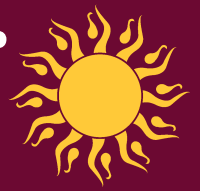




# ElderLaw Advisor



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## RESOURCE AND BENEFIT PLANNING FOR LONG-TERM CARE

As Elder Law attorneys, we are often called upon to help clients and their families find and pay for long-term care. Depending on the health care needs of the elder, they may receive long-term care at home or in a more formal setting, such as a nursing home. At-home care may be provided by family, friends or paid caregivers. Long-term care in a more formal setting may be at an assisted living center, residential care facility or nursing home. The cost of such care can range from zero (if provided at home by family or friends) to \$10,000 per month with full-time paid caregivers at home or \$8,000 per month at a nursing home.

Depending on each individual or family's circumstances, long-term care expenses will generally be paid out of some combination of the following resources:

1. The **individual's/couple's fixed income** (e.g., Social Security and pension income)
2. **Income generated from a retirement portfolio of investments**
3. **Long-term care insurance**
4. **Medicare and Medigap insurance** (for short periods of care)
5. **Reverse mortgage**, family sale-leaseback, sale of the home (or a remainder interest in the home) or another technique that extracts cash from home equity

6. **For those eligible, a Veterans Administration (VA) pension**
7. **For those eligible, MaineCare**

Numerous planning strategies can be devised that coordinate the above categories of resources to pay for long-term care so as to:

1. maximize the effectiveness of the client's fixed income and investments (categories #1 and #2 above), but, to the extent those resources fall short, then
2. effectively combine them with other types of resources and benefits in categories farther down the list.

Because "one size does not fit all" in long-term care planning, we will describe each of the above 7 possible resources and how each one may be used to pay for long-term care.

*continued on page 2*

*"I expect to pass through this world but once. Any good thing, therefore, that I can do or any kindness I can show to any fellow human being let me do it now. Let me not defer nor neglect it, for I shall not pass this way again."*

*- William Penn*



JOHN NALE

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MARK NALE

**Resource and Benefit**, *continued from p1*

1. **The individual's/couple's fixed income** is usually the primary source of payment in most situations, either alone or in combination with one of the other six resources. However, because most people's fixed income is limited, it usually is never enough to cover the full cost of long-term care.
  2. **Income generated from a retirement portfolio of investments** is another primary source of payment. Although retirement funds are shielded from income tax when deposited, they are subject to income tax when withdrawn. However, the tax can usually be offset by deducting part of the cost of long-term care from one's income.
  3. **Long-term care insurance** can be helpful, particularly if it qualifies for "special treatment" under the MaineCare Long-Term Care Partnership Program. Under this program, the benefit amount paid out under a qualified policy will increase the amount of assets an individual or couple may keep when qualifying for MaineCare long-term care benefits. Not all long-term care insurance policies qualify for the MaineCare benefit. One should consult with an experienced elder law attorney before purchasing a long-term care insurance policy.
  4. **Medicare and Medigap policies** only pay for short periods at the nursing home while an individual is receiving skilled care or rehabilitation treatment. Medicare will pay the first 20 days in full and about 2/3 of the next 80 days in a nursing home provided skilled care or rehabilitation is necessary. If not, this coverage ends before the full 100 days are used. A Medigap policy would pay the Medicare deductible and copay.
  5. **Reverse mortgages**, family sale-leaseback or another technique that extracts cash from home equity can be an excellent resource to pay for at-home care. The reverse mortgage allows an elder to stay in their home while accessing their home equity without making monthly mortgage payments. The cash can then be used to pay at-home caregivers, who may or may not be family members.
  6. **For those eligible, a Veterans Administration (VA) pension** and Aid and Attendance benefits can help offset one's cost of care. To qualify, the veteran must have served in active duty for 90 days with 1 day having been during a war time period, have a permanent and total disability (does not have to be service related), and have limited assets and income. If the veteran is living in a nursing home, assisted living or Alzheimer's facility, these expenses can be deducted from one's income, thereby making the veteran eligible for the Aid and Attendance benefit that can pay up to \$20,000 per year for a single veteran and over \$23,000 per year for a veteran and spouse and almost \$13,000 for a widow. These benefits can be used to pay for home health care, assisted living care, Alzheimer's or nursing home care.
  7. **For those eligible, the MaineCare long-term care benefit** can play an important role in paying for one's long-term care. This MaineCare benefit will help pay for some or all of the cost for at-home care, care in an assisted living facility, Alzheimer's facility or nursing home. Although some restrictions apply, with proper guidance, an elder may qualify for this benefit and preserve assets and income for the family and at-home spouse, if married. An asset preservation plan can be put in place at any time. However, proper planning should only be done with an experienced elder law attorney.
- A good long-term care and estate plan will incorporate and take advantage of as many of the above resources as possible. When we counsel our clients, **we advise the elder and the family that our goal is to make certain that the elder always receives the care they need and assuring that their assets are used wisely in paying for that care.** Using their assets "wisely" means accessing as many of the seven different resources as possible, thereby preserving their assets for their extended care needs and their estate plan goals.



