

**PLANNING FOR ELDER CARE AT HOME,
WITHOUT PAINTING YOURSELF
INTO A CORNER.**

A Program for the

[Pleasant View Senior Center East Longmeadow](#)



Leading the Way in Special Needs and Elder Law

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For more information on at-home elder care, visit the At Home Care pages at MassHealthHELP.com

Finding Ways to Make At - Home Care Safe

We can help families provide at-home elder care that will work for the elder and the rest of the family.

For the home care option to succeed, it's important that you carefully plan to meet medical and care giving needs. We can help you make sure that a family member, or other trusted person, has the legal authority and direction they need. The basics are:

- ▶ **Durable Power of Attorney and**
- ▶ **Health Care Proxy**

At-home care may require assistance from family members who are willing to devote the time and attention. A plan can be set up in a:

- ▶ **Caregiver Agreement**

The written caregiver contract can preserve family harmony and protect eligibility for MassHealth / Medicaid. The written contract can manage everyone's expectations of the care giving needs that are met by a particular family member. This prevents arguments between a care giver child, and other brothers or sisters who are not actively involved with providing the care.



To view the Long Term Care Planning slide show, go to MassHealthHELP.com

Medicaid Programs for At - Home Care

A first step toward qualifying for the at home programs offered by Medicaid is the MassHealth Frail Elder Waiver:
Income Limit: \$1,869/month (could be twice that for married people)
Asset Limit: \$2,000 (flexible asset transfer rules)
Care Need: frail enough to need nursing home level of care for personal care needs
Eligibility Decided by ▶ filing a MassHealth Senior Benefits Request form



► obtaining an evaluation from your Aging Services Access Point. [ASAP contact info is at MassHealthHELP.com](#)

Remember, any benefits you receive can become subject to Estate Recovery. We can explain whether Estate Recovery will be a problem in your case. After qualifying as a Frail Elder, you can have access to these Medicaid programs:

► **Adult Family Care Program:**

A family member (son or daughter) hosts an elder in their home, or comes to live in the elder's home. To qualify you must need help with Activities of Daily Living, but still have the mental capacity to call 911 for help if needed. MassHealth will make monthly payments to the family member of up to \$18,000 per year. Payments to family caregivers are not subject to income taxes.

► **Community Choices Program:**

Provides home care services to people who need 24 / 7 care for physical frailty or cognitive impairment, are unable to administer medications, and require assistance and supervision with Activities of Daily Living. The Aging Services Access Point sends a nurse to determine a care plan for you.

► **Personal Care Attendant Program:**

Home care services for people who need daily assistance with bathing, dressing, cooking and other Activities of Daily Living. After your physician makes a referral, your Aging Services Access Point (ASAP) assigns a nurse to determine a care plan. These services can be provided in your home, or at an Assisted Living Facility.

Another resource is ► **Senior Care Options** which combines Medicare and MassHealth Call 1-888-885-0484

[Veterans Benefits to Pay for At Home Elder Care](#)

► **Aid and Attendance** benefits are important source for payment of elder care for a veteran or a veteran's spouse. You are eligible if you are a veteran who served ninety consecutive days active duty, with at least one day during war time, honorably discharged.

To qualify a veteran or his spouse for the Aid and Attendance pension, the [VA regulations](#) look at the unreimbursed cost of care and at whether some or all of the claimant's estate should be consumed for the claimant's maintenance. The VA considers:

- whether the property can be readily converted into cash at no substantial sacrifice;
- life expectancy;
- number of dependents who meet the definition of "member of the family"
- potential rate of depletion, including unusual medical expenses under the principles outlined in [§38 CFR §3.272\(g\)](#) for claimant and dependents

Aid and Attendance benefits can be combined with Social Security and pension income, to make long term care planning work for veterans and their spouses. Aid and Attendance benefits can be used for care at home.

