

# Eye on elder issues

EYE on ELDER ISSUES  
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## MEDICAID REFORMS THREATEN LONG-TERM CARE INSURANCE INDUSTRY

*This is the first of a series of articles that will analyze the impact of the recent Medicaid reforms as set forth in the Deficit Reduction Act of 2005 (DRA) signed by President Bush on February 8, 2006.*

Long-term care insurance is confusing and many of us avoid the subject. Despite the fact that statistics show that at least half of us will require nursing home care, a recent poll done by the Wall Street Journal found that **fewer than half of the Americans polled said that they have taken measures to prepare for their senior years.** Further, 22 percent of Americans ages 55 and older haven't done anything to prepare for aging-related needs. In addition, only slightly more than a quarter of Americans ages 55 and older expect to have enough money to pay for long-term care if they might require it in the future.



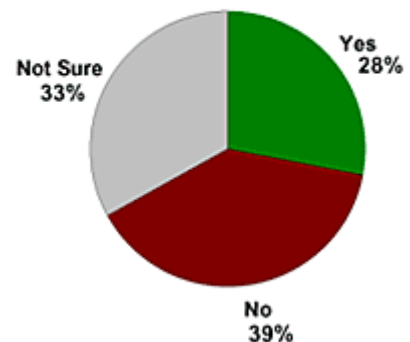
Some Congressional leaders and proponents for the long-term care insurance industry believe that many more of us will be purchasing long-term care insurance due to recent Medicaid reforms that were included in the Deficit Reduction Act of 2005. The reforms were intended to help curb the growth of Medicaid expenditures and to encourage individuals to have more personal responsibility for bearing the costs of long-term care. Unfortunately, the legislation failed to address fundamental problems with the Medicaid program including demographic issues and rising health care costs. **The National Academy of Elder Law Attorneys (NAELA) believes that these reforms will actually result in fewer Americans purchasing these insurance policies.**

Under the new law, if a person applying for Medicaid has given money or assets to churches, charities or family members in need within five years of the time when he or she applies for Medicaid, there will be a penalty period that will begin at the time that long-term care is needed. The person will be disqualified for Medicaid for a period of time according to the value of the assets previously given away.

### For example:

You give a gift to each of your three grandchildren for one year of college, totaling \$60,000, along with a gift to the church of \$20,000. You also transfer the family farm, worth \$100,000, to the two sons who have been working the farm for the past twenty years. As a result, should you need long-term care and apply for Medicaid, you will face 60 months of penalty if the state divisor is \$3,000 per month (\$180,000 divided by \$3,000). **In other words, you may not be able to receive the care you need at the time when you need it most.** Even if you kept \$100,000 in your savings account, based upon actual nursing home expense of \$5,000 per month, your savings will have been depleted in 20 months.

Do you think you have/will have saved enough money to finance your own potential long-term care needs as you age?"



Source: Wall Street Journal/Harris Interactive Poll, January 2006, Adults 55 years of age and older.

An unintended consequence of the new Medicaid law will be that **people who have already purchased three-year long-term care insurance policies will now find those policies insufficient to cover the costs of necessary long-term care for the new five-year penalty period.**

In New York, Connecticut, and other states where nursing home costs often exceed \$10,000 per month, long-term care insurance premiums were and will continue to be beyond the financial capabilities of most citizens. However, in other regions, a \$100 per day policy would be sufficient for many citizens. A three year long-term care insurance policy for a 65 year old woman in good health costs approximately \$3,024 per year\* in premiums. A lifetime policy for that same woman paying \$100 per day carries premiums of \$5,688 per year.

The new law has effectively created the necessity for purchasing more expensive long-term care insurance. **The higher price will actually serve to hinder sales of the policies.**

Elder law attorneys are now recommending five-year or lifetime long-term care insurance policies for individuals in anticipation of possible long-term care. Unfortunately, **the five-year or lifetime long-term care insurance policies are generally double the premium and many clients are already saying that they will not be able to afford the premiums.**

Just like many employees and their employers purchase health insurance to protect themselves and their estates from an expensive hospital stay, elder law attorneys often recommend long-term care insurance to people with medium-size estates and a fixed income of more than \$2,000 per month. If a person purchases the insurance, and then requires long-term care, a portion of their estate can still be saved. A five-year long-term care insurance policy will cover the cost of care needed until the look-back period expires. For many people who cannot afford the insurance, they will need to review possible alternate plans with their elder law attorneys.

**NAELA has been supportive of the Long-Term Care Partnership program initiated by the Robert Woods Johnson Foundation in 1992.** This pilot program will now be available in all 50 states. Until very recently, the long-term care industry was not supportive of this initiative. NAELA believes that the Long-Term Care Partnership Plan, which ties the insurance benefit to the buyer's assets, will be beneficial to the middle class and will expand the potential purchasers of long-term care insurance policies. For example, the Indiana Long-term Care Partnership Plan currently provides that the purchase of a policy with specific criteria translates into an additional asset exemption for Medicaid. Thus, a person may be able to purchase a two-year policy and protect an additional \$100,000 in assets. Once the person's income and the policy are exhausted, Medicaid eligibility will be granted and \$100,000 of the person's assets can be excluded from consideration. This sort of policy is better suited to the American middle class. **NAELA believes that our aging population and the long-term care industry would be better served through the Long-Term Care Partnership.**

**Ironically, the Medicaid reform passed as part of the DRA concerning increasing the look-back period from three years to five years, as advocated by some proponents for the long-term care insurance industry, may actually lead to the industry's demise.**



For more information about elder law attorneys and the National Academy of Elder Law Attorneys, visit [www.naela.org](http://www.naela.org). Established in 1987, NAELA provides a resource of information, education, networking and assistance to those who deal with the many specialized issues involved with legal services to the elderly and people with special needs.

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***Note to Our Readers:*** This e-newsletter, ***Eye on Elder Issues***, is presented as a public service by the National Academy of Elder Law Attorneys (NAELA). We are pleased to send you this issue and welcome your comments. You can expect to receive this newsletter monthly as NAELA explores, reports and provides insight on timely topics affecting our nation's seniors and their families. In addition, the growing population of Baby Boomers is addressing issues for themselves and their families that are new and unique. This publication is intended to explore those issues from all sides and to educate consumers, aging network professionals, law makers, and members of the media.

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