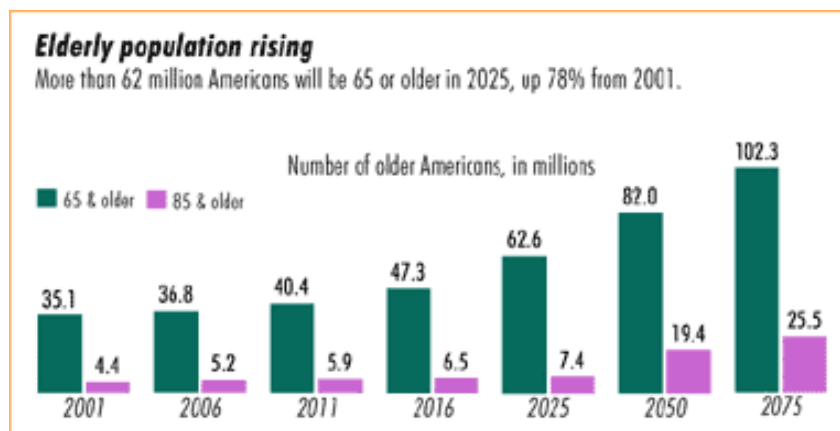


Eye on elder issues

EYE on ELDER ISSUES
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When is Medicaid Planning Appropriate?

Our country's entitlement programs are in BIG trouble: Medicaid, the program intended to provide health care to low-income Americans of any age, and Medicare, the program that offers health care to Americans over 65 years of age. However, subsequent legislation has created eligibility for the middle class. Both programs are projected to suffer major financial losses in the next 5-10 years. **As the Baby Boomers, our nation's largest population segment, move toward retirement age, this raises many questions in the minds of the boomers, their families, and our lawmakers.**



Source: U.S. Census Bureau projections

As we look at the problems with our system, the natural inclination is to try to rid the system of abuses first. We obviously need to monitor the efficiencies and management of the programs or reform the programs in their entirety. **Much has changed since these programs were developed in 1965. People are living longer, suffering from more debilitating diseases, and are requiring more long term care than ever before.** Family members who used to be the caregivers now live in different cities, are often dealing with their own children and are usually part of dual income families who can't drop everything to care for an aging or ill loved one.

Medical and technological advances have provided challenges as well. The system developed in 1965 never envisioned the ability or demand to do organ transplants, to have machines that can project every area of the brain, or cardiology procedures to repair the heart. The tremendous costs of these procedures are definitely taxing our system and restrictions based on type of disease have been placed on recipients in an attempt to control costs. These restrictions are not necessarily fair and equitable to the participants. **So now, we have a system of "roulette" or, as some describe it "rationed health care."** If you need heart bypass surgery, you will be covered. If you develop Alzheimer's Disease, you are out of luck; it is NOT covered. The illnesses may ultimately cost the same, but the current restrictions are not at all flexible.

When seniors suffer a major health crisis, they are often faced with decisions that affect the quality of life for themselves and their family and suddenly find themselves at the mercy of a cold and unforgiving system. Medical care and/or long term care can easily drain a family of all of their assets, creating problems for the remaining dependents. And all family situations are not alike: some family members are financially supporting children, siblings, parents or spouses who suffer major illnesses or disabilities and have no other resources available.



Elder law attorneys are often dealing with clients who are in desperate need of planning for themselves and their loved ones. Often, these clients have waited until disaster has struck before consulting an attorney and their options are extremely limited. It is the elder law attorney's obligation to explore and present ALL available options to a family in this situation. **While the Medicaid program was originally intended for the poorest segment of our population, it is sometimes the only option for middle class individuals as well.**

Repositioning of Assets is an Acceptable Planning Tool

"Medicaid planning" consists of actions taken to reposition assets in an effort to protect the well spouse and to promote the independence and quality of life for the Medicaid beneficiary.

For years, the repositioning of assets has been an accepted practice and a viable planning tool for America's middle class. As stated above, some individual or family situations leave no other alternative or might also leave others in the family in an impoverished state. While some people would profess that these options should not be offered to the middle class, it is an acceptable planning tool which does not discriminate by type of illness and promotes the independence and dignity of our seniors as they age.

Our lawmakers often grapple with the financial difficulties of Medicaid. There is no simple solution, no easy fix. Making any changes to the program could present a political and economical minefield. Tightening rules for qualification will only leave a whole class of individuals uncovered and a tremendous number of families impoverished. While the system isn't perfect, reform has to be done to avoid unintended or hurtful results.

The private sector has responded to this crisis by developing long term care insurance coverage and a health and housing system geared to the continuum of life-time care. The insurance companies have made great strides in their product pricing and coverage, but are still developing data on how to deal with our sickest elders. **These insurance products are a solid planning tool recognized by most elder law attorneys and should be considered by anyone who is healthy and (preferably) in or before their 40's. They are not the answer for all people in all situations.** In fact, if someone has already been diagnosed with an illness or is around retirement age, the insurance is either not available or not affordable.

For the above reasons, Medicaid Planning is ethical and appropriate. The attorney is ethically, morally and legally required to offer a client all options available to him or her. It is the client's choice to select the option that best fits the situation. Medicaid Planning is definitely one of the options to be considered. It is a reasonable and legal option that cannot be ignored by and for those who need it.



For more information about elder law attorneys and the National Academy of Elder Law Attorneys, visit <http://www.naela.org/>. Established in 1987, NAELA provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to the elderly and people with special needs.

Next EYE on ELDER ISSUES: "Spousal Impoverishment May Lead to Divorce"

Note to Our Readers: This e-newsletter, *Eye on Elder Issues*, is presented as a public service by the National Academy of Elder Law Attorneys (NAELA). We are pleased to send you this issue and welcome your comments. You can expect to receive this newsletter monthly as NAELA explores, reports and provides insight on timely topics affecting our nation's seniors and their families. In addition, the growing population of Baby Boomers is addressing issues for themselves and their families that are new and unique. This publication is intended to explore those issues from all sides and to educate consumers, aging network professionals, law makers, and members of the media.

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