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MONTANA STATE UNIVERSITY EXTENSION

MontGuide

Long-Term Care Partnership Insurance in Montana

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Provides basic information about the Montana long-term care partnership insurance program, tax benefits, and shopping tips.

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What is long-term care?

Long-term care means helping people of any age with their medical needs or daily activities over a long period of time. It includes a wide variety of services and support that can be provided in your home, in an adult day care, or in other living arrangements, such as continuing care retirement communities, home health, assisted living facilities, or nursing homes.

Long-term care services help with chronic illness, disabilities or other conditions that may be limiting physically or mentally. Most long-term care is for assistance with "activities of daily living" (ADLs). The six ADLs include eating, bathing, dressing, toileting, transferring (getting up from bed, chairs), and maintaining continence. Persons with cognitive impairments such as Alzheimer's disease or other dementias may require long-term care services.

How can I provide for the cost of long-term care?

Once you become aware of the startling costs of long-term care, you may ask yourself, "How will I ever be able to afford long-term care if I need it?" Some Montanans are able to pay for their long-term care from present income, savings and investments. Others, who own real property such as a home, could sell it and use the proceeds to pay for care. A reverse mortgage is another possibility. This special type of loan allows home owners to convert a portion of the equity in their home into cash with payments that are typically made on a monthly basis.

Some elderly persons plan to depend on a spouse or adult children to care for them, while others would not want to place such a burden and responsibility on their family members. A spouse may be in ill health and unable to provide caregiving. Adult children may be raising their own children or may be located too far away to provide day-to-day assistance for parents who need continuous care.

Another option often discussed at the local coffee shop is for people to "use up" or "give away" their assets to their children to qualify for Medicaid. The goal is to become "impoverished" and let the government pay for their long-term care. However, Medicaid has restrictions such as "eligibility requirements," "look-back rules on transferred property," "uncompensated asset

FACT: 70 percent of persons age 65 or older are expected to need some type of long-term care during their lifetime.

FACT: Nationally, the average nursing home stay is 2.5 years, with one in five persons staying more than five years. During 2016 the average length of residency in Montana was about 2.4 years.

FACT: The average cost of care for an individual in a nursing facility in Montana during 2016 was a little over $6,819 per month ($81,826 annually). A three-year stay for an individual would cost about $245,478; for a married couple, $490,956.

FACT: The average hourly cost of hiring a home health care provider in the United States is $29 an hour; in Montana, $23. Families who have home health assistance five hours a day, five days a week will pay over $2,300 per month; $27,600 per year.

FACT: Nursing home residents and their families in Montana pay about 29 percent of their total long-term care costs; Medicaid pays about 60 percent; Medicare pays 11 percent.

FACT: Only 10 percent of Americans age 65 and older had private long-term care insurance coverage in 2016.

transfer penalties," and "ineligibility periods." These and other regulations are described in the MSU Extension MontGuide, *Medicaid and Long-Term Care Costs* (MT199511HR).

Another alternative is the purchase of long-term care insurance. Policies may be purchased individually from a licensed insurance agent who represents one or more companies. Some employers provide an opportunity for the employee to purchase a long-term care group policy at the workplace.

Typically, policies reimburse the insured for long-term care expenses up to a maximum amount, such as $100 or $150 per day with a cap on benefits between $100,000 and $300,000. Other policies reimburse the insured on a monthly basis.

Since 1997 most long-term care insurance policies are "tax qualified;" a few are not. The tax qualified status will be stated on the face of the policy. A policy that is tax qualified means the premium payments qualify as an itemized deduction on a federal income tax return up to a defined limit, based on the age of the policyholder and inflation. Montana allows a dollar-for-dollar reduction in adjusted gross income for premiums paid for qualified long-term care insurance for the benefit of a Montana taxpayer, the taxpayer's dependents, parents or grandparents (more about Montana tax benefits on page 6).

A new alternative for Montanans to pay the cost of long-term care is the purchase of a *long-term care partnership insurance* policy. The purpose of this MontGuide is to provide basic information about the development of the Montana long-term care partnership insurance program and how it works. Tax benefits and shopping tips are also highlighted.

