



# Long-Term Care Planning Beyond Insurance

**MICHAEL ANTHONY, JD, CMP™**

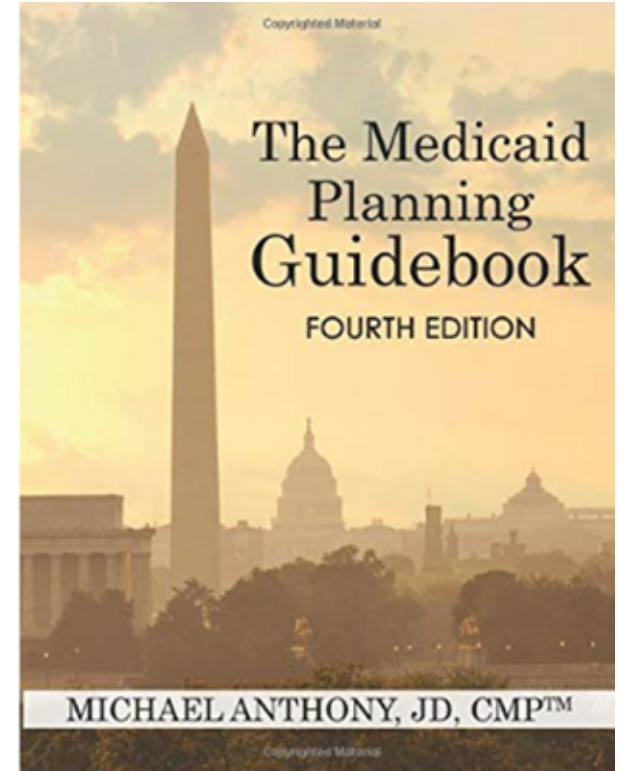
Chairman, CMP™ Governing Board

# Michael Anthony, JD, CMP™



## National Long-Term Care Medicaid Expert

- Long-term care benefit planning expert
- Teaching CLE courses since 2006
- Delegate to White House Conference of Aging
- Author, Medicaid Planning Guidebook (now in Fourth Edition)
- National lecturer on long-term care benefit planning issues
- Elder law firm practice development coach/mentor and subject matter expert
- Owner **Edgentus.com** which provides CLE and CE classes & **MedicaidSuccess.com** LTC Medicaid application services
- **Not** the bassist for Van Halen



## A GROWING NEED

- People are getting older:
  - Seniors (65+) make up 16% of US Population.<sup>1</sup>
  - Seniors will make up 20% within the next 20 years.<sup>2</sup>
- 10,000+ people are turning 65 every day until 2030.<sup>2</sup>
- People are living longer:
  - People are living longer than ever and "dramatic" gains in life expectancy show no sign of slowing down. (WHO 5/13/13)

<sup>1</sup> 2020 Profile of Older Americans, May 2021, Administration for Community Living (acl.gov).

<sup>2</sup> US Census Bureau, March 13, 2018, Older People Projected to Outnumber Children (census.gov).



## A GROWING COST

- People need help with long-term care.
  - 70% of people turning age 65 can expect to use some form of long-term care during their lives. (longtermcare.gov)
- Cost of long-term care going up.
  - Care costs will continue to grow (Genworth 2021 Cost of Care Survey).
  - Median daily rate for skilled care, semi-private \$260 (\$297 for private).
  - \$7,908 - \$9,034/mo. (nationally)
  - Locally: **PA \$15,000/mo**



**LONG-TERM CARE  
FUNDING SOURCES**

PRIVATE	PUBLIC
Personal Savings  LTC Insurance	Medicare  VA  Medicaid

## SELF INSURANCE

- Having enough resources to pay for long-term care.
- Having enough principal to generate enough income pay for long-term care without erosion of principal.
- Having enough liquidity or cash flow to pay.
  - If the resources don't provide enough cash flow, advance planning may still be needed.

## LONG-TERM CARE INSURANCE

- Get long-term care insurance, if you can.
- A healthy person who can afford it will find it makes life easier.
- There are 2 major obstacles that a person faces when pursuing insurance:
  - High Cost
  - Strict Underwriting

## PUBLIC FINANCING



- Most people think it covers more than it does.
- Skilled Nursing: Only covers 100 days.
- 100-day preceded by 3-day minimum hospitalization.
- Limited home care only for rehabilitation or hospice.



# PUBLIC FINANCING



**VA**

U.S. Department  
of Veterans Affairs

- Limited eligibility requirements:
  - Wartime service.
    - Veteran, spouse or widow/widower
  - Need helps with 2 or more Activities of Daily Living and paying for care.
  - Net worth limits: requires a **spenddown** of assets (bright-line limit \$138,489 for 2022).
  - Care costs must exceed income to get the maximum pension benefit amount.
- Penalty for transfer of assets (3-year lookback).
  - Uses the max single veteran pension as a divisor.
- Provides a monthly income stipend to help pay for home care, assisted living and nursing home.