## LEGISLATIVE UPDATE: SENATORS KENNEDY AND KOHL INSIST ON LONG TERM SERVICES & SUPPORTS IN HEALTH REFORM BILL

**W**ith the prospect for a health reform bill having received a significant boost with the news that Congress' budget will contain a reconciliation instruction for health care reform, more attention will be paid to long term services and supports (LTSS), given the insistence on the part of influential senators that it be included in any health reform bill.

For example, Senator Ted Kennedy (D-MA) reportedly declared that he will not assist in the movement of a health reform bill that does not include such a provision. Few doubt that Kennedy's support for any health reform proposal is critical to its passage. Kennedy has already outlined a portion of his plan for long term services and supports in his Community Living Assistance Services and Supports Act (CLASS Act) bill, S. 697. The CLASS Act would create a national program under which an individual paying premiums to the federal government would be eligible for a daily cash benefit to pay

for "home modifications, assistive technology, accessible transportation, homemaker services, respite care, personal assistance services, and home care aides." Eligibility will be hinged on an individual's need for assistance with activities of daily living (ADLs). Individuals needing assistance with two or three would receive a daily cash benefit of \$50, and individuals requiring assistance in four or more ADLs would receive a daily cash benefit of \$100. Monthly premiums would start under the program at \$30, and individuals would become eligible after paying premiums for 60 months. Enrollment in the program would be automatic.

Senator Herbert Kohn (D-WI), chairman of the Senate Special Committee on Aging, has also declared his support. At a hearing he held last month, Kohn declared, "Our message is a simple one: any serious health reform proposal must address long-term care."

## MONEY MANAGEMENT PROGRAM

**T**he Money Management Program is a free bill-paying service in which trained volunteers help people:

- Develop a budget
- Balance their checkbooks
- Organize their bills
- Manage monthly income and bills
- Write checks for participant's signature
- Assist with paperwork related to bills

Elders must be "able" to help and cannot be incompetent. The income limit for inclusion in this

program is \$24,837.00 per year for a single person and \$35,144.00 per year for couples. Elders must also have liquid assets of less than \$35,000.00.

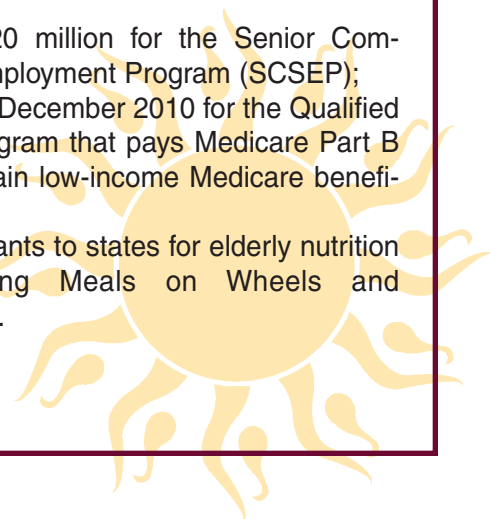
There are four agencies that operate the Money Management Program in Maine, in partnership with the DHHS Office of Elder Services. In Kennebec and Somerset counties please contact Pat Greenleaf of Spectrum Generations at 1-800-639-1553 or [www.spectrumgenerations.org](http://www.spectrumgenerations.org) for more information.

## WHAT THE STIMULUS BILL DOES FOR THE ELDERLY

**T**he American Recovery and Reinvestment Act of 2009, the \$787 billion stimulus package that President Barack Obama signed into law February 17, 2009, includes a number of provisions that help the elderly in need as well as the economy. Here are the highlights:

- A one-time payment of \$250 in the form of a tax rebate to Social Security recipients, Supplemental Security Income recipients, and veterans receiving disability and pensions. Checks were scheduled to be mailed in May;
- \$87 billion to temporarily increase the federal Medicaid match to states (FMAP), which could help many adults who receive long-term care services through Medicaid;

- An increase in the reverse mortgage loan limit to \$625,500, from the former limit of \$417,000, for the rest of 2009;
- An additional \$120 million for the Senior Community Service Employment Program (SCSEP);
- An extension until December 2010 for the Qualified Individual (QI) program that pays Medicare Part B premiums for certain low-income Medicare beneficiaries;
- \$100 million for grants to states for elderly nutrition services, including Meals on Wheels and Congregate Meals.



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**JULY ISSUE ARTICLES:**

- Resource and Benefit Planning  
For Long-Term Care
- Legislative Update: Senators Kennedy and Kohl  
Insist on Long Term Services & Supports  
In Health Reform Bill
- Money Management Program
- What The Stimulus Bill Does For The Elderly
- Have You Received Your \$250 Stimulus Check?

**HAVE YOU RECEIVED  
YOUR \$250  
STIMULUS CHECK?**

You should have received your \$250 stimulus check by now. They were mailed in mid-May. If you are receiving SSI, Social Security or Veteran’s disability compensation or pension, you should have received your check by now. If you have not, you should call Spectrum Generations at:

**1-800-639-1553**

or

*[www.spectrumgenerations.org](http://www.spectrumgenerations.org)*

**WHAT IS ELDER LAW?**

Nale Law Office is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid/MaineCare, Medicare, Social Security, SSI, VA disability planning, care management, and fiduciary services.



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