How did the *long-term care partnership insurance* program develop?

Montana's long-term care partnership insurance program was authorized by the legislature and became effective on July 1, 2009. The collaboration consists of:

- Private insurance companies;
- Insurance Division, Montana Commissioner of Securities and Insurance; and
- Montana Medicaid program, Department of Public Health and Human Services (DPHHS).

Because partnership policies help pay for purchasers' expenses for long-term care, they are less likely to need Medicaid, thus eventually reducing costs for the state. The partnership program also benefits purchasers of these policies because they are allowed to keep some or all of what they have worked a lifetime to accumulate.

How does *long-term care partnership insurance* work?

Montanans who purchase a long-term care partnership insurance policy are protected from the requirement that they have to "use up" almost all their financial resources to qualify for Medicaid. When a Montanan who has purchased a qualified long-term care partnership insurance policy needs care, benefits will help cover the costs of care up to the maximum lifetime limit (often called pool) of the policy.

If the lifetime limit is reached and the individual still needs care, any assets equal to the value of the policy limit will not be included when a determination is being made about the person's eligibility for Medicaid. Examples of how a long-term care partnership insurance policy could benefit single and married persons are described below.

Example 1: Single Person. Betty Lou is a widow who purchased a long-term care partnership insurance policy when she was age 45 with a maximum lifetime benefit pool of $100,000. By age 72, Betty Lou's remaining assets include $50,000 in certificates of deposit (CDs) that she wants to leave to her two grandchildren and $2,000 in her checking account.

When Betty Lou needed long-term care, first in her home and later in a nursing home, the benefits of the partnership policy covered her expenses until the maximum lifetime pool of $100,000 was reached. When Betty became responsible for the payments to the nursing home, her daughter visited the local Office of Public Assistance (OPA) and provided documentation from the insurance company of Betty Lou's use of a maximum lifetime benefit pool of $100,000 from a qualified long-term care partnership insurance policy. The OPA excluded the benefit of $100,000 paid to Betty Lou from the "countable resource" calculation for her Medicaid eligibility.

Betty Lou was able keep the CDs ($50,000) to leave to her grandchildren and the $2,000 in her checking account because she had purchased and used the $100,000 benefit of her qualified long-term care partnership insurance policy. Betty Lou did not have to "spend down" all of her remaining resources before becoming eligible for Medicaid.

Example 2: Married Couple. Shirley and Bud own a ranch in eastern Montana. Their son has stayed on the ranch and contributed to the financial success of the business. As Shirley and Bud have grown older, their son has taken on more of the ranch responsibilities. One of Shirley and Bud's estate planning goals is for their son to inherit the ranch valued at $600,000.

Shirley and Bud decided to purchase a long-term care partnership insurance policy. Their goal was to provide insurance benefits for up to $600,000 of long-term care costs if one of them needed such care.

While the long-term care partnership insurance policy they purchased is in place, the benefits would help cover the cost of care at home, in an assisted living facility, or in a nursing home. (Not all policies offer these alternative care options.) Then, if the long-term care partnership insurance policy reaches the maximum benefit limit, Shirley or Bud could apply for Medicaid (depending on who was in the nursing home).

In the Medicaid eligibility calculation, the equity in their ranch is excluded up to the full amount of the long-term care partnership policy. This means if their policy had paid $600,000 in benefits, the value of their ranch would not be included as an asset in the calculation of Bud or Shirley's eligibility for Medicaid.

After the death of Shirley and Bud, their son could inherit the ranch. Medicaid would not place a lien on the ranch for the reimbursement of $600,000 of benefits paid. However, if the value in the ranch had increased to $800,000 at the time their deaths, and if Shirley or Bud had nursing home expenses above $600,000 that were paid by Medicaid, Medicaid would place a lien against the increase of $200,000 in value of the ranch.

The value of $600,000 in benefits would be excluded from any estate recovery procedures by the Montana Medicaid program because Shirley and Bud had purchased and used the full benefits of a qualified long-term care partnership insurance policy.