# PUBLIC FINANCING



## VA BENEFIT AMOUNT (2022)

- Widow/er \$1,318/mo
- Single Veteran \$2,050/mo
- Married Veteran \$2,431/mo\*
- 2 Married Veterans \$3,226/mo

## VA WARTIME SERVICE PERIODS

World War I	04/16/1917 - 11/11/1918
World War II	12/07/1941 - 12/31/1946
Korea	06/27/1950 - 01/31/1955
Vietnam	08/05/1964 - 05/07/1975
Persian Gulf War	08/02/1990 - TBD

# PUBLIC FINANCING



- **MAGI Medicaid v. LTC Medicaid.**
- **Public-private partnership.**
- First requires a **spenddown** of assets.
- Does not require total impoverization.
- Rules in place to protect some assets of the healthy spouse.
- Penalty for transfer of assets (5-year lookback).
- Available in nursing home and at-home, no coverage for assisted living facility.
- Home care:
  - PA: LIFE (Living Independence for the Elderly Program)\*
  - PA: Community Health Choices

**\*Note: Not technically Medicaid, but follows Medicaid eligibility rules.**



## ASSETS EXEMPT FROM SPENDDOWN

What assets **DO NOT** count towards the spenddown?

- **House (below equity limit \$636,000 if single)**
- **1 Vehicle**
- **Pre-Paid Funeral or Irrevocable Funeral Trust (PA: at or below county limit)**
- **Personal Property**
- **Qualified accounts held by the community spouse (PA Rule Only)**
- **Assets converted into Medicaid-compliant annuity**

## ASSETS COUNTABLE FOR THE SPENDDOWN

What assets **DO** count towards the spenddown?

- Extra real estate
- Extra vehicles
- Investment-grade personal property
- Cash, checking, savings, CDs
- Stocks, bonds, mutual funds
- Annuities
- IRAs, 401k, Roths, SEPs, 403b, etc.
- Cash value life insurance

# MEDICAID SPENDDOWN RULES

- Strict asset limits:
  - Single Medicaid patient must spend down available assets to:
    - PA: \$2,400 (\$8,000 if income <\$2,382/mo).
  - Married patient with spouse in community:
    - Formula:  $\frac{1}{2}$  of all assets
      - with a cap of \$137,400 (2022)
      - and a floor of \$27,480 (2022)
- 5-Year Look Back on transfers
- Average Cost of Nursing Home (2022):
  - \$14,676.04 /mo. (PA) (**Also transfer penalty divisor**)
  - \$10,650/mo. (WV)
  - \$6,905/mo. (OH)

MEDICAID RULES



# MARITAL SPENDDOWN EXAMPLES

How much must be spent down?

## EXAMPLE 1:

Total Countable Assets on Snapshot: \$300,000

$\$300,000 - \$137,400 \text{ (CSRA max)} =$

**\$162,600 SPENDDOWN**

**\$137,400 AUTOMATICALLY PROTECTED**

## EXAMPLE 2:

Total Countable Assets on Snapshot: \$200,000

$\$200,000 \div 2 =$

**\$100,000 SPENDDOWN**

**\$100,000 AUTOMATICALLY PROTECTED**

## EXAMPLE 3:

Total Countable Assets on Snapshot: \$40,000

$\$40,000 - \$26,076 =$

**\$13,924 SPENDDOWN**

**\$26,076 AUTOMATICALLY PROTECTED**

MEDICAID RULES

## DIVESTMENT (GIFT/TRANSFER)

60-Month Lookback from Application Date

Application date is penalty start date if “otherwise eligible”

EXAMPLE :

- Mary gives away \$10,000 a year to each of 3 grandkids in 2017, 2018, 2019 and 2020.
- Mary goes into a nursing home in 2022 and spends her remaining assets down to \$8,000 in PA.
- Mary applies for Medicaid.
- $\$10,000/\text{yr} \times 3 \text{ grandkids} \times 4 \text{ years} = \$120,000$  total transfers
- $\$120,000 \div \$14,676.04 = 8.18 \text{ mo. PENALTY PERIOD}$

## 1. PLAN AHEAD

- GIFT AND WAIT – TURN THE LOOKBACK PERIOD INTO A WAITING PERIOD
  - Gift assets to a:
    - Person or persons
    - Trust
  - Wait out the 60-month lookback for Medicaid
  - Wait out the 36-month lookback for VA Aid and Attendance
  - **GIFTED ASSETS ARE FULLY EXCLUDED**



## 2. ACCELERATE SPENDDOWN

### ■ PERSONAL CAREGIVER AGREEMENT

- Pay a family member or friend for care at home.
- Pay maximum amount weekly.
- Shift assets to the family member or friend.
- **BONUS:** Use care costs to justify the VA Aid & Attendance benefit if otherwise eligible.
- **Minor Downside:** Payments are taxable to the caregiver.

### 3. CRISIS PLANNING (MARRIED COUPLE)

- ASSET CONVERSION

- Determine total amount of exposed excess resources on the **SNAPSHOT DATE**.
- Use the “Asset-to-Income” rule to convert excess resources to income for healthy spouse.
- Apply for Medicaid **after** conversion.
- **BONUS:** Conversion works on IRAs for Veterans Aid & Attendance benefit, but subject to 36-month lookback rules.

## 4. CRISIS PLANNING (SINGLE)

- MODERN HALF-A-LOAF
  - Gift a portion of assets to intentionally create a penalty.
  - Purchase Medicaid compliant annuity with a portion of assets.
    - Match the term on the annuity to the term of the expected penalty.
  - Apply for Medicaid and trigger the intentional penalty.
  - Use annuity income to pay for care during the penalty period.



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