
Medicaid: How to Get Free Home Care Now and Plan for Future Needs

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Table of Contents

1. [Preparing for the future](#)
2. [What plans should I be making?](#)
3. [3 'must-haves' for future care](#)
4. [Power of Attorney](#)
5. [Health Care Proxy](#)
6. [Living Will](#)
7. [Community Medicaid](#)
8. [Medicaid: Nursing Homes](#)
9. [When is there a need for Guardianship?](#)
10. [What if I'm determined incapacitated?](#)
11. [Thank you](#)

Preparing For The Future



Planning for life-changing issues such as dependence, incapacity and death is important to address *while* you are able to do so.

Waiting until you have a problem may be too late.

*“Making these plans early,
some of which are simple,
can relieve the financial and emotional
burden of aging and
help you move forward with
better care for your loved ones.”*

What Plans Should I Be Making?



Right now, you or your spouse may be able to handle all of your affairs – but in the future you may need help:

- Help with your financial affairs
- Help with your medical care, Alzheimer's care
- Making decisions regarding your end-of-life care
- Obtaining home care (including paying for it!)
- Arranging for the disposal for your remains.
- Distribution of your estate after death.

3 'must-haves' to help plan for future care



Advanced Directives: These documents give someone close to you the authority to manage your finances, healthcare and burial if you are not able to do so.

1. **Power of Attorney**
2. **Health Care Proxy**
3. **Living Will**

Additional planning:

Homecare Planning: Setting up your affairs so that you can afford to stay in your home if you need care in the future. Community Medicaid is an important component.

Estate Planning: Arranging your affairs so that your estate will go to the people you want when you pass away.

***“Planning will help you receive
the assistance you need later in life
when you may not have the capacity
to make decisions”.***

1. Power of Attorney

A document in which you appoint someone to manage your financial affairs.

- This is the most critical document that any of us can have with respect to planning for our own incapacity.
- POA gives someone of your choosing the authority to do all, or only specified financial transactions for you.
E.g.: your banking, closing on the sale of a property, filing taxes.
- The person is called your “agent.”
You can also appoint a back-up agent, or co-agents.
- You can tailor the [Power of Attorney](#) to meet your needs.
E.g. – Power to open your mail, access to your medical records, and hire professionals.

If you don't have a power of attorney and lose the capacity to make financial decisions for yourself, you might be the subject of guardianship proceeding.

2. Health Care Proxy

A document in which you appoint an agent to make medical decisions on your behalf if you are not able to do so yourself.

- If you're able to make health care decisions yourself, your agent has no authority over your care.
- You can appoint a successor agent, but not a co-agent.
- You can make statements regarding a particular type of care you would want to receive.
- You give your agent the right to access your medical records.

If you do not have a health care proxy, a biological family member would have priority over health care decisions.

3. Living Will

Your [Living Will](#) is a declaration to your health care providers as to whether you want to receive life sustaining treatment if you are at the end of your life.

- NYS doctors are supposed to try to take all measures to keep you alive unless there is “clear and convincing” evidence you want to die naturally without medical interventions.
- Many loved ones are not ready to say goodbye at the time when such a choice must be made.
- It is better to discuss your end-of-life choices with your loved ones now, so they can reconcile your decisions while you are still able to discuss these issues with them.

If you do not have a living will, the hospital can discontinue extraordinary measures to preserve life after a review of a hospital committee determines: the life-sustaining treatment offers no medical benefit, the patient will die imminently anyway, and the treatment violates accepted medical standards.

Community Medicaid: Essentially, free homecare



Community Medicaid covers benefits received in the home.

The New York State Department of Health has further delayed the start of the 2 ½ year “look-back” period for new Community Medicaid applications until October 1st, 2022

Currently there is no look-back if proper applications are received before the deadline.

“A look-back period is the period of time Medicaid will ‘look back’ into your gifting or transfer of assets records.

If transfers were made during this time, you may be penalized or become ineligible for benefits.

Medicaid Planning: Nursing Homes



Medicaid Planning is simply a way to protect your assets, for your spouse, children, or loved ones and use government Medicaid funding for your future nursing home care.

There is a 5-year look-back period for Institutional Medicaid.

Read more about how gifts can affect [Medicaid eligibility](#)>

Medicaid Planning: Applications



Medicaid has strict rules when it comes to transferring assets.

Applications are complex and the law has many nuances. Before transferring assets or property, check with us, or an experienced Medicaid Planning attorney to make sure you don't jeopardize your eligibility.

Mistakes can be extremely costly and cause delays in getting the care you need. It is highly recommended that you do not file your own [Medicaid application.](#)

When is there a need for Guardianship?



Suppose you have not executed a Durable Power of Attorney and/or Health Care Proxy, and you become ill or unable to handle your affairs. In that case, nobody can handle those affairs for you.

At this point, [Guardianship](#) is in need.

Your bills may remain unpaid and you may not have the ability to secure the services you may need, such as homecare workers or nurses' aides.

What if I'm determined incapacitated?



If nobody can handle your medical decisions, you may remain in a state that you'd rather not be in, perhaps stuck in a hospital or nursing home, or you may or may not receive the care and treatment that you would prefer.

Having the proper legal documents in place can ensure your wishes are met.

If incapacitated, you may no longer be in a position to appoint a person on your own, so the commencement of a GUARDIANSHIP proceeding may be required.

Thank you for attending our Penn South webinar!

Everyone's financial and familial situation is different and may have many facets.

If you had a question that wasn't answered during our webinar, feel free to email me at mraphan@RaphanLaw.com.

Regards,

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