#19 – Summary of The Wisconsin Long Term Care Insurance Partnership Plan Act Effective 1/1/2009©

What Are Your Long Term Care Alternatives in Wisconsin?

~See Attached "Federal Class Act Option" (after Page 8 and the Wisconsin Spousal Impoverishment Provisions)

10/14/2011: CLASS Act Canceled by H.H.S.

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Note: This is only a brief summary of laws and contracts. Please refer to the actual regulations, legislation or contracts for more detailed information.

Why an End of Life or Disability Long Term Care Plan is Necessary

You have a Long Term care plan set up by your Government (that you may not like) under Medicare and/or Medicaid. So, why do you need some other plan for your parents' or your own Long Term Care?

I. The Government won't pay for your care unless you are impoverished.

A. Coverage under Medicare is limited to recovery from illness/injury. After 3 days of hospitalization, Medicare will cover 20 days of nursing home recovery with no deductible and another 80 days of recovery with a $148.00/day copayment and then Medicare provides no coverage. Also, Medicare requires that you are recovering (getting better) for coverage. Medicare does not pay for maintenance care. There is no Long Term Care in Medicare.

B. The State and Federal Medicaid program is going bust under the weight of in-home and nursing home care costs for our aging population. The Deficit Reduction Act of 2005 was passed to reduce government spending. Part of the Act was a 5 year look back penalty.

C. Therefore, when establishing Medicaid eligibility, there is a general 5-year look back cash and asset gifting rule that defines your possible penalty period. For example:

- If you gift $500,000 over 5 years before you seek eligibility for Medicaid (you don't know when that could be), the $500,000 is divided by the average nursing home costs in your area.

  $500,000 ÷ $5,000/mo. (Ave. nursing home cost) = 100 months
  100 months ÷ 12 = 8.33 years penalty waiting period
  You must wait 8.33 years before you are eligible for help from Medicaid. This is your penalty period.

- This rule would motivate you to try to save assets approximately equal to all of your gifting in the 5-year look back period. If you have to apply for Medicaid (because your penalty could equal a longer waiting period to receive Medicaid that would then be covered by the cash), you must save or have care be paid for by a Long Term Care Insurance policy.

D. So even if you do qualify for Medicaid nursing home care, do you want to spend the rest of your life in a Medicaid nursing home, without a lot of homecare advantages and options?

II. Medicare and Medicaid programs are busting the budgets of the Federal and State Government. Benefit increases are not likely.

III. Your health insurance may provide limited, skilled nursing home and/or hospice coverage for short term care, but only after an insured illness or accident. There is not much help here.

IV. Your spouse, daughter, son, etc. don't usually have the skills, time, money, or live close enough to care for you.

A. The 21st century American family is spread across the county, not just across the county or state. They are not close enough to care for you.
B. Your sons, daughters (and their spouses) have to work to support their family and can't afford to quit their job to care for you.
C. The highest lifestyle risk for depression is care giving. Seventy-one percent of caregivers suffer from periodic depression, as compared to 34% of the general population.
D. A working caregiver suffers a 50% loss of productivity on the job.

V. Your assets paying for Long Term Care is a very expensive plan of $6,000/mo. for an undetermined time. You lose assets after a surcharge and/or pay taxes if you use qualified money to pay for Long Term Care.

VI. You can save your spouse, your family and your wealth with a Long Term Care Plan. The Wisconsin Long Term Care Insurance Partnership Plan Act (effective 1/1/2009) which allows purchasers of qualified Long Term Care Insurance to:

A. Shelter (<u>credit</u>) more of your income if you must apply for Medicaid.
B. Allows you and/or your spouse to keep more <u>assets</u> as some are <u>disregarded</u>. The insured Long Term Care benefit payments received increase assets retained.
C. Reduces the amount of state recovery of your Medicaid costs when you die. <u>It limits recovery</u>, subtracting benefits paid by your Long Term Care insurance plan from what you may owe the state.
D. Allows you the freedom to have better care <u>where you want it</u> (usually at your home as long as possible). A Medicaid nursing home or community facility may not even be available or agreeable.
As an option, you can also return your premium to your heirs with no tax, less the benefits you may use. Your cost of insurance can only be the loss of use of the money and interest cost, a 100% tax advantage.

VII. For 3-10% the cost of Long Term Care, on a monthly basis, you may purchase a qualified Wisconsin Long Term Care Partnership Plan Insurance Policy. For most insureds, all premiums are tax deductible on a favorable Federal basis for qualified Long Term Care plans (see page 7) or on a State basis for any Long Term Care insurance coverage.

A. An employer may also pay the premium for anyone on a logical basis and it is tax deductible to the company with no income to the employee and the benefit is received tax free. The employer can discriminate with a Return of Premium provision (100% of the unused premium is returned to the insureds beneficiaries).

