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**How Will Our Clients  
Afford Healthcare in  
Retirement?**

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## Affording Health Care, Home Care, Assisted Living or Nursing Home Care

- ▶ Many seniors say they fear outliving their money more than death

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## Focusing on the Problem

- ▶ Someone turning age 65 today has almost a 70% chance of needing some type of long term care services
- ▶ Over 40% of the general population will need eventually to stay in a nursing home

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## The Problem(cont.)

- ▶ Average daily private room rate in a nursing home is \$91,250 annually \*
- ▶ Semi-private \$82,227\*
- ▶ Assisted living, \$49,803\*
- ▶ Adult day services, \$18,850\*
- ▶ Home health aides \$50,336\*
- ▶ Companion/homemakers \$50,336\*

\*Genworth 2019 Cost of Care Survey, Tennessee

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## What is the Need in Tennessee?

- ▶ Percentage of population 65 and older: 15.70%
- ▶ Anticipated percentage of growth of this population by 2032: 46%

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## Possible Sources of Payment

- ▶ Private Assets
- ▶ Long Term Care Insurance
- ▶ Medicare
- ▶ VA Aid & Attendance Benefits
- ▶ Medicaid (TennCare)

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## Private Assets

- ▶ Includes uncompensated help from families
- ▶ That is estimated to be \$522 billion (Rand, 2015)
- ▶ Often overlooked “Reverse Mortgages”
- ▶ Lump sum, line of credit, or fixed monthly amount
- ▶ Younger homeowner must be 62
- ▶ When last homeowner moves or dies, the bank is paid off

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## Long Term Care Insurance

- ▶ Private insurance for nursing home care and possibly home health care and assisted living.
- ▶ All kinds of systems for payment of premiums and payment of costs
- ▶ Look for payment by the month or by the day
- ▶ Look for whether or not limits length of payment for any given condition

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## Long Term Care Insurance (cont.)

- ▶ Some are whole life policies that pay for care as a loan against cash value
- ▶ Some can be paid for out of “qualified” money
- ▶ Some policies qualify for the “Partnership Plan” which allow a policy holder to set aside the equivalent of benefits paid when qualifying for TennCare long term care

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## Medicare

What is Medicare?

- ▶ The federal health insurance program for people age 65 and older
- ▶ Some people younger than age 65 can qualify for Medicare
- ▶ Those who receive Social Security Disability Income
- ▶ Those with permanent kidney failure
- ▶ Those with ALS

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## Medicare Part A

- ▶ Premium free
- ▶ Helps pay for inpatient care in a hospital or skilled nursing facility (following a hospital stay), some home health care, and hospice care
- ▶ Beneficiaries share costs through deductibles (\$1,408 in 2020) and co-pays

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## Medicare Part B

- ▶ Helps pay for doctors' services and many outpatient medical services and supplies
- ▶ Technically optional because most beneficiaries must pay a monthly premium (\$144.60 or more, based on income)
- ▶ Annual deductible (\$198 per year) plus a 20 percent co-pay
- ▶ Must have both A and B to get Medigap supplement

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## Medicare Advantage Part C

- ▶ Private insurance that replaces Parts A & B and usually part D as well. These are usually HMO programs designed to keep people healthy
- ▶ Good for healthier people, but have a serious cost disadvantage when skilled care is required

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## Prescription Drug Coverage Part D

- ▶ Private insurance for drugs that is federally regulated

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## Medigap Policies

- ▶ Will see them referred to by letter:  
A, B, C, D, F, G, K, L, M, and N
- ▶ Eligibility determined by Medicare—  
If Medicare pays, the policy pays
- ▶ Pays a portion of Medicare—covered  
items not paid by Medicare
- ▶ That means deductible and co-pay  
amounts

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## What Does Medicare Pay for Nursing Home Care?

