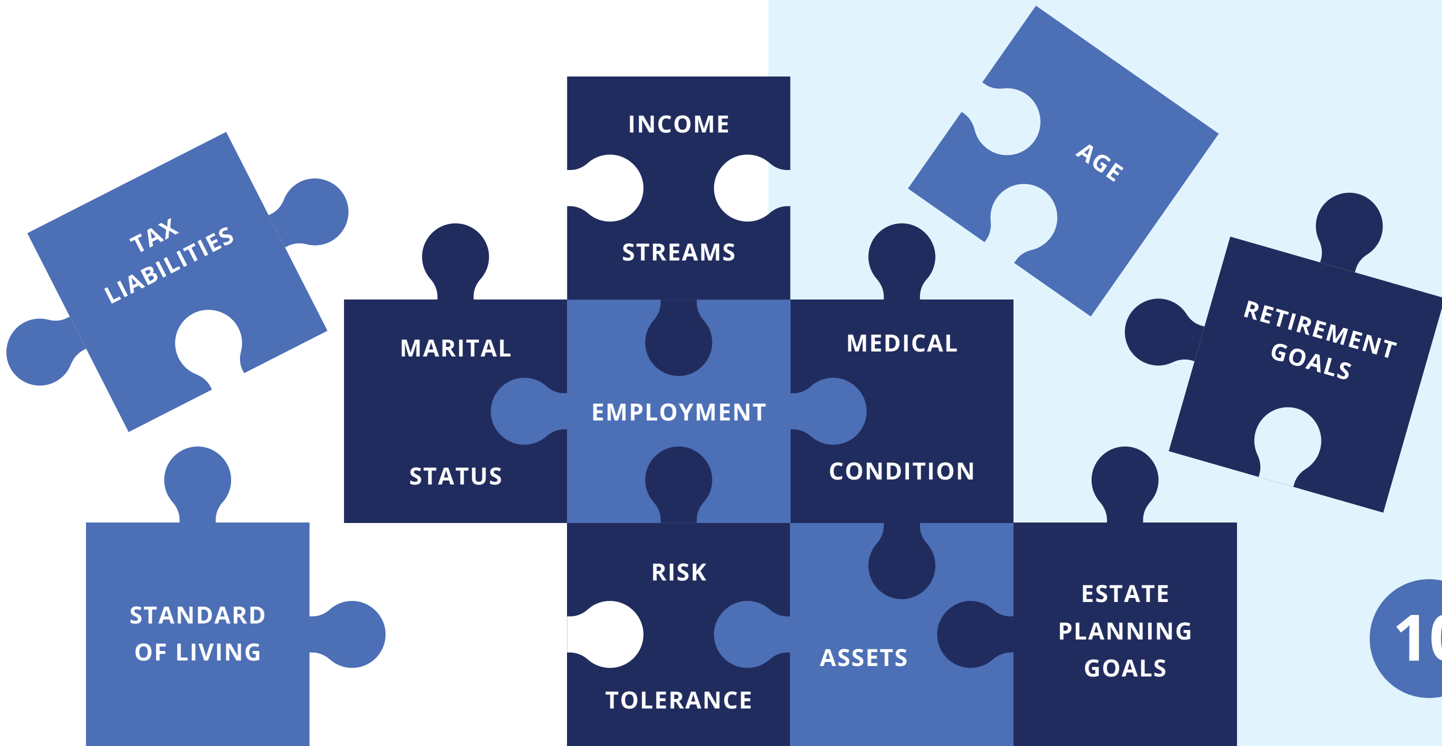
Maximizing Savings Through Estate Planning

Estate planning can play a crucial role in maximizing Medicaid exemptions and allowances. Strategically retitling assets can also shield them for yourself and your heirs. This is particularly true for married couples with large estates that require advanced Medicaid planning techniques like irrevocable trusts.

Timing is critical. Income and asset conversions must be carefully planned well in advance to avoid Medicaid's five-year look-back period, which could trigger divestment penalties. Ideally, assets should be segmented and transferred systematically over a 10-year window to maximize protection and ensure compliance with Medicaid rules.

A comprehensive estate planning approach should take into account all the moving pieces of your estate within the context of both tax planning and Medicaid planning.

As with all aspects of estate and Medicaid planning, there is no one-size-fits-all strategy that works for everyone. Determining the right techniques requires thoughtfully assembling all the puzzle pieces of your situation – your age, employment, medical condition, marital status, assets, income streams, retirement goals, tax liabilities, estate planning goals, risk tolerance and standard of living – into a comprehensive estate plan.



Knowledgeable Legal Guidance Is Key

Knowledge is power when it comes to Medicaid planning. Unfortunately, far too many people rely on the erroneous, incomplete or cookie-cutter guidance of financial planners and advisers who often don't have a thorough understanding of Medicaid eligibility rules. Without competent legal advice, those who rely on such guidance risk losing most or all their life savings to pay for nursing home care.

Those who proactively engage in early Medicaid planning with the help of a knowledgeable attorney can preserve a much higher ratio of their savings. A skilled lawyer will have a deep understanding and sole focus on the interrelated areas of estate planning, tax planning and Medicaid planning. They will possess the comprehensive knowledge and experience needed to manipulate the various moving pieces of your financial picture to develop an arrangement that optimizes your savings and benefits.

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Sources

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[4] KCMU estimates based on CMS National Health Expenditure Accounts data for 2013

[5] These state-specific rules are set out in the Michigan Bridges Eligibility Manual (BEM), available online at https://dhhs.michigan.gov/OLMWeb/ex/BP/Public/BEM/000.pdf

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[7] BEM 546, https://dhhs.michigan.gov/olmweb/ex/BP/Public/BEM/546.pdf

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