

# LEGALEase

## Long-Term Care Insurance



*This pamphlet, which is based on New York law, is intended to inform, not to advise. No one should attempt to interpret or apply any law without the aid of an attorney. Produced by the New York State Bar Association in cooperation with the Elder Law and Special Needs Section.*

### What is long-term care?

Long-term care is ongoing custodial or skilled care for persons in need of assistance in caring for themselves. Long-term care may be provided in the community, such as at home, in an adult home or assisted living; or in a nursing home.

### Why do people need long-term care?

People need long-term care when they are no longer able to provide for themselves and need assistance with personal care, or “activities of daily living” (ADLs), such as bathing, eating, dressing, moving about (mobility), using the toilet, managing bladder and bowel incontinence, and transferring (getting in and out of bed or a chair). People who have chronic and debilitating medical conditions and/or a need for supervision because of cognitive impairments also require long-term care.

### How is long-term care paid for?

Long-term care is paid for by:

- A person spending his or her own resources (“private pay”)
- Long-term care insurance benefits
- Medicare, in extremely limited circumstances
- Medicaid
- A combination of more than one of the above

**Private pay** is also referred to as “self insuring” or a “spend down” because the individual uses his or her own assets to pay for long-term care costs.

**Medicare** only pays for long-term care which is considered “skilled”, nursing facility or rehabilitation center, and to some extent in the medicare beneficiary’s home. The coverage is for a limited number of days for persons who have continuing need for skilled nursing care or therapies after a hospital admission which resulted in a hospital stay at least three days. Medicare may pay up to 100 days if the necessity

for the skilled care or therapies continues in the nursing facility or rehabilitation center. Medicare will pay for 100% of the costs for the first 20 days and requires a co-pay for the next 80 days. Sometimes, this co-pay is covered by secondary insurance, or Medicaid if one qualifies.

**Medical Assistance**, known commonly as **Medicaid**, is a federal, state and locally funded program for people who qualify financially. For those who qualify, community-based Medicaid pays for care provided in one’s home, and institutional Medicaid pays for care delivered in a nursing home or for special (waivered) services provided in one’s home.

### What is long-term care insurance?

Long-term care insurance is a special type of insurance that provides a variety of long-term care benefits. These benefits may include coverage for care in the insurer’s home, adult home, assisted living, and in a nursing home.

### Features and options of a long-term care insurance policy:

**Daily Benefit** is the amount the policy will pay for each day long-term care services are provided. Unless a lifetime policy is purchased, policies will specify a specific number of days that a **daily benefit** will be paid.

**Elimination Period** (waiting period) is the period of time a person must require long-term care before the policy will begin paying daily benefits. A longer elimination period reduces the premiums for a policy.

**Bed Reservation** is the length of time a policy will pay to reserve an insured’s bed if a nursing home resident is hospitalized.

**Waiver of Premium** is an option that provides for cessation of premiums if the benefits of the policy are being used.



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**Guaranteed Renewable** means that the insurer cannot cancel the policy while the premiums are in force and timely paid. The premium rates on policies issued in New York State may be revised on a class basis but not without the approval of the New York State Department of Financial Services.

**Inflation rider** is the option that annually increases a policy's daily benefit before the insured begins using it. Typically, an **inflation rider** increases the daily benefit amount by 5%, each year a simple or compound basis depending on the option selected. Additional **inflation rider** options are available. The younger an insured is when purchasing a policy, the more important the **inflation rider** becomes to keep the benefits desired in line with the ever increasing cost of care.

## How are the premiums for long-term care insurance determined?

Premiums are determined by the benefits selected and the age and health of the insured when purchasing the policy. Premiums remain at a level rate unless rates are increased for all persons who have purchased that particular policy. The younger a person is at the time of original purchase, the lower the annual premium the individual will pay.

## How are long-term care insurance benefits paid?

Long-term care insurance policies use two different payment methods: (1) The "expense-incurred method" provides for payment to the insured or the care provider when the insured

is eligible for services and receives eligible services. Most policies purchased today use this method to pay benefits. (2) The "indemnity method" provides for payment if the insured is eligible for benefits. The insurance company pays the benefits directly to the insured if the eligibility criteria for benefits are met.

## How are the benefits from a long-term care insurance policy triggered?

Needing assistance with a certain number of the activities of daily living (ADLs)—typically two or three ADLs—will trigger the benefits of a long-term care policy. The number of ADLs required will be specified and defined in the policy. Policies may also pay benefits for long-term care necessitated because of "cognitive impairment" or mental incapacity due to Alzheimer's disease or other causes of dementia.

## What is the NYS Partnership for Long-Term Care?

It's a partnership among the State of New York, private long-term care insurance companies, and the consumer. With the purchase and subsequent use of a "Partnership" (Long-Term Care Insurance) Policy, the insured will be eligible for Medicaid to pay for ongoing long-term care once the insurance benefit is used up, and without the need to first spend down personal assets. The person's income will not be protected and, depending on the amount and the budget, some of the income may need to be contributed for the cost of care, but Medicaid will pay the balance of the medical expenses.

## Should I consider the purchase of long-term care insurance?

You should consider the purchase of long-term care insurance and discuss the advisability with an elder law attorney if:

- you have substantial assets and/or income and you wish to protect some or all of your assets and/or income from the costs of long-term care;
- you want to ensure that your spouse is not impoverished because of the cost of your care;
- you want to pay for your own care; and/or
- you want to leave a legacy for your children or other loved ones.

## What do I need to do to purchase long-term care insurance?

First, speak with your attorney and with financial professionals who sell long-term care insurance policies to educate yourself about the types of long-term care insurance policies available to you and what might be appropriate for you. Determine the cost of an appropriate policy based on your age and other personal circumstances, and whether the premiums are affordable. Second, complete an application. Long-term care insurance policies are "medically underwritten," meaning that persons with certain at risk medical conditions may not be eligible to purchase such policies as the companies will not agree to underwrite the policy.

## Should I buy long-term care insurance?

Medicaid currently pays for a high percentage of all nursing home costs but to qualify you must have limited financial assets and limited income. Medicaid rules are subject to increasing restrictions because of the strain on state and local treasuries. Long-term care insurance may provide you an alternative to Medicaid coverage, as well as provide you with a greater degree of choice as to who provides your care, whether the care is provided at home, in a nursing home or in an assisted living facility of your choice. The purchase of long-term care insurance should be discussed with your attorney and/or financial advisor and considered as part of a comprehensive long-term plan.

## Resources:

**National Association of Insurance Commissioners**  
1100 Walnut Street, Suite 1500  
Kansas City, MO 64106-2197  
[www.naic.org](http://www.naic.org)

**NYS Partnership for Long-Term Care**  
**NYS Department of Health**  
One Commerce Plaza, Room 1620  
<https://nyspltc.health.ny.gov>