- ▶ Stay in a facility for skilled nursing care and rehabilitation is dependent on a patient having a prior 3-day stay in an acute care hospital. Admission for "observation" does not count
- ▶ Medicare will pay 100% for the first 20 days
- ▶ For days 21-100, Medicare may pay 100% over \$170.50 per day
- ▶ For days 101 and beyond, Medicare pays nothing

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## Government Assistance VA Aid & Attendance

- ▶ Also known as Improved Pension Plan
- ▶ Veterans and their single surviving spouses represent about 1/3 of the senior population
- ▶ 9.3 million veterans are 65 and older
- ▶ Only 5.4% of those who could be eligible are receiving this benefit according to one organization

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## VA Assistance

- ▶ Full A & A amounts 2020:
  - ▶ \$2,266/\$27,192 married veteran
  - ▶ \$1,912/\$22,944 single veteran
  - ▶ \$1,230/\$14,760 surviving spouse

Not taxable

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## Aid & Attendance

- ▶ For a veteran to qualify
  - ▶ Must have minimum 90 days active duty
  - ▶ At least one of which was during a defined period of combat
  - ▶ Length of duty for Gulf War veterans is longer, generally 24 months

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## Defined Period of War

- ▶ World War II--December 7, 1941, through December 31, 1946
- ▶ Korean Conflict--June 27, 1950, through January 31, 1955
- ▶ Vietnam Era--February 28, 1961 - May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 - May 7, 1975
- ▶ Gulf War--August 2, 1990 through a date to be set by law or Presidential Proclamation

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## Medical Requirements for A & A

- Either assistance with two or more ADLS; or
- Certification by health professional that due to a physical, mental, or cognitive disorder the individual requires [custodial care]

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## Medical Requirements (cont.)

- ▶ Bedridden
- ▶ In a nursing home due to mental or physical incapacity
- ▶ Blind or nearly blind

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## Changes in New Rules Effective October 18, 2019

- ▶ Six basic ADL's: eating, bathing getting dressed, toileting, transferring and continence
- ▶ New ADL: Ambulation
- ▶ Certification
  - ▶ By any health care professional
  - ▶ That the applicant needs oversight/custodial care

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## Income Limits for A & A

- ▶ Veteran's and spouse's income must be less than the pension amount for which they are eligible
- ▶ Example: married veteran in 2020 is eligible for \$27,194 in pension
- ▶ If their countable income is \$10,000, they are eligible to receive an additional \$17,194/year

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## Unreimbursed Medical Expenses

- ▶ Unreimbursed medical expenses (UME) are deducted from income
- ▶ Qualified expenses are costs of care
  - ▶ At home
  - ▶ Or in a facility
  - ▶ Health insurance
  - ▶ Supplies, etc.
- ▶ The costs of assisted living or even independent living counts

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## Asset Limits—Net Worth

- ▶ Net worth limit is equal to the maximum CSRA amount (currently \$129,094)
  - ▶ Increases per the Social Security benefit increase percentage each year
- ▶ Home is still not counted as part of net worth
- ▶ “Reasonable lot area” defined as not more than two acres unless the additional acreage is not marketable

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## Net Worth

- ▣ Includes assets and one year’s income (for both spouses)
- ▣ Assets: FMV of all property owned by the claimant and any dependents, less mortgages or other encumbrances
  - Exclusions: Home plus two acres, personal effects (rules specifically mention family transportation vehicles)

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## Lookback and Penalty Period

- ▶ 36 month look-back period
  - ▶ Triggered by the receipt of an original claim or a new claim following a period of non-entitlement
- ▶ Will not apply to transfers made prior to 10-18-18
- ▶ Only “covered assets” that are transferred will be penalized
  - ▶ An asset that was part of the claimant’s net worth and if not transferred would have caused net worth to be over the limit

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## Lookback and Penalty Period

- Veteran has \$110,000 in total assets, \$12,000 in income
  - Total net worth = \$122,000
  - Transferred \$50,000 on Nov. 1, 2019
  - Applied for VA pension on Nov. 15, 2019
  - Approved!
- Because the amount transferred was not from assets over the net worth limit (covered assets), no penalty will be imposed

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## Lookback and Penalty Period

- ❑ Penalty period based on the MAPR (maximum annual pension rate) for aid and attendance for a married Veteran
- ❑ Starts the month after the transfer is made
  - ❑ MAPR is divided by 12 to come up with the monthly amount
  - ❑ MAPR with one dependent used for a married veteran