In summary, resources up to the amount of benefits paid from a qualified long-term care partnership insurance policy are "protected" in the resource eligibility determination for Medicaid.

Why not just give away all my assets to become qualified for Medicaid instead of paying for a long-term care partnership insurance policy?

Federal law requires a period of Medicaid "ineligibility" if people give away assets or transfer them for less than fair market value within a certain time period (known as the "look-back period"). In 2006, the look-back period for the transfer of assets changed from 36 months (3 years) to 60 months (5 years).

This brief description of the look-back period eligibility rules is general in nature. Exceptions exist under which no ineligibility period is imposed. For example, there are exceptions relating to transfers to spouses, disabled children of any age, siblings with an ownership interest in a house, children who provided care to keep a parent out of a nursing home for two years, and transfers done for a purpose other than becoming Medicaid eligible.

Further information about Medicaid eligibility requirements in Montana is available in the MontGuide, *Medicaid and Long-Term Care Costs* (MT199511HR). Free copies can be obtained from your local county Extension office or ordered from MSU Extension Publications at (406) 994-3273 or online, http://store.msuextension.org.

The following examples show how the look-back rules apply for single and married persons.

Example 3: Assume Betty Lou (from Example 1) had gifted the $50,000 CDs to her grandchildren before she applied for Medicaid. The "uncompensated asset transfer penalty" and ineligibility period rules would apply.

The ineligibility period is set at the number of months that would otherwise be required to spend the "uncompensated value" of the transferred assets ($50,000 in CDs in Betty Lou's situation) on nursing home care. During 2017 the Montana average monthly cost of nursing home care is $6,819.

The ineligibility period is one month for every $6,819 of "uncompensated" value Betty Lou gave away. If she had given the CDs to her grandchildren, Betty Lou would not have received Medicaid coverage for about seven months after she entered the nursing home ($50,000 ÷ $ $6,819 = 7.33 months).

Example 4: Assume Shirley and Bud (from Example 2) had transferred the ranch to their son. A year later Bud suffered a severe brain trauma after he was thrown from a horse. He was eventually placed in the local nursing home. Bud would have been subject to an "uncompensated asset transfer penalty" resulting in an ineligibility period before he would qualify for Medicaid.

The ineligibility period for Bud would have been a little over nine years ($600,000 ÷ $6,819 = 88 months ÷ 12 = 7.33 years). In addition there would have been gifting "tax consequences." The son would have had to assume Shirley and Bud's basis in the ranch. This means that if he sold the ranch, there would be tax due on the capital gain (the difference between the basis and the fair market value of the ranch at the date of sale). More details are outlined in the Montguide, *Gifting* (MT199105HR).

Will the purchase of a long-term care partnership insurance policy automatically qualify me for Medicaid?

No. The purchase of a long-term care partnership insurance policy may help protect your assets up to the amount of benefits paid, if you become eligible for Medicaid, but it does ***not*** automatically qualify you for Medicaid.

Call your local county Office of Public Assistance with specific questions about Medicaid eligibility rules or visit the DPHHS website, http://dphhs.mt.gov/MontanaHealthcarePrograms/MemberServices. Medicaid application materials are also available at www.dphhs.mt.gov/sltc/programs/Medicaid/IndexMedicaid.shtml.

What companies provide long-term care partnership insurance policies in Montana?

As of January 2017, the Montana Commissioner of Securities and Insurance website lists 15 companies that sell with partnership policies at http://csimt.gov/your-insurance/long-term-care/. Call 800-332-6148. Your insurance agent should also have the list. General information about other types of insurance and securities is also available at http://csimt.gov.

While information specific to long-term care partnership insurance policies may not be easily found at the companies' websites, each provides a toll-free number to assist you in your search for specific information. You may also want to contact your insurance agent to request information about available long-term care partnership insurance policies.

Montana insurance professionals must have special training before they can sell long-term care partnership insurance policies from any of the companies with endorsement approvals. They must be licensed as a producer for life or disability insurance. They must have completed a one-time training course of at least eight hours. And, they must complete ongoing training of no less than four hours every 24 months.

How can the financial stability of insurance companies that sell long-term care partnership policies be determined?

