

CONVERSATIONS FOR CAREGIVERS

Long Term Care & Successor Caregiving Plans

October 22, 2025
12pm - 1pm



SESSION NOTES

Below is a summary of the topics and items discussed in the Conversations for Caregivers session on **Long Term Care and Successor Caregiving Plans**.

The information provided in this session recap is for informational purposes only. The content has been summarized and transcribed based on the session and is not a direct representation of the presenters' exact words. The material shared is intended to provide general legal information and is not intended as legal advice. It may not reflect the laws of all jurisdictions. Attendees are encouraged to consult a qualified legal professional in their jurisdiction for advice tailored to their specific circumstances.

SESSION TOPICS

Trust Fundamentals | Medicare Coverage | Medicaid Planning
Successor Planning | Legal Documents | Financial Strategies

[Click Here to Access Recorded Session](#) →

TRUST FUNDAMENTALS & PLANNING TIMING

Early Planning

- The best time to establish trusts is now – "the best time to plant a tree was 10 years ago, the second best time is today"
- Trust planning should begin while everyone is in good health, before incapacity or health decline occurs
- Most people have never inventoried their assets – creating a comprehensive list is the essential first step

Key Parties

- **Settlor/Grantor:** The creator of the trust
- **Trustee:** Administrator who manages the trust
- **Beneficiary:** Recipient of trust benefits

Trust Types

- **Living/Revocable Trusts:** Set up for oneself to avoid probate and provide continuity of care during incapacity
- **Special Needs Trusts:** Designed for individuals with lifetime care needs who will never outgrow their disability
- **First-Party vs. Third-Party Trusts:** First-party trusts have significant restrictions and look-back periods; third-party trusts established by others have fewer limitations

MEDICARE VS. MEDICAID PLANNING

Medicare Limitations

- Age-based program for those 65 and older
- Covers skilled nursing care for maximum 100 days only:
- Days 1-20: 100% coverage after 3-day hospital stay
- Days 21-100: \$250/day copay required
- After Day 100: No coverage (the "donut hole")
- Does not cover custodial care unless medical care is also needed

Medicaid Considerations

- Need-based program for those who cannot afford care costs
- Requires spending down assets to \$2,000
- Has strict income limits that vary by state and region
- **60-month look-back period** on asset transfers
- Designed for the indigent – often results in auxiliary grant beds in facilities

Asset Protection

- Trusts must supplement, not supplant, federal and state benefits
- Premature transfers can create ineligibility periods
- Primary residence exceptions exist only if spouse still lives there

LEGAL DOCUMENTS & IMPLEMENTATION

Essential Documents

1. General Durable Power of Attorney

- Grants financial and business decision-making authority
- Endures incapacitation
- Allows agent to sign contracts and access funds for care

2. Advanced Medical Directive

- Healthcare proxy for medical decisions
- Living will for terminal care wishes
- HIPAA authorization for information release

3. Letter of Intent for Caregivers

- Personal preferences and daily routine
- Medical history and medications
- Emergency contact information
- Religious and care preferences

Guardianship Planning

- Required when power of attorney documents don't exist or are revoked
- Court process takes 4-8 weeks minimum (often 2-3 months)
- Includes appointment of guardian ad litem for evaluation
- Standby guardians provide continuity during transitions

FINANCIAL PLANNING STRATEGIES

Funding Options

1. Self-Funding

- Personal savings, pensions, retirement accounts
- Risk of depleting resources during extended care

2. Long-Term Care Insurance

- Traditional policies have rising premiums at ages 55, 60, 65
- Many insurers have left the market
- Premiums can become unaffordable over time

3. Alternative Solutions

- **Chronic Illness Riders:** Life insurance with accelerated death benefits for long-term care
- **Annuities:** Lump sum investment with care multipliers (3x payout for qualifying events)
- **Caregiver Trusts:** Dedicated funds for care management

Trust Funding Strategies

- Structure can be established without immediate funding
- Calculate lifetime needs (e.g., 40 years × \$20,000/year = \$800,000)
- Consider life insurance or structured annuities as funding mechanisms
- Consolidate accounts to simplify administration

SUCCESSOR CAREGIVER PLANNING

Building Your Team

- **Family Members:** Primary choice but may experience burnout
- **Professional Guardians:** When family unavailable or unsuitable
- **Support Network:** Close friends, neighbors, faith community
- **Professional Services:** Home care agencies, adult daycare programs

Effective Succession

- Name multiple successor agents in documents
- Share caregiving responsibilities to prevent burnout
- Regular family meetings for communication
- Document care preferences and routines
- Consider respite care arrangements

Coming Up Next Month

Fund Recovery from Identity Theft and Fraud

November 26th, 2025
12pm - 1pm

Register at www.LRseminars.com

Q&A HIGHLIGHTS

Q1. What happens if a benefit recipient receives an unexpected payout like life insurance proceeds while on SSI?

A: There's immediate risk of benefit disqualification due to being "over-resourced." Once funds hit the account, a countdown timer starts with limited time to take action. Legal mechanisms exist that allow recipients to access funds without losing benefits, but this requires immediate action. The situation becomes more complex if not addressed promptly, as the recipient could lose their benefits while still needing the inherited funds for care.

Q2. How do chronic illness riders on life insurance differ from traditional long-term care insurance?

A: Chronic illness riders allow you to access your death benefit tax-free if you cannot perform two activities of daily living. Unlike traditional long-term care insurance where you "use it or lose it," if you don't use the chronic illness rider, your beneficiaries still receive the full death benefit. This provides both protection during life and a legacy after death. The rider typically allows withdrawal of up to 10% of the death benefit per month for qualifying care needs.

Q3. When should someone petition for guardianship versus relying on power of attorney documents?

A: Power of attorney is sufficient in most cases, but guardianship becomes necessary when the person becomes recalcitrant or verbally revokes the POA. For example, if someone is "kicking and screaming" refusing necessary care or placement, they may verbally revoke POA authority. In these situations, guardianship provides court-ordered authority that cannot be revoked by the ward. The trade-off is a lengthy court process (2-3 months) versus immediate authority with POA documents.

Q4. Can you transfer your home to children to qualify for Medicaid, and what are the timing considerations?

A: While you can transfer your home, Medicaid has a 5-year look-back period nationwide. Transfers for less than fair market value during this period will be "clawed back" and can create penalty periods of ineligibility. The primary residence has limited protection – it's exempt only while a spouse lives there. Once they move out or pass away, it becomes countable. You need sufficient assets to self-fund care for 5 years after any transfer before applying for Medicaid.

Q5. What is the relationship between ABLE accounts and special needs trusts?

A: ABLE accounts allow disabled individuals limited access to funds beyond the typical \$2,000-2,500 resource limits while maintaining benefit eligibility. They work in conjunction with special needs trusts to provide more flexibility. While special needs trusts are administered by a trustee for the beneficiary's supplemental needs, ABLE accounts can give the disabled person more direct control over smaller amounts for qualified disability expenses. Together, they create a comprehensive strategy for maintaining benefits while improving quality of life.

ABOUT OUR SPEAKER:



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John Kidwell is the owner and managing partner of Kidwell and Kent law firm, with offices in Fairfax and Rockville. A Legal Resources plan attorney for over 20 years, he brings both legal expertise and financial advisory credentials to elder law practice. His unique perspective combines professional knowledge with personal caregiving experience, giving him deep insight into the intersection of financial and legal planning that is essential for long-term care strategies.

DISCLAIMER: This summary highlights key webinar points and questions. For comprehensive details, view the full seminar at [LRSeminars.com](https://www.LRSeminars.com).

Contact Us

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