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## Example of Net Worth and Penalty Period

- ❑ Veteran owns one bank account with \$200,000
- ❑ Annual income is \$24,000
- ❑ UMEs total \$34,000
- ❑ Total net worth: \$200,000
  - Veteran transferred \$80,000 on Sept. 1, 2020
  - Filed for VA pension on Oct. 1, 2020
  - Net worth=\$120,000
  - Covered assets=\$70,906 (\$200,000—the limit of \$129,094)
  - Penalty period -  $\$70,906 / \$2,266^* = 31.29$  months (\*2,230 in 2019)

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## Lookback and Penalty Period

- Penalty would start on Oct. 1, 2020 and run for 31 months (rounded down from 31.29)

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## Lookback and Penalty Period

- Only amount of assets transferred that exceed the net worth limit are subject to penalty ("covered assets")
  - Includes transfers to a trust or annuity (with exceptions that would cause them to be counted as an asset)
  - Five year cap on the penalty period

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### Exceptions to the Transfer Penalty

- The result of fraud or unfair business practice
- Transfer to a trust established for a child incapable of self-support prior to 18
  - No circumstances that the Veteran, Veteran's spouse or surviving spouse can benefit
- Transfer was from assets that were not over the \$123,600 limit

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### Curing a Gift

- Curing Gifts
  - May be a partial or total cure
  - Cure must be made before the claim was filed or within 60 days of the notice of penalty
    - Evidence of the return/cure must be received not later than 90 days after the notice of decision

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## TennCare (Medicaid) Medical Requirements

- ▶ To qualify, must pass the Pre-Admission Evaluation with a score of 9
- ▶ Measures mobility, help with eating, help with toileting or incontinence care, and dementia
- ▶ This has become very important in determining who is eligible for TennCare

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## PAE Must score 9, or 6, 7 or 8 and safety risk.

ADL		Weights						
FUNCTIONAL MEASURE	CONDITION	ALWAYS	USUALLY	USUALLY NOT	NEVER	MAX INDIVIDUAL SCORE	MAX ACUTY SCORE	
Transfer	Highest value of two measures	0	1	3	4	4	4	
Mobility		0	1	2	3	3		
Eating		0	1	3	4	4	4	
Toileting	Highest value of three possible quest's for toileting	0	0	1	2	2	3	
Incontinence Care		0	1	2	3	3		
Cather/ostomy care		0	1	2	3	3		
Orientation		0	1	3	4	4	4	
Expressive Communication	Highest value of two possible questions	0	0	0	1	1	1	
Receptive Communication		0	0	0	1	1		
Self-administration of Medication	<small>First question only (excludes insulin)</small>	0	0	1	2	2	2	
Behavior		3	1	1	0	3	3	
Max Possible ADL (or Related) Acuity Score							21	

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## TennCare Income Limits

- ▶ Residents theoretically cannot qualify for TennCare if they receive income of more than \$2,349 per month
- ▶ This is the (relatively) easy part. The rest of income can go into a Qualified Income Trust, which pays the patient liability.
- ▶ Nursing home resident gets to keep \$50 per month

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## TennCare Asset Limits

- ▶ Nursing home resident can only have \$2,000 or less
- ▶ Countable and noncountable assets
- ▶ Special rules for a spouse at home
- ▶ Transfers that can disqualify/penalize you

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## Noncountable

- ▶ Burial contracts—if irrevocable and itemized
- ▶ Burial plots—one for each family member
- ▶ Land, equipment, tools, inventory, etc. necessary for income production
- ▶ Home—if the applicant has lived in it, intent to return home
- ▶ Life estate—same requirements as fee simple
- ▶ Inaccessible property—litigation, joint property
- ▶ At least one vehicle

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## Countable When

- ▶ The “snapshot date”—beginning of the period of institutionalization. . . .
- ▶ Can be done retroactively, but depends on your client’s ability to document everything

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## What About the Spouse at Home

- ▶ TennCare adds up all “countable assets”
- ▶ The spouse at home Community Spouse (“CS”) can keep half with a minimum of \$25,728 and a maximum of \$128,640
- ▶ The Institutionalized Spouse (“IS”) has to “spend down” to \$2,000

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## Income for the Spouse at Home

- ▶ In some circumstances, income from the Institutionalized Spouse can be shifted to the Community Spouse
- ▶ Minimum Monthly Maintenance Needs Allowance \$2,155.00—CS gets brought up to at least this amount
- ▶ Maximum Monthly Maintenance Needs Allowance \$3,216.00—CS cannot get income over this amount
- ▶ High rent, mortgage payments, healthcare costs, etc.

