

## **Long-term care: A painful reality**

**By Bernard A. Krooks, Esq. | 11/01/04**  
**Westchester Jewish Life**

Paying for long-term care is not easy. Most of us do not want to go to a nursing home; however, in certain situations there is no choice. The average monthly cost of nursing homes in our area is more than \$10,000. Assisted Living and home care are also very expensive. Here are some common misconceptions that people have about long-term care.

**Medicare will cover my nursing-home bill:** This is not true.

Medicare is a federal program that provides very limited coverage for certain short-term nursing home stays. It provides no coverage for long-term care in a nursing home.

Many people confuse Medicare with Medicaid, since the names are so similar; however, the programs are very different.

Medicaid is a means-tested program, which has very strict income and asset requirements. Medicaid *will* pay for long-term care if you qualify. Medicare will *not* pay for long-term care. This may seem unfair, but it is the law.

**Once I enter a nursing home as a private-pay resident, I must use up all my assets before I can qualify for**

**Medicaid:** This is not true. Although it is better to begin planning earlier, you may still protect almost one-half (and in many cases substantially more) of your assets even if you are already in a nursing home. Remember, the sooner you engage in elder law planning, the more assets you can protect for yourself and your family.

**I can only "spend down" my assets on medical or nursing-home bills:** Incurring medical expenses is just one way to effectuate a Medicaid "spend down." There are many other ways, including purchasing or improving exempt assets, establishing a pre-paid irrevocable funeral contract, purchasing a burial plot, among others.

**My power of attorney has the power to transfer assets out of my name in order to qualify me for Medicaid:** It is critical for you to appoint someone as your agent under a durable power of attorney so you can avoid the unnecessary expense of a guardianship. However, there are many different

types of powers of attorney and you will be able to protect your assets only if you have the proper power of attorney. In order to have the power to transfer your assets for tax and long-term care purposes, your power of attorney must have very specific language authorizing these types of transactions.

Unfortunately, the vast majority of powers of attorney do not have these provisions.

**I should transfer my home to my children to get it out of**

**my name:** Many people believe that if they do this and wait three years, they have done the right thing. But there are many problems with this. You may have created unnecessary gift and capital gains taxes. Moreover, you would no longer have the legal right to live in your home.

Fortunately, there is a better way to transfer your home to your children whereby you retain a life estate. This will ensure that you have a legal right to live in your home and will also maximize tax and long-term care benefits.