Maximum Aid & Attendance Benefit Amounts:

Surviving Spouse:
\$976 per month or \$11,712 per year

Veteran:
\$1,518 per month or \$18,216 per year

A Veteran with a Spouse can receive:
\$1,801 per month or \$21,612 per year

Two veterans married to each other:
\$2,384 per month or \$28,608 per year

► **Community Health Benefits** for at home care are also available from the VA, if the veteran is enrolled in the VA, and has a

primary care physician in the VA. The primary care physician puts in a referral, and the VA then purchases services from a local Visiting Nurse Association or other contractors:

- Skilled Services: Nursing OT, PT, Speech therapy
- Home Health Aides: assist with ADLs, showers ● Number of hours depends on the situation. No more than 21 hours per week.
- Respite
- Home hospice
- Adult Day Healthcare - VA purchases services through local agencies. Van or busses transport. There is no co pay if the need for care is 70% service connected. Service connected percentage can be assigned at any time. The most the veteran would be charged is \$15/ visit. Co-pay depends on income. Adult Day Healthcare is provided by the VA through local agencies. Van or busses transport. Thayer Care in Hadley, Mercy Adult Day Healthcare in Westfield and Holyoke Geriatric Authority.

Home Ownership Strategies

Some of these strategies may be right for you, while other strategies could paint you into a corner. Get good advice before you make any changes in home ownership.

► **Divide The Assets Of The Fragile Couple.** Spouse to spouse transfers are still exempt under the Medicaid Rules. **Dividing jointly owned assets into Tenants in Common ownership** can provide flexibility for Elder Law planning.

By splitting ownership, either spouse can:

- pass a 1/2 share to other family members upon death
- transfer 1/2 ownership back to community spouse if nursing home admission is needed

► **Income Only Irrevocable Trust agreement** to hold ownership of the home.

Trust agreements that do the job of owning and protecting assets must be irrevocable, meaning that you can't change your mind after you have transferred property into the Trust.

But the tax and trust laws do allow flexibility about how assets in the Trust are managed and distributed.

Here is an example of a person who decided to use a trust to own her home:



Because of a medical diagnosis, Ms. Inga Olney is not likely to qualify for long term care insurance. Inga decided that an [Income Only Irrevocable Trust](#) would be the best way to hold ownership of her home, and other assets. This Trust is Irrevocable, and it only provides Income to the Grantor (Inga).

If Inga applies for nursing home assistance from Medicaid 5 years after she funds the Trust, Medicaid should not consider her the owner of anything in the Trust. Unlike Medicaid, the IRS does consider Inga to be the owner of the Trust assets including her house. So, the house will still be covered by the Principal Residence Exclusion if the day comes when the house needs to be sold during Inga's lifetime. Inga can move to assisted living or condo using money from the house sale, and pay no capital gains tax.

► **Life Estate** is an interest in real property that is transferred by a Grantor for the life of a living person. The property interest can revert back to the Grantor or become the property of a third party (the remainder person) upon death of the living person. The Remainder Person is the person entitled to the remainder interest in your property.



For example:
Mom and Dad>>>>

transfer ownership to

Daughter and Son, with a Life Estate retained by Mom & Dad.

The Remainder is the portion of the property

remaining after the death of the person who had retained the life estate. Life Estate means that you have transferred property, but kept (retained) that property for your lifetime; and the property passes to the Remainder People upon your death, without the need for Probate Proceedings. In the example pictured here, the daughter and son are the Remainder People.

It is important to understand that if you transfer ownership of your real estate and retain a life estate, you cannot change your mind and get back the full ownership of the real estate, unless the Remainder People agree to give you a deed.

A real life example of the problem is illustrated by the October, 2007 Massachusetts Appeals Court case of *Ward v. Ward*, where a son refused to return ownership of a house to his father.

Beginning in 2010 the people who own the remainder interest will have to pay a capital gains tax when they sell a house that was subject to a life estate.

► **Equity Interests For Siblings**

Medicaid regulations will protect the interest owned by the non-institutionalized sibling, assuming the interest is created 5 years before Medicaid eligibility is needed.

► **Testamentary Supplemental Needs Trust**

Transfer assets to the spouse living at home and have the spouse at home execute a will containing a testamentary trust for the spouse who needs nursing home care.

► **Reverse Mortgage** for homeowners age 62

and over. No income qualifications.

Repayment: when you move, sell, or die.

Proceeds based on Age, Value of house, current interest rates. Reverse Mortgage

proceeds pay out options can be:

- Tenure
- Term - i.e. monthly
- Line of Credit
- Combination of above; change the option anytime

To prevent problems, AARP suggests you consider these checklist questions **when considering any choices**, including reverse mortgages and trusts:

- How much cash you could get by selling your home?
- What would it cost you to buy (and maintain) or rent a new home?
- How much money you could safely earn on any money left over after you buy a new home?
- Have you recently looked into buying a less costly home, renting an apartment, or moving into assisted living or other alternative housing?