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# Voices: Protecting clients' personal and retirement assets from long-term care impairment

By Henry Montag October 4, 2021

Any type of unreimbursed long-term care expense, be it for a mental or physical impairment, can completely ruin a client's personal and retirement plans.

The arrangements that clients have made beforehand will determine the quality of their and their family's life going forward. While no one wants to think about or make arrangements for these types of unfortunate situations, the fact remains that a growing percentage of our population is affected by some sort of impairment. Approximately 10 million Americans have some form of dementia, while another 2 million new cases are reported annually. A majority of individuals over the age of 80 are diagnosed with some form of dementia. This is in addition to the countless individuals who just face old age and have serious medical conditions. The question becomes to what extent, and to what degree, will their personal and retirement funds have to be used to care for them?

The next question is where will the money come from to pay for the needed care? What assets will be protected and what assets need to be liquidated? This problem is compounded by the fact that their retirement assets will need to be drained but further exacerbated by the fact that it may have to be done at the worst time when the market is in a down cycle. Privacy issues can also be a problem for the entire family in the event of a single spouse who is not able to make proper financial decisions if advanced planning directives (i.e., updated power of attorney documents) were not properly addressed prior to an individual beginning to cognitively slip. In addition, there can be delays and unnecessary expenses if the courts have to get involved in a guardianship. Guardianships are not only costly but oftentimes bring with them a great deal of additional stress, unwanted publicity and time delays if proper arrangements were not planned for in advance.

Someone or some entity will always have to pay for your client's care. Whether it's the family and friends providing the care, or whether the funds to pay for the professional care come from their own investment portfolio, the best alternative would be payments from a traditional tax-qualified long-term care insurance product. My 35-plus years of experience as a CFP and CLTC has shown that an ill spouse will receive a better quality of care when the funds come from an insurance company, rather than from their own funds previously allocated for their retirement. Many individuals erroneously feel that their spouses or children will be able to provide the care they'll need. But unfortunately, nothing may be further from the truth, as the family members may be physically and emotionally incapable of providing the necessary care, or the children are too busy and involved in their own lives.

All too often, individuals wait too long to consider taking advantage of the long-term care insurance option to pay for these expenses, and when they're ready to apply for the coverage, either their health or age or excessive costs prevent them from obtaining such protection. A long-term insurance contract can be purchased to provide a set dollar amount of $100 to $500 on a daily basis, indexed for inflation. The coverage can pay a benefit for a minimum of two years to a maximum of six years, after a waiting period. Most contracts are of a comprehensive nature, meaning they will pay for care in an insured person's home, an assisted living community or a skilled nursing facility. They will pay for all levels of care, including custodial care when an individual needs help with the activities of daily living (i.e., eating, bathing, dressing, transferring or continence), or just cooking and shopping, which can be provided by a home health aide or homemaker. Policy coverage will also pay for skilled care provided by a nurse or occupational therapist, as well as intermediate care, which is any combination of the above. One of the most important benefits of the coverage is to provide for the services of a "care coordinator," whose function is to set up many of the support services, such as arranging to transfer a person from a hospital to a rehab center, to one's home, to provide for aides, or to go to an assisted living community or a skilled nursing facility.

The reason many individuals are reluctant to purchase such a contract is they worry they might pay for a policy and then never need to collect the benefits.

As a result of the Pension Protection Act, an option called a “linked” or “combination” life and long-term care insurance product is available and allows an individual to access tax-free distributions from the death benefit of a life insurance contract to pay for any qualifying long-term care expense. The benefits from either plan can be accessed in case an individual is unable to perform two of the activities of daily living, or in the event of any type of a cognitive impairment, as diagnosed by their physician.

Also available under the Pension Protection Act is the ability to avoid tax on the gains of an annuity contract if it is used to purchase a long-term care contract.

A long-term care insurance contract is one of the best ways to provide a client the peace of mind that is so important, as well as protect an individual’s independence, dignity and retirement lifestyle for them or their spouse. A family is better off caring about their loved one, rather than caring for their loved one. To do this, a client should consult with an elder law attorney and explore the need to do pre-crisis planning while they are physically and mentally healthy. They should also consult with a CLTC One who is certified to discuss the various types of protection in the event of long-term care impairment prior to age 75, as they are not available after that age. A linked or combination benefit can be purchased beyond age 75 but can only be obtained while an individual is still healthy and can qualify for such coverage.

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He has appeared as a guest on Wall Street Week, Fox Business News & News 12. He's provided CPE & CLE continuing education credits to NYSBA, ABA, AICPA, NYSSCPA, & the estate Planning Council.  He co-authored an American Bar Association Flagship publication, Jan 2017, titled; "The Advisors' & Trustees' Guide to Managing Risk" The Jan 2019 issue of Commerce Clearing House, referred to him as; "One of today's best brains in life Insurance.