B. Self employed owners/employees of non C-Corp's (pass-through tax entities) also have the premium tax deductible at annual premium deduction limits established by the IRS.

FEDERAL PREMIUM DEDUCTION LIMIT				
Insured Age Before Close of Tax Year	2010 Tax Year	2011 Tax Year	2012 Tax Year	2013 Tax Year
40 or younger	$330	$340	$350	$360
41 to 50	$620	$640	$660	$680
51 to 60	$1,230	$1,270	$1,310	$1,360
61 to 70	$3,290	$3,400	$3,500	$3,640
71 or older	$4,110	$4,240	$4,370	$4,550

* Per Diem Tax Free Benefit Limit is $310 per Day.

C. For the general tax-paying employee, there are only two tax deductions. The first is bad, the second is good.

1. The Long Term Care Insurance premium can be added to your non-reimbursed medical expenses for a year and any amount exceeding 7.5% of your gross taxable income is deductible, for the amount you exceed the 7.5%.
2. Tax Deduction
   a. "Wisconsin law allows individuals to claim a reduction of income on the Wisconsin income tax return for the amount paid during the taxable year for a long-term care insurance policy, along with medical premium and all medical expenses that exceed 7.5% of your adjusted gross income. Your income reduction before tax is 7.5% of this excess, less any federal "pass-through entity" tax deduction already taken. This mainly benefits lower income employees with high medical expenses that are paying for long term care. For a tax deduction, a long term care insurance policy means a disability insurance policy or certificate advertised, marketed, offered or designed primarily to provide coverage for care that is provided in your home or in an institutional or community based setting. The care

must be convalescent or custodial care for a chronic condition or terminal illness. A worksheet is provided in the Wisconsin Department of Revenue Form 1 (Line 11) with instructions for computing the deduction for long-term care insurance."

b. Minnesota Laws allow a direct tax reduction, or credit, of $100 per year for single filers or $200 for couples for qualified Long Term Care Plans only.

D. <u>The cost of Long Term Care insurance can not be taken as a federal tax deduction</u> (all or a portion left after self employed table is taken or if you don't accumulate 7.5% in un-reimbursed medical expenses) can just be deducted from your Wisconsin taxable income. This deduction includes yourself and your spouse.

E. No matter what your employment or tax status, you may pay Long Term Care insurance premiums from your Health Savings Account with 100% tax deductible dollars per year up to the HSA deduction limits ($3,250 per Single and $6,450 per Family for 2013).

VIII. Here is your Government/Medicaid Long Term Care Plan (at least for most) if you need Medicaid. (**Due Diligence by all professional advisors is needed in Giving and Asset Management advice for all clients, especially those that are large and regular givers of their assets.**) The following Government Long Term Care Plan is for a single person applying to Medicaid. [Units of spousal assets are attached – Wisconsin Dept. of Health Services]

A. You can keep these Excluded Assets up to a $2,000 Value

- Cash
- Checking Account
- CD's
- Life Insurance Policy
- Stocks
- Bonds
- Non-Homestead Property
- Property Agreements – CFD
- Any Liquid Assets
- <u>ALL ONLY EQUAL TO $2000</u>

B. You can also keep these other <u>Excluded Assets</u> if allowed by Medicaid

- Your Homestead if a spouse or family member still lives there
- Some Trusts
- $1500 Burial Policy
- One Vehicle
- Some Federal Payments – No Social Security, only V.A.
- Household Property
- Personal Items (Clothing and Jewelry)
- <u>Long Term Care Verified Benefits paid out are disregarded assets sheltering assets $1.00 for $1.00</u>

- Income Limit for 2010 is $32,868 with one institutionalized (for spouse or dependent family members of the single Medicaid recipient).

C. A Single Persons Deductible for Medicaid eligibility with No Long Term Care Policy is:
(If giving away assets, remember the 5 year look back and waiting period penalty to be eligible for Medicaid.)

Keep	Your Deductible to Liquidate to Receive Medicaid
$1,500 Burial Policy	Your house and cottage
$2,000 in Assets	All other Assets
1 Vehicle	Your second car
	Your Toys
$45/mo.	All 401(k) Qualified Plans
	Any business interests

D. A Married Persons Deductible for Medicaid eligibility with no Long Term Care Policy is:
(Remember the 5 year look back period and eligibility penalty - What is documented as assets of the couple "community spouse assets share" (CSAS) are totaled).

Keep	Your Medicaid Deductible
One House	Cottage
One Vehicle	Second Car
$2000 Excluded Assets	All other Assets
$1500 Burial Policy	All other Insurance
$104,400 CSAS	All Above $208,800
$2,610/mo. Spouse Income	$1,400/mo. Medicaid Share

* See Wisconsin Spousal Impoverishment Fact Sheet attached.

