



INSURANCE NEWSNET

MEDICAID ASSET PROTECTION PLANNING: CRISIS PLANNING VS. PREPLANNING



By: Patrick M. and Kelsey Simasko
July 1, 2025

Planning for long-term care is a crucial but often overlooked part of estate planning. Determining who will care for you and how that care will be paid for can be an uncomfortable conversation, yet it could make the difference regarding financial stability in retirement.

For lower-income families and veterans, programs such as Medicaid and Veterans Affairs benefits increase access to health care at little to no cost. However, eligibility rules can devastate families financially if proper planning is not in place. As elder law attorneys in Michigan, we've experienced firsthand how the difference between crisis planning and preplanning has impacted our clients' financial health and well-being.

Crisis planning vs. preplanning: Understanding the difference

When it comes to Medicaid, crisis planning typically involves last-minute strategies to qualify for the public health program when the need for care is imminent, but the individual has too many assets to qualify.

The goal is to protect as much of the person's assets as possible, while allowing them to become eligible for Medicaid quickly. Medicaid has an asset limit, which is typically \$2,000 for individuals. Therefore, in order to fall below the threshold, the person requiring care must "spend down" their countable assets such as cash or stocks. Tools such as Medicaid-compliant annuities combined with partial gifting are commonly used in an effort to minimize the penalty period im-

posed by the Medicaid five-year look-back rule.

The five-year look-back rule allows Medicaid to review all asset transfers from the past five years. If gifts or transfers are made for less than fair market value, the program will impose a penalty period, causing you to become ineligible for Medicaid for a certain period of time. However, using Medicaid-compliant annuities can help avoid having to spend down everything while preserving assets for a spouse. These annuities are used to convert excess assets into an income stream, but the annuity must meet strict rules and name the state as the remainder beneficiary.

As for partial gifting, the individual needing care gives away part of their assets as a gift, thus triggering a penalty period. The remaining money is then used to buy an annuity that provides enough income each month to cover the cost of care during the penalty period. This strategy helps minimize total out-of-pocket costs and protects some assets from being spent. These strategies should not be used without the help of an elder law attorney.

Medicaid preplanning is the opposite. Instead of scrambling when care is needed immediately, preplanning involves protecting assets years in advance, allowing the individual to qualify for Medicaid without losing assets. There are two preplanning strategies to help achieve this: Medicaid Asset Protection Trusts and strategic gifting.

MAPT is a special type of irrevocable trust that is designed to shelter assets from Medicaid. With this method, the individual transfers assets such as a house, savings or investments into a trust. By putting the assets in the trust, you give up direct control and ownership of those assets. A trustee then manages the trust. The transfer must happen more than five years before applying for Medicaid in order to qualify.

With strategic gifting, you're giving away items such as cash or property to reduce your countable assets, and timing is critical. Be aware that Medicaid will penalize you if that gift was transferred within the last five years. But, if the item is gifted early, beyond the

five-year window, you will not be penalized. It's important to note that crisis planning and preplanning for Medicaid look different for married couples versus single individuals, so a financial advisor must guide the process.

In addition to Medicaid, there is a lesser known additional benefit called VA Aid & Attendance for veterans and their surviving spouses. This benefit is an extra monthly payment that is added to a veteran's or surviving spouse's VA pension, specifically to help cover long-term care costs. This coverage ranges from in-home care to assisted living facilities and nursing homes. Similar to Medicaid, specific qualifications must be met in order to qualify.

The veteran must have served at least 90 days of active duty with at least one day during wartime, and they must not have been dishonorably discharged. As far as medical needs go, the applicant must require help with daily activities or be bedridden, in a nursing home or legally blind. As of 2025, the net worth limit is \$159,240, including assets and individual income, minus unreimbursed medical expenses.

Similar to Medicaid, VA Aid & Attendance also has a look-back period. Instead of five years, the VA will go back three years to see if assets were transferred or gifted below market value. If transfers were made within three years, a penalty period will be imposed. However, through irrevocable trusts, an early transfer of assets or Medicaid-compliant annuities that are structured properly to work under VA guidelines are ways to increase eligibility.

Clients who are planning their estate, or even planning for retirement, can't afford to skip long-term care planning. Figuring out how they want to be cared for and how much it will cost is crucial to ensuring they can get the care they deserve. If your clients are approaching retirement or preparing for estate planning, help them create a plan that works best for them. Referring clients to an elder law attorney can help them be compliant with look-back requirements.

Patrick M. Simasko, attorney with the Simasko Law firm in Mount Clemens, Mich., has dedicated his legal career to the practice of elder law. Kelsey Simasko is an associate attorney at Simasko Law firm, where she specializes in elder law and wealth preservation.

For more information, please call 586-468-6793 or visit www.simaskolaw.com

Patrick Simasko is an investment advisory representative of CoreCap Advisors, LLC. Simasko Law and CoreCap Advisors are separate and unaffiliated entities. The information provided here is not investment, tax or financial advice. You should consult with a licensed professional for advice concerning your specific situation.

