

PAYING FOR LONG-TERM CARE IN MAINE

I. What Is Long-Term Care?

Generally, long-term care is a variety of services intended to meet the medical and non-medical needs of individuals with chronic illness or disability who cannot care for themselves for long periods of time. But the definition of long-term care can be much more restrictive. When a representative of a health care facility refers to long-term care, he or she is usually speaking of custodial care provided at the nursing home level and is distinguishing it from rehabilitation services and skilled nursing services that may be provided in a nursing home setting. A representative of a health care facility also typically distinguishes long-term care from care provided at the assisted living/residential care level.

How long-term care is defined can be critical, particularly in determining whether coverage can be provided under a long-term care insurance policy and in researching what public benefits are available to pay for care. This article uses the broad definition of “long-term care” provided by the Family Caregiver Alliance: long-term care is “a combination of medical, nursing, custodial, social, and community services designed to help people who have disabilities or chronic care needs, including dementia.” Services may be provided in the person’s home, in the community, in assisted living facilities, or in nursing homes.ⁱ

II. Current Costs of Long-Term Care

Genworth is a global financial security company that does an annual Cost of Care Survey by state and region.ⁱⁱ The medianⁱⁱⁱ 2017 rates for Bangor, Maine, and statewide are:

Type of Care	Region	Median Daily Rate	Median Monthly Rate	Median Annual Rate	Annual Growth
Homemaker Services	Maine	\$144	\$4,385	\$52,624	3%
	Bangor	\$144	\$4,385	\$52,624	4%
Home Health Aide	Maine	\$147	\$4,481	\$53,768	1%
	Bangor	\$144	\$4,385	\$52,624	4%
Adult Day Health Care	Maine	\$108	\$2,340	\$28,080	2%
	Bangor	n/a	n/a	n/a	n/a
Assisted Living Facility (single occupancy room)	Maine	\$161	\$4,890	\$58,680	2%
	Bangor	\$143	\$4,350	\$52,200	2%
Nursing Home (semi-private room)	Maine	\$301	\$9,140	\$109,683	3%
	Bangor	\$325	\$9,885	\$118,625	4%
Nursing Home (private room)	Maine	\$321	\$9,764	\$117,165	2%
	Bangor	\$352	\$10,692	\$128,298	3%

III. Sources of Payment for Long-Term Care

A. Medicare

Medicare does not pay for indefinite, long-term care like custodial care. It also does not pay for assisted living care or adult day care.

1. Skilled Nursing Facility Care

In a facility, Medicare only pays for medically necessary skilled nursing and rehabilitation services in limited circumstances. The care must be provided after a hospital stay of at least three days. For the first twenty days, Medicare will pay 100%. From day twenty-one on, the patient pays a co-insurance of \$167.50 per day (in 2018), and Medicare pays the difference. Medicare provides this coverage only up to day 100. Medicare supplement (also called Medigap) insurance is intended to pay the 20% of Medicare approved charges that Medicare does not pay.

2. Home Health Care

For an individual who is homebound by an illness or injury, Medicare may pay for some short-term skilled care from nurses and therapists in the individual's home. But this is never more than thirty-five hours per week, and is usually much, much less than that.

3. Hospice

Hospice is a special way of caring for individuals with terminal illnesses whose physicians certify that they will probably not live longer than six months. Medicare covers hospice care provided by a Medicare-approved public agency or private company. It includes services from a team of doctors, nurses, home health aides, social workers, counselors, and trained volunteers.

B. Long-Term Care Insurance

Another way to pay for long-term care is to purchase a long-term care insurance policy before the need arises. Whether an individual should purchase long-term care insurance depends on age, health status, overall retirement goals, assets, and income. In general, the earlier the policy is purchased, the better, because coverage gets more expensive with age. The best long-term care insurance policy is one that is tailor-made to the potential needs of the individual. Here are some of the choices to consider when purchasing a policy:

- Benefit period: Three years, five years, or unlimited coverage?
- Amount of benefit: How much coverage per day?
- Inflation protection?
- Elimination period or deductible?
- Home care? Adult day care? Care from a family member?