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## Spousal Anti-impoverishment (cont.)

- ▶ Married couple owns a house worth \$150,000
- ▶ They own one vehicle
- ▶ And \$100,000 in stocks and bonds
- ▶ Dad is going into nursing home
- ▶ House and car are exempt
- ▶ \$100,000 is split
- ▶ Must spend down \$48,000

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## Ways to Spend Down

- ▶ Improvements to the home
- ▶ Funeral plans
- ▶ Upgrade the spouse's vehicle
- ▶ Convert assets into income through an annuity
- ▶ Your fee

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## What about Wealthier Clients?

- ▶ Married couple with a house, a car and \$500,000 in investments
- ▶ How much money is at risk:
  - ▶ CS can keep \$128,640
  - ▶ IS can keep \$2,000
- ▶ Would need to spend down \$369,360

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## Wealthier Clients (cont.)

- ▶ One alternative—Annuity
- ▶ Medicaid compliant annuity of \$374,350
  - ▶ \$369,360 plus buffer of \$5,000
  - ▶ Income comes to CS
- ▶ Be careful—transfer to the CS first

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## Medicaid Compliant Annuities

- ▶ Find someone who knows what he/she is doing
  - ▶ Immediate
  - ▶ Irrevocable
  - ▶ Non-assignable
  - ▶ Actuarially sound
  - ▶ State is the remainder beneficiary after CS

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## Wealthier Clients (cont.)

- ▶ But what about estate planning?
- ▶ If they own a house together and CS dies first, TennCare will recover what they have paid from the house
- ▶ Instead:
  - ▶ Robust financial POA
  - ▶ Deed the share owned by the IS to the CS
  - ▶ New will for the CS leaving everything in a special needs trust for IS
  - ▶ Then at the death of the IS, everything to children or other heirs

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## The Five Year Look-back

- ▶ If you give away money in the 5 years before you need Medicaid
- ▶ Creates a penalty
- ▶ Calculated as the amount given away divided by \$182.42/day, \$5,472/month
- ▶ That many months of paying privately for the nursing home

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## Transfers

- ▶ Definition: giving away or selling property for less than FMV
- ▶ Establishing irrevocable trust
- ▶ Waiving income, benefits or an inheritance
- ▶ Altering/establishing joint accounts in which individual gives up/limits rights
- ▶ Refusal to take legal action to get child support or alimony
- ▶ Purchasing an irrevocable burial trust that exceeds the value of the merchandise or benefits

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## Transfers That Are Not Penalized

- ▶ Between spouses
- ▶ Child under 21
- ▶ Disabled or blind child any age
- ▶ Home:
  - ▶ To a sibling or half-sibling who has equity interest in the home and lived in the home for at least one year prior to facility care
  - ▶ Caregiving child who lived in the home for at least 2 years before facility care

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## Rebuttable Presumptions

- ▶ Asset was transferred to attain eligibility--
  - ▶ Substantiating evidence and a written statement from the individual that includes:
    - ▶ Reason for transferring the asset
    - ▶ Attempts to dispose of the asset for its FMV; and
    - ▶ The reasons for accepting less than the FMV.
- ▶ If an asset is transferred for less than FMV
  - ▶ Written statement from the individual of attempts to get FMV
  - ▶ Written statement from two knowledgeable sources familiar with the asset

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## Planning for Healthy Older Adults

- ▶ If you have 5 years,
- ▶ There are ways to design an irrevocable trust
- ▶ That will hold assets
- ▶ And still not cause a penalty
- ▶ And give heirs a stepped-up basis

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## Questions?

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