IX. If you do not like your Medicaid Long Term Care plan you can use a qualified Wisconsin Long Term Care Partnership Plan as of 1/1/09 (or opt for the Federal Long Term Care Class Act as of 10/1/2012 through your employer) for better Long Term Care service options and to protect your family assets.

A. Premium Credits so you can (or you and your spouse) keep more income above the $45/mo. or 2,739/mo. while you are receiving Medicaid.
B. Allows a disregard or shelter of assets equal to benefits paid out under a Wisconsin Long Term Care Partnership contract.
C. Limits recovery of Medicaid services revenue from you and/or your spouses estate at your death equal to the benefits paid by your Long Term Care policy.

- The Wisconsin Long Term Care Partnership plan shelters assets for you and your spouses use and protects your estate assets from Wisconsin recovery of costs from your estate. This is $1.00 for $1.00 asset protect by benefits purchased at a discount.

- Your Long Term Care Plan, the Wisconsin Long Term Care Partnership Plan of 1/1/09, allows the purchase of a "qualified long term care plan".

X. A Qualified Wisconsin Long Term Care Insurance Partnership Plan must contain these basic coverages (HIPAA 1996). This describes a federally qualified plan.

A. Benefits are tax-free
B. An MD must declare your need for Long Term Care
C. You can have no greater than a 90 day elimination period (your deductible – you pay the first 90 days of Care)
D. Your plan must pay after you can't perform 2 of 6 ADLs
    1. ADL's (Activities of Daily Living) Bathing, Dressing, Eating, Toileting, Maintaining Constinence and Transferring
    2. Severe Cognitive Impairment – Alzheimer's, Dementia, Parkinson's Disease
    3. Only need one or the other – not both.
E. There must be a non-forfeiture of value option after 3 years premium payment if there is a level of rate increases. You will receive benefit equal to premium when needed.
F. The policy must contain at least a 3% compound inflation clause (CPI or GPO are optional) if under age 61, and a minimum of 3% simple after age 61 until age 75. You don't have to purchase the 3% minimum demanded of the partnership qualified plan after age 75. At age 76 you can purchase Long Term Care Insurance without the premium cost of inflation protection.

XI. There are three basic types of Wisconsin Long Term Care Partnership policies (besides life insurance and annuities with Long Term Care rider) that can <u>sometimes</u> qualify as a Wisconsin Long Term Care Policy Partnership Plan. They are 1) Reimbursement (you pay less premium), 2) Indemnity (you pay a little more premium), and 3) Cash (best but more premium).

1. <u>Reimbursement</u> – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim, submit proof of loss and be reimbursed for actual expenses up to daily, weekly or monthly benefit
2. <u>Indemnity</u> – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim, submit proof of loss and benefit indemnified up to daily, weekly or monthly benefit. If benefit exceeds actual cost, client gains additional funds.
3. <u>Cash Benefit</u> – Trigger ADL or Cognitive Impairment, plan of care, satisfy elim and insurer sends a periodic check for the insured's discretionary use.

XII. Some Main Policy Definitions

A. Care

1. Substantial Assistance (or hands on assistance) which is physical assistance (minimum, moderate, maximum) of another person without which you would not be able to perform the activity of daily living.
2. Standby Assistance: The presence of another person within arm's reach of you that is necessary to prevent, by physical intervention, injury to yourself while you are performing the activity of daily living.

B. Cognitive Impairment (60-85% of all claims for Long Term Care)
1. Severe Cognitive Impairment is a loss or deterioration in intellectually capacity that:
   - Is comparable to (and includes) Alzheimer's disease and similar forms of irreversible dementia: and
   - Is measured by clinical evidence and standardized tests that reliably measure impairment in a person's:
     - Short term or long term memory
     - Orientation as to people, places or time
     - Deductive or abstract reasoning
     - Judgment as it relates to safety awareness

C. A Plan of Care – Needs to be submitted before benefit paid and developed before or after the first day of eligibility for benefit that begins the elimination period. Note: 75% of claims begin at home; a generous modification benefit is advisable.
1. A blueprint that describes needs and services to care for the person needing care. The plan of care will also drive the ancillary benefits of a Long Term Care Insurance policy. Such as assistive devices like grab bars in a bathing or toileting area, wheel chair ramps, etc. If these things are not in a plan of care, the carrier will typically not cover the costs.
2. These are prepared by several different people. Could be hospitable discharge, independent care management of care coordination services associated with a Long Term Care Insurance Policy.

XIII. Do you or your family want the Medicaid Long Term Care Plan, or the Class Act Plan, or do you want guaranteed better care where you choose and some protection for your families' assets?

"A Qualified Wisconsin Long Term Care plan gives you freedom."

If you have any questions please call Dave Trapp of Armitage at 800-952-0263 or 608-784-5433.