Understandably, Montanans who purchase long-term care partnership insurance policies from a company want some assurance that the company will be in business to pay their claims in the future when they need long-term care. While there are no guarantees, ratings provided by credit agencies such as A.M. Best Company, Standard & Poor's Corporation, and Moody's Investor Services can be a guide. Each agency has a system for rating an insurer's financial strength and viability to meet claims obligations based on a variety of factors such as underwriting, expense control, reserve adequacy, and investments.

The American Association for Long-Term Care provides a summary from the three rating agencies for many insurance companies, available online at www.aaltci.org/long-term-care-insurance/learning-center/company-ratings.php.

What is the cost of a long-term care partnership insurance policy?

The cost of premiums for a partnership policy will depend on your age when the policy is purchased and the type of coverage chosen. The 2*017 Montana Long-Term Care Rate Comparison Guide* from the Montana Commissioner of Securities and Insurance is a good place to start at http://csimt.gov/wp-content/uploads/2017-LTC-Rate-Guide.pdf. Rates from a variety of companies are provided. While these rates are for regular long-term care policies and from companies that don't necessarily sell partnership policies, the charts can provide a basis for comparison. You can order the publication from the Montana Commissioner of Securities and Insurance (see page 5), or by calling (800) 332-6148. CSI also has an informative booklet on Long-Term Care Insurance at http://csimt.gov/wp-content/uploads/ConsumerGdeLTC_newlogo.pdf.

The National Association of Insurance Commissioners has a publication that also provides a table revealing how premiums can fluctuate from company to company, *A Shopper's Guide to Long-Term Care Insurance*. This guide can be ordered for free from www.naic.org/documents/prod_serv_consumer_ltc_lp.pdf. Your actual premium may be higher or lower than those listed because your age and coverage desired may be different.

Premiums will not increase due to changes in your health. However, they can increase, on a class basis (for example all policy-holders age 75 or older), with the approval of the Montana Commissioner of Securities and Insurance.

How much of my income should be spent on long-term care insurance?

Not everyone can afford long-term care insurance. Whether or not long-term care insurance is a viable alternative depends on a person's current assets, monthly income and financial goals. Key questions to consider are:

- Do I have assets that I want to protect?
- Is the premium affordable given my monthly income?
- Will I be able to afford the premium in the future?
- Do I want to protect assets for my spouse, children or grandchildren?
- Do I want to leave an inheritance to family and/or a charitable organization?

The National Association of Insurance Commissioners (NAIC) recommends that long-term care insurance premiums should consume no more than seven percent (7%) of annual gross income.

> ***Example 5:*** Joe and Debbie have a gross income of $84,000. Based on the recommendation of NAIC, the amount spent for their long-term care insurance policies should not exceed $5,880 annually ($84,000 x 7% = $5,880). Their monthly insurance premiums should not exceed $490.

What questions should be asked before purchasing a long-term care insurance policy?

While some policies cover only nursing home stays, others are more comprehensive, paying benefits for home care, adult day care and care provided in assisted living facilities. Policies also offer various options for the benefit amount paid for care each day and over a person's lifetime, the length of the elimination or waiting (deductible) period and the type of inflation adjustment provided.

There are many resources that provide additional information about features to consider when shopping for a long-term care insurance policy. Some are booklets that can be mailed to you. Other publications are available for download from websites. Addresses are provided if you do not have access to a computer and the Internet. The publications are free unless otherwise noted.

2017 Montana Long-Term Care Rate Comparison Guide and *Long-Term Care Guide*
Montana Commissioner of Securities and Insurance
840 Helena Avenue
Helena, MT 59601
http://csimt.gov/wp-content/uploads/2017-LTC-Rate-Guide.pdf
http://csimt.gov/wp-content/uploads/ConsumerGdeLTC_newlogo.pdf

Long-Term Care Planning
National Clearinghouse for Long-Term Care Information, Administration on Aging
Washington, DC 20201
(202) 619-0724
www.longtermcare.gov

Planning for Long-Term Care
AARP-Montana
30 W. 14th St. Ste. 301
Helena, MT 59601
(406) 457-4702
Email: mtaarp@aarp.org

A Long-Term Care Insurance Policy Comparison Tool
This tool is part of a Web-based educational program from the University of Illinois Extension Service and is designed to help consumers compare up to three different long-term care insurance policies, www.longtermcare.illinois.edu.