For more information on long-term care insurance, review *A Shopper's Guide to Long-Term Care Insurance*, which is published by the National Association of Insurance Commissioners

(NAIC).^{iv} The *Guide* includes an overview of long-term care insurance, as well as payment and purchasing options, worksheets, shopping tips, and the various policy and benefit plans available. The *Guide* offers these general observations:

You should not buy long-term care insurance if:

- You cannot afford the premiums;
- You have limited assets;
- Your only source of income is Social Security;
- You often have trouble paying for utilities, food, medicine, or other important needs; or
- You are on Medicaid.

You should consider buying long-term care insurance if:

- You have significant assets and income;
- You want to protect some of your assets and income;
- You can comfortably pay the premiums with no financial difficulty;
- You want to stay independent of others; and
- You want flexibility in choosing care in the settings you prefer.

If you decide to investigate long-term care insurance, only work with a long-term care insurance specialist who is very knowledgeable and experienced with this complex product.

C. Veterans' Benefits

The U.S. Department of Veterans Affairs (VA) is a government-run military benefit system that is responsible for administering benefits for veterans and their families and survivors. Its three main subdivisions are the Veterans Benefit Administration, the Veterans Health Administration, and the National Cemetery Administration. The VA provides an extensive list of long-term care benefits to veterans and their spouses and dependents, including:

1. VA Nursing Homes

Veterans who have a service-connected disability rating of 70% or higher can receive care in nursing homes operated by the VA, free of charge. Also, a limited number of community nursing homes have contracts with the VA whereby a veteran with a 70% rating can receive care free of charge.

2. State Veterans Homes

In conjunction with the states, the VA has built and supported state veterans homes, including the Maine Veterans Homes in Bangor, Augusta, Machias, Caribou, Scarborough, and South Paris. State veterans homes are not free, but there is a subsidy of \$107.16 a day for nursing home care and \$46.25 a day for assisting living care (as of October 1, 2017) for each veteran using these facilities, which reduces the expense. Most of these facilities offer

nursing home care, and some offer assisted living and day care. They are generally available to any veteran, and sometimes to spouses of veterans.

3. VA Aid and Attendance Pension Benefit

The VA aid and attendance pension benefit is available when a wartime veteran or surviving spouse requires the assistance of another person to perform activities of daily living, is blind or nearly so, or is a patient in a nursing home. This benefit is one of three special pension benefits. It is the most widely known and talked-about benefit as it offers the highest possible monthly payment. An unmarried veteran can receive up to \$1,830 per month; a married veteran can receive up to \$2,169 per month; and a surviving spouse can receive up to \$1,176 per month (with additional payments available for each category if dependent children are present in the home).

This pension is available whether or not the veteran has or had a service-connected disability, but these criteria must be met:

- The veteran must not have been discharged under dishonorable conditions.
- If the veteran enlisted before September 7, 1980, the veteran must have served ninety days or more of active duty with at least one day during a period of war. Anyone who enlisted after September 7, 1980, however, must serve at least twenty-four months or the full period for which that person was called to serve.
- The veteran or spouse must be permanently and totally disabled, or age sixty-five or older. A veteran or spouse of a veteran who resides in an assisted living facility or a nursing home automatically qualifies.

A married veteran and spouse should have no more than \$80,000 in countable assets (less for a single veteran or surviving spouse), which includes retirement assets but excludes a home and vehicle. However, the \$80,000 limit is a guideline only—it is not a rule set by the VA. The VA considers a claimant's total net worth, life expectancy, income, and expenses to determine whether the claimant should qualify for the benefit. Unlike Medicaid, there is no look-back period and no penalty for giving away assets, although that may soon change.

Illustration: Robert, age eighty-two, is a World War II veteran who is widowed. Robert's total monthly income consists of Social Security income of \$1,500 per month. Robert was diagnosed with dementia and now lives in an assisted living facility as he needs help bathing, dressing, and taking his medication. The facility costs \$3,000 per month. Robert's liquid assets total \$100,000.

