

CUREPSP®

Legal and Financial Preparation
Following a Loved One's Diagnosis

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The information provided in this presentation is for informational purposes only.
It should not be considered legal or financial advice.
You should consult with an attorney or other professional to determine
what may be best for your individual needs.

Onset to Diagnosis – Advanced Preparation

Onset

- Average PSP onset: Age 63 – variance of 7 years either direction

Degenerative Nature Creates Complex Legal Challenges that a Loved One Must Navigate

- Progressive in nature, after several years relatively manageable years, PSP will eventually take its toll on an individual's physical and mental prowess

Advanced Preparation is Crucial to Navigating the Legal Process

Legal Considerations & Protection Mechanisms

1. Power of Attorney - Medical and Financial
2. Financial Planning / Protection
3. Applying for Social Security Disability
4. Planning and Qualifying for Medicare and Medicaid
5. Miller Trust
6. Living Will
7. End Stage Planning – Palliative & Hospice Care

Power of Attorney

Power of Attorney (POA): Medical and Financial

- Some families designate two separate family members as Medical POA and Financial POA
- **Check with your state guidelines for POAs—some states have strict requirements that can limit the authority of your POA if not compliant**
- Consult an attorney on the forms of POA best suited to your situation
 - Irrevocable Durable Financial POA
 - Irrevocable Durable POA for Health Care / Medical Directive
 - Springing POA
 - Interstate enforcement if you have assets in other states
- Make sure you file your POA with the state, so it can be referenced as you need in managing estate matters

Financial Planning – Start Early!

It is Crucial to Take Steps to Protect Loved Ones from the Financial Liabilities of the Disease

- Patients may incur substantial medical debt
- Estate planning is imperative
 - One must take steps to isolate ones medical liabilities from ones financial assets
 - Engage with legal counsel and financial advisors to pass wealth onto loved ones

Move All Financial Responsibilities Away

- Simple Changes
 - If you can, place all financial responsibilities in the hands of a spouse or child
 - Automate regular bill payments: mortgage / rent, credit cards, utilities
 - Take steps to isolate financial liabilities from assets
 - Grant POA to a trusted third party be it a family member or loved one

Financial Planning – Strategic Divorce

In Extraordinary Cases a Strategic Divorce May Make Sense

- Medicare only covers up to 100 days of nursing care. If you and/or your spouse need nursing/long-term care, you either:
 - If applicable place all financial responsibilities in the hands of a spouse or child
 - 1) Pay out of pocket (until your assets fall below a low threshold) and / or
 - 2) Tap into your long-term care insurance (if you have it).
 - If you don't have long-term care insurance and do not qualify for an Income Only Trust, you pay "out of pocket" until most of your assets are spent down and Medicaid steps in as a last resort.
 - If you're married, all liquid assets must be tapped – regardless of who's name appears on the account – until most of your combined net worth is spent down. Only then does Medicaid (an aid-based program) step in.

Applying For Disability

PSP's Nature Will Result in a Loved One Losing the Physical Prowess and Mental Faculty Required to Work

- Even with insurance the financial toll can be substantial

Luckily the Social Security Administration has added PSP and many related diseases as a Conditions Designated for a Compassionate Allowance

- Compassionate Allowance provides a fast lane in the disability application process
- Compassionate Allowances is not separate from the Social Security Disability Insurance or Supplemental Security Income programs

Applying For Disability

"Disability" under Social Security is based on your inability to work. Defined as:

- You cannot do work that you did before;
- The SSA decides that you cannot adjust to other work because of your medical condition(s); and
- Your disability has lasted or is expected to last for at least one year or to result in death

Applying For Disability

Eligibility

- 1) Must have worked in jobs covered by Social Security
- 2) Then you must have a medical condition that meets Social Security's definition of disability
- 3) In general, pay monthly cash benefits to people who are unable to work for a year or more because of a disability
- 4) Benefits usually continue until one is able to work again on a regular basis

Applying For Disability

How to Qualify

- Worked long enough – and recently enough – under Social Security to qualify for disability benefits
- Social Security work credits are based on your total yearly wages or self-employment income. You can earn up to 4 credits each year
- In 2016, one credit for each \$1,260 of wages or self-employment income until the 4 credit max
- The number of work credits you need to qualify for disability benefits depends on age when one become disabled. Generally, need 40 credits, 20 of which were earned in the last 10 years ending with the year you become disabled

Medicaid – Arizona Long Term Care System

How to Qualify- Arizona

- To be eligible for ALTCS, you must:
 - Be determined in need of a nursing home level of care as determined by AHCCCS;
 - Be a citizen or qualified immigrant;
 - Have a Social Security Number (SSN) or apply for one;
 - Be an Arizona resident;
 - Apply for all cash benefits that you may be entitled to, such as Pensions or VA benefits;
 - Live in an approved living arrangement, such as your own home, or an AHCCCS certified nursing facility or assisted living facility.