Are premiums paid for a long-term care partnership insurance policy tax deductible?

The federal government and state of Montana provide tax incentives to those who purchase regular tax qualified long-term care insurance or partnership policies.

Federal. Premium payments for tax qualified long-term care insurance or long-term care partnership policies are deductible on Schedule A (Form 1040) for individuals who have itemized medical expenses exceeding 10 percent of their adjusted gross income (AGI). However, there are also limits on the deductible amount based on the taxpayer's age (Table 1).

TABLE 1. Federal Maximum Tax Deductible Premiums for Tax Qualified Long-Term Care Policies (2017)

Attained Age of Individual Before Close of Taxable Year	Maximum Tax-Deductible Premiums (2017)*
40 or younger	$ 410
41 – 50	$ 770
51 – 60	$1,530
61 – 70	$4,090
71 and older	$5,110

* These amounts are subject to change each year. https://www.irs.gov/pub/irs-drop/rp-16-55.pdf. See page 19.

Example 6: Dan (age 68) and Marlene (age 65) paid $8,537 for tax qualified long-term care partnership insurance policies in 2017. Each has a tax deductible premium of $4,090 (Table 1). The amount included on "Schedule A: Itemized Deductions" (Form 1040) is $8,180 ($4,090 + $4,090 =$8,180).

Itemized medical expenses exceeding 10 percent of Dan and Marlene's adjusted gross income are deductible. With their combined income of $65,000 they are in a federal marginal tax bracket of 15 percent. Federal tax rates for various income levels can be found at https://www.irs.gov/pub/irs-drop/rp-16-55.pdf.

The amount they can deduct on their federal return is $1,680 (assuming they had no other itemized medical expenses) [$65,000 x 10% = $6,500 (the amount above $6,500 is the amount of the premium that is deductible) - $8,180 - $6,500 = $1,680].

The amount of federal tax Dan and Marlene saved from the purchase of the long-term care partnership insurance policy is about $252 [$1,680 (deductible) x 15% (tax rate) = $252].

Montana. A tax deduction is allowed for premiums paid for a tax qualified or partnership long-term care insurance for the benefit of a Montana taxpayer and the taxpayer's dependents, parents or grandparents. Montana allows a dollar-for-dollar reduction in the Montana adjusted gross income for qualified long-term care premiums. The **total** amount for the premiums is entered on Form 2 "Schedule III – Montana Itemized Deductions," line 6 *(the line number may change from year to year)*.

Example 7: The amount Dan and Marlene (Example 6) can deduct from adjusted gross income on their Montana tax return is $8,537, the total cost of their long-term care partnership insurance premiums. The amount of Montana tax savings is about $589 ($8,537 x 6.9% [The Montana tax rate on income above $17,400 is 6.9%] = $589). Montana tax rates are available at www.revenue.mt.gov

The total state and federal tax savings for Dan and Marlene for their purchase of a long-term care partnership insurance policy is $841 ($252 federal + $589 state = $841).

Are the benefits received from a long-term care partnership insurance policy taxable?

Long-term care benefits paid to the insured are generally excluded from income if the policy is designated as "tax qualified." Most long-term care insurance and all long-term care partnership insurance policies are tax qualified. To exclude payments from income, the insured must file IRS Form 8853 with the 1040 return. The amount is provided on Form 1099-LTC sent by the insurance company. However, the exclusion amount is subject to a limit. Under this limit, the excludable amount is calculated by subtracting any reimbursement received (through insurance or otherwise) for the cost of qualified long-term care services during the year from the larger of the following amounts:

- The actual cost of qualified long-term care services during the period.
- The dollar amount of benefits for the period ($360 per day for any period in 2017; $131,400 annually).