Robert's income for VA purposes (IVAP) is calculated by deducting his unreimbursed recurring medical expenses of \$3,000 from his income of \$1,500. The maximum monthly benefit for which Robert could qualify is a pension of \$1,830 with an allowance for aid and attendance. Because Robert has a negative IVAP of \$1,500, he is eligible for the full pension and benefit amount. However, his assets are too high. But because Robert has a negative IVAP of \$1,500, one option is to convert a portion of his liquid assets into an

income stream through an immediate annuity or promissory note. Another option is to transfer the assets to a trust created with the assistance of an elder law attorney. As long as Robert's IVAP remains a negative number or \$0, he can qualify for the full pension with aid and attendance.

D. Maine Medicaid (MaineCare) Benefits

Medicaid is jointly funded by the states and the federal government. In Maine, the Medicaid benefit is administered by the Department of Health and Human Services, and is called MaineCare. There are several categories of MaineCare that pay for long-term care services for individuals who medically and financially qualify for the benefits. The MaineCare rules regarding long-term care are complex, and they include:

- A five-year look-back period,
- Transfer penalties for non-exempt transfers, and
- Medicaid estate recovery.

There are legitimate strategies for preserving assets and hastening eligibility for MaineCare benefits. The appropriate strategy for a particular circumstance depends on many variables including:

- Level of care needed (residential care or nursing home);
- Where the care is being provided (in a facility or at home);
- Whether there is a spouse, and if so, whether there is a pre-nuptial agreement;
- Whether there is a child or other loved one with disabilities;
- Type of assets owned by the individual; and
- The individual's estate planning objectives.

E. Paying Privately for Care

Other individuals private pay for their care, meaning that they pay for their own care or another does so on their behalf. Despite the high cost of long-term care, individuals private pay for a number of reasons. Private rooms are not covered by MaineCare; therefore, an individual or the individual's family might choose to private pay for care if a private room will create a higher quality of life. Private paying can also give more choice regarding facilities.

Additionally, an individual might prefer to pay using long-term care insurance but already be too elderly or ill at the time of application. Alternately, an individual might have long-term care insurance that is insufficient for the individual's needs. Many policies will not pay for care in the home. Policies often have a maximum daily or monthly rate, and that rate might be lower than the cost of care that is medically appropriate for the individual. If the policy was purchased many years ago and did not include inflation protection, increases in the cost of care might have made the policy outdated, even if the rate was appropriate when the policy was purchased.

Finally, the individual may private pay to bridge a time gap and get beyond the five-year look-back period on transfers before applying for MaineCare. Individuals may choose to do this because the cost of private paying for care for this time gap is less than the amount that they would have to private pay if a transfer penalty was assessed because they applied for MaineCare during the look-back period. Additionally, individuals may be unsure how long their health issue will last and choose to private pay for a period of time to assess this before altering assets using strategies allowed under the MaineCare rules to speed up eligibility while legitimately preserving assets for their family.

IV. Conclusion

There are many ways to pay for long-term care. The appropriate strategy varies from family to family. It can depend on age, health, income, assets, work history, estate planning goals, and preferences for care settings, among other factors. You should consult an elder law attorney to determine what method best meets your needs and concerns.

This article is intended to provide information of a general nature only. It does not provide or replace professional legal advice, and it does not establish an attorney-client relationship with the Maine Elder Law Firm or Rudman Winchell. Please consult an attorney for advice regarding your specific circumstances.

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ⁱ *Definitions*, Family Caregiver Alliance, <https://caregiver.org/definitions-0> (last updated Jan. 31, 2014).

ⁱⁱ *Compare Long Term Care Costs Across the United States*, Genworth, <https://www.genworth.com/about-us/industry-expertise/cost-of-care.html> (last updated August 14, 2017).

ⁱⁱⁱ Remember that a median number is the middle number in a list of numbers, which may not be the same as the average of the list. For example, for the numbers \$2800, \$3500, \$4000, \$6500, and \$8200, the median is \$4000, but the average is \$5000.

^{iv} National Association of Insurance Commissioners, *A Shopper's Guide to Long-Term Care Insurance* (2013), http://www.naic.org/documents/prod_serv_consumer_ltc_lp.pdf.