

What would it cost you today to pay for Nursing Home Care?

Although most people plan their estate in order to pass on their property and legacy to their families and heirs, some fail to realize the importance of planning for the cost of nursing home care. A well-rounded estate plan will include those elements that provide your family with the ability to act on your behalf in making decisions for you should you ever need to obtain long-term care.

With the flux of the present economy and the upcoming presidential election, perhaps the last item on anyone's mind is how to pay for long-term care. But, this question is vitally important and must be answered now, or it could cost you later.

In a recent Arizona Health Care Cost Containment System transmittal, the average private pay room rate for nursing homes in Maricopa, Pinal, and Pima counties was increased to \$5,808.25. But in Yuma county, the average private pay room rate for a nursing home was increased to \$5,158.40. With some exception, the private pay rates are used in the Medicaid or Arizona Long Term Care Services (ALTCS) eligibility determination process when calculating the period of ineligibility that results from a transfer of resources for less than fair market value. Also, the government uses these values to determine whether a person can establish an Income-only Trust commonly referred to as a Miller Trust. Generally, if income exceeds the private pay rate, then the person cannot use an income only trust to establish eligibility unless an undue hardship is determined to exist.

Inevitably, you may have to ask yourself this question some day: How will I pay for nursing my home care? Although some persons may be able to indemnify themselves with long-term care insurance, which generally only covers a portion of the \$5,158.40 in Yuma County per month, others will need to apply and become eligible for Medicaid.

But before you decide to walk down to the ALTCS government office to apply for Medicaid, remember that the United States Congress' policy behind Medicaid law was designed "to ensure that individuals receiving nursing home and other long-term care services under Medicaid are in fact poor" H.Rep. No.99-265, 99th Cong., 1st Sess.71 (1985). Put another way, Congress intended to restrict Medicaid eligibility to those people lacking the resources to pay for their own care and to prevent those seeking subsidized benefits from retaining assets, which should be used to pay for such care. Romo v. Kirschner, 181 Ariz. 239 (1995).

Nevertheless, numerous federal and state laws exist which clearly provide that there are many types of assets and resources, as well as income that a person may keep and yet still obtain Medicaid assistance. **Do you believe that you may need Medicaid assistance?** If you are interested in obtaining assistance with Medicaid, call Robert M. Way, Esq., at the 783-4466 to make an appointment.

Deason Law Firm
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Dividing Up The Pie

Estate Planning is a complex area because it deals with so many different issues, from asset protection to taxation and almost everything in between. There are various different legal strategies and tools that have been regularly utilized to assist in reducing the value of the estate for tax purposes while keeping the assets in the family.

One of these strategies is the use of the Family Limited Partnership ("FLP") or Family Limited Liability Company ("FLLC"). With this strategy, the parents title assets in the name of the FLP and then gift portions of the FLP to their children or other loved ones. It is like giving away pieces of a pie. Because each piece is valued individually, the sum of the parts do not necessarily equal the whole. This is because a buyer would not pay full price for a fractional percentage interest in the FLP, since profits are shared with the other partners and the buyer may not have control over how the FLP is managed or when the FLP would be dissolved or the assets sold. As a result, substantial valuation discounts may be obtained. In other words, not only are you giving away pieces of the pie, you are actually shrinking the size of the pie for estate or gift tax purposes. Some time after the parents' deaths, the heirs, who are the FLP partners, can agree to dissolve the FLP and the assets almost magically return to their full underlying value.

This can also be a way of giving interests in property to beneficiaries who may not yet have the ability to manage assets wisely. It is more difficult for creditors to get at the assets when they are in the FLP than if they were held outright by the beneficiaries.

In the past, parents could keep control over the FLP by retaining the general partner interests and still could reduce their estate by giving away the limited partnership interests. But, a few years ago, the IRS cracked down on this strategy and successfully argued in several court cases that the parents cannot benefit from the income or assets associated with the FLP units that were given away or retain control over dissolution of the FLP or distributions from it. Then, the IRS unsuccessfully tried to disallow the strategy entirely. Several recent cases have upheld FLPs as a viable estate planning strategy, at least when they are properly structured and administered.

Utilizing a gifting program during your lifetime can make financial sense, especially if you have a large estate. You and your spouse each can give \$12,000 per year to each grandchild without reducing the amount you can give estate tax-free at death. So, if you have five grandchildren, you and your spouse together can give \$120,000 each year, which is the total of 5 x 2 x \$12,000. It may not be appropriate to give that much money outright to your grandchildren, especially if they are young or financially irresponsible. However, when used in combination with a FLP, it can be an efficient way to reduce or eliminate estate taxes.

While FLPs and other advanced planning strategies may not be for everyone, they can be a good tool to minimize estate taxation and maximize asset protection.

If you would like more information about this subject, call Mary at 783-4575 to schedule a complimentary consultation with attorney Larry Deason.

Attend our upcoming Legacy Wealth Planning Seminar ... Why?

- Find out how you can create a simple estate plan that provides for your survivors.
- Learn how you can provide an estate plan that will allow your beneficiaries to avoid probate and taxes.

If you have an estate plan already that's ok, attend our seminar for a review, and take a deeper look at the impact of disability for either spouse, protection for the beneficiaries from divorce, lawsuits, creditor problems, and re-marriage issues.

Legacy Wealth Planning Seminar

**Tuesday, November 18th @
9:30am or 6:30pm**

Yuma Civic & Convention Center (East Wing),
1440 Desert Hills Dr.

**RSVP with Mary
928-783-4575**

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CLIENTS

Holiday Open House

Please join us for holiday treats, come meet our new staff members or chat with old ones. Let us answer your questions or schedule a review appointment. Pick up your copy of the "My Legacy Booklet". We will see you there!

Save the date:

December 12th from 1:00-4:00p.m.
242 W. 28th Street, Ste. A
RSVP by Dec. 8th to 783-4575

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

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Deason Law Firm
Estate Planning... It's What We Do!
242 W. 28th Street, Ste. A
Yuma, Arizona 85364
Phone: 928-783-4575
Website: www.deasonlaw.com
E-Mail: Info@deasonlaw.com

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