Example 8: Nora met the definition of her long-term care policy of needing assistance and moved into an assisted living facility. During 2017 she received 12 monthly payments on a daily per diem basis from her qualified long-term care contract. The payment of $3,000 per month ($36,000 total) was listed on Form 1099-LTC. None of her long term-care benefits were taxable in 2017.

Is a long-term care policy purchased before the partnership program began in Montana considered a partnership policy?

If you purchased a long-term care policy before July 1, 2009, the policy could be eligible for certification as a long-term care partnership insurance policy. First, the company would need to decide if it wants to comply with the partnership rules at the state and federal levels and reissue or exchange your policy for a long-term care partnership insurance policy.

If the company decides "yes," the next step is to submit the policy for certification by the Montana Commissioner of Securities and Insurance. If the Commissioner certifies the revised policy, the company should provide you with a "Partnership Status Disclosure Notice."

Contact your insurance agent to see if a previously purchased long-term policy could be reissued or exchanged for a "certified partnership policy." You can also ask the Montana Commissioner of Securities and Insurance.

Is a long-term care partnership insurance policy purchased in another state certified in Montana?

A long-term care partnership insurance policy issued when you lived in another state may be "certified" if you later become a Montana resident. To determine if the policy is certified in Montana, contact the Montana Commissioner of Securities and Insurance.

Representatives from the Montana Commissioner of Securities and Insurance will review the policy to determine if ***all*** of the following conditions are met:

- If the insured person was a resident of a partnership state when coverage first became effective under the policy,
- If the policy meets the IRS definition of a "qualified long-term care insurance policy,"
- If the policy issue date was issued, re-issued, or exchanged on July 1, 2009 or thereafter,
- If the policy meets specific rules of the National Association of Insurance Commissioners, and
- If the policy includes an inflation protection clause. This requirement varies depending on the age of the insured at the time of purchase:
  - If the purchaser is under 61 years of age, compound annual inflation protection must be provided.
  - If the purchaser is between 61-76 years of age, some level of inflation protection must be provided.
  - If the purchaser is over 76 years of age, inflation protection is *optional.*

What if I want to make changes to my long-term care partnership insurance policy after it is purchased?

Any changes made to a long-term care partnership insurance policy could affect whether the policy continues to be certified under Montana regulations. Before you make any modifications, consult your insurance agent to determine the effect of proposed changes. Be sure to get any responses in writing so you will have documentation should questions arise later about whether the policy remains certified in Montana.

Summary

Montana has initiated a long-term care partnership insurance program allowing persons to protect some or all of their assets (depending on the plan purchased), if they need long-term care. The long-term care partnership insurance program helps Montanans pay for their long-term care without having to spend down their assets, as they would have to do if they relied totally on Medicaid to pay for their long-term care.

By allowing Montanans to keep some or all of what they've worked hard to accumulate and by reducing Medicaid costs for the state, the partnership program provides benefits for everyone. State and federal laws also allow for deductions for qualified long-term care premiums when calculating annual income taxes.

Acknowledgements

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- Business, Estates, Trusts, Tax and Real Property Law Section (BETTR), State Bar of Montana
- Elderly Assistance Committee, State Bar of Montana
- Insurance Division, Montana Commissioner of Securities and Insurance (CSI)
- Public Assistance Bureau (PAB), Department of Public Health and Human Services (DPHHS)
- School of Business Administration, University of Montana

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Montana Legal Guide to Long Term Care Planning 2015-2017. http://dphhs.mt.gov/Portals/85/sltc/documents/legaldeveloper/legalforms/G045802_SLTC%20Legal%20Guide%2015%2017%20%282%29.pdf

National Clearinghouse for Long-Term Care Information. www.longtermcare.gov

Disclaimer

The information presented in this MontGuide is for general educational purposes only and is not intended to substitute for legal or tax advice about the long-term care partnership insurance program. State and federal regulations are summarized as of the date of publication. Long-Term Care Insurance and Medicaid rules are under constant revision, so contact an attorney or your local Medicaid Eligibility Case Manager for recent developments. Tax rules are also modified frequently so contact your tax professional for the latest changes.

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File under: Family Financial Management (Estate Planning)
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