Medicaid – Arizona Long Term Care System

How to Qualify- Arizona

- Maximum income for a single person to qualify = \$2,205 (2017)
- Resources
 - Maximum \$2,000 in countable resources for single individuals
 - If married, you may be allowed to set aside some resources for your spouse so long as that spouse is not living in a medical facility

Countable Resources	Resources that Do Not Count
<ul style="list-style-type: none">• Checking, savings, and credit union accounts• Real property that you do not live in• Cash value of some life insurance policies• Cash, stocks, bonds, certificates of deposits• Non-exempt vehicles	<ul style="list-style-type: none">• Your home that you live in, unless it is held in a trust• One vehicle• Burial plots and irrevocable burial plans• \$1500 designated for burial• Household and personal belongings

Miller Trust – Income Only Trust

If your income alone disqualifies you from State benefits

- Miller Trust allows you to protect your income and still qualify for Medicaid state benefits
- In Arizona - If you have more than \$2,205 in income, but less than \$6,905.11 per month (\$5,667.81 in some counties) you may qualify for an Income Only Trust
 - You will set up a bank account that is titled to the trust
 - All income will be direct deposited into the trust
 - Money taken out of the trust can only be used for your benefit and for the purposes specified in state law (e.g. medical related and care expenses)
 - The patient will be the beneficiary of the trust until his or her death when the state will receive any remaining funds in the trust
- You want to only set-up the trust 60-90 days before applying for Medicaid/ACLS benefits

Miller Trust – Income Only Trust

Disabled individuals under Age 65 Trust – income and resources disqualify you from Medicaid LTC

- Only your income or resources (or both) may be deposited into the trust account.
- The trust must be set up by your parent, grandparent, legal guardian or a Court.
- The trust must be set up and funded before you turn age 65.
- You must be disabled at the time the trust is created.
- Assets deposited into the trust account do not count in determining eligibility.
- Income deposited into the trust account does not count as income in determining eligibility but is counted in determining your ALTCS Share of Cost.

Living Will – Advance Directive

What is a Living Will?

- The Patient Self-Determination Act (PSDA) went into effect in December 1991, and required healthcare providers (primarily hospitals, nursing homes and home health agencies) to give patients information about their rights to make advance directives under state law
- In layman's terms, living wills are written, legal instructions regarding your preferences for medical care if you are unable to make decisions for yourself
- Guide choices for doctors and caregivers

Key Considerations

- Obviously an uncomfortable conversation, this subject must be broached prior to a loved one's mental degeneration

Living Will – Advance Directive

What Does a Living Will Address?

- A living will usually provide specific directives about the course of treatment that is to be followed by healthcare providers and caregivers
- In some cases a living will may forbid the use of various kinds of burdensome medical treatment
- It may also be used to express wishes about the use or foregoing of food and water, if supplied via tubes or other medical devices. The living will is used only if the individual has become unable to give informed consent or refusal due to incapacity
- A living will can be very specific or very general – addressed explicit for conditions brought about by PSP or more general health conditions

Living Will – Advanced Directive

Living Wills Are Especially Confusing in Cases of Do Not Resuscitate (“DNR”) Orders

- Documentation is especially complicated - each state accepts different forms, and advance directives and living wills are not accepted by emergency medical services as legally valid forms
- If a patient has a living will that states the patient wishes to be DNR but does not have an appropriately filled out state sponsored form that is co-signed by a physician, EMS will attempt resuscitation – California and New York are particularly challenging

End Stage Planning

Consider a Patient Care Coordinator

- The main goal of care coordination is to meet patients' needs and preferences, and coordinate with care providers and loved ones, in the delivery of high-quality, high-value health care. This means that the patient's needs and preferences are known and communicated at the right time to the right people, and that this information is used to guide the delivery of safe, appropriate, and effective care

22% of All Medical Spending in the U.S. is Devoted to the Last Year of an Individual's Life

- Managing expenses are crucial to ensuring a surviving spouse – particularly a retired one – maintains the financial wherewithal to live comfortably for his or her remaining years – be sure to properly manage the three phases of end of life care

End Stage Planning

Attempt at Recovery

- When hospitalized, one almost always assumes a loved one will recover
- In an end of life scenario it will unfortunately become clear that he or she will not recover, and the focus will shift away from treatment towards symptom management

Disease / Pain Management

- PSP patients do not die from the disease outright, rather the body degenerates to a point where it can either no longer function physically and lacks the immune system strength necessary to combat common illness
- Loved ones and medical professionals must monitor the PSP patient carefully, watch their health and recognize that should he or she fall ill, a shift to hospice care is needed

Palliative & Hospice Care

Hospice Care

- Via Medicare, hospice care is made available in the United States to patients of any age with any terminal prognosis who are medically certified to have less than six months to live
- Hospice is covered 100% with no co-pay or deductible by Medicare Part A except that patients are responsible for a copay for outpatient drugs and respite care, if needed
- Hospice treatment is neither diagnostic nor curative – rather it continues the pain and disease management phases
- Care may be provided in a patient's home or in a designated facility, such as a nursing home, hospital unit or freestanding hospice

Helpful Links

Disability Starter Kit

<https://ssa.gov/disability/Documents/SSA-1170-KIT.pdf>

Divorce Due to Medical Bills Sometimes it Makes Sense

<http://www.forbes.com/sites/feeonlyplanner/2014/08/21/divorce-due-to-medical-bills-sometimes-it-makes-sense/#27fdd76bc04a>

Living Wills and Advance Directives for Medical Decisions

<http://www.mayoclinic.org/healthy-lifestyle/consumer-health/in-depth/living-wills/art-20046303>

Care Coordination

<http://www.ahrq.gov/professionals/prevention-chronic-care/improve/coordination/index.html>

Arizona Long Term Care System – Medicaid

https://www.azahcccs.gov/Members/Downloads/Publications/DE-828_english.pdf

Arizona Income Only Trust- Millers Trust

https://www.azahcccs.gov/Members/Downloads/Publications/DE-819_english.pdf