

The Impact of Long-Term Care Costs on Farming Operations

National Agricultural Law Center Webinar

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What is Long-Term Care (LTC)?

The Administration for Community Living defines LTC services as:

“Services that include medical and non-medical care for people with a chronic illness or disability. LTC helps meet health or personal needs. Most LTC services assist people with Activities of Daily Living, such as dressing, bathing, and using the bathroom. **LTC can be provided at home, in the community, or in a facility.** For purposes of Medicaid eligibility and payment, LTC services are those provided to an individual who requires a level of care equivalent to that received in a nursing facility.”

Types of LTC

- Home Based Care
 - Home Health Care
 - Homemaker and Personal Care Services
 - Friendly Visitor and Senior Companion Services
 - Senior Transportation Services
 - Emergency Medical Alert Systems
- LTC Facilities
 - Independent Living Apartments
 - Adult Homes
 - Family-Type Homes
 - Assisted Living Program (ALP)
 - Continuing Care Retirement Communities (Lifecare Communities)
 - Nursing Home (Skilled Nursing Facility)

LTC Costs

Long-Term Care Costs

	Ohio Median Costs, <u>annual</u>	National Median <u>Costs, annual</u>	Five-Year Annual <u>Growth</u>
Homemaker Services (44 hrs./wk)	\$59,488	\$59,484	5.39%
Home Health Aide Services (44 hrs./wk)	\$60,632	\$61,776	5.92%
Adult Day Health Care (5 days/week)	\$20,800	\$20,280	2.78%
Assisted Living Facility (one bedroom)	\$55,620	\$54,000	4.40%
Nursing Home – Semi-Private Room	\$87,600	\$94,896	2.93%
Nursing Home –Private Room	\$98,550	\$108,408	3.25%

Source: 2021 Cost of Care Survey, Genworth Financial, Inc.

LTC Statistics

- Someone turning age 65 today has a 69% chance of needing some type of long-term care services in their remaining years
- Women will need an average of 3.7 years of care and men will need 2.2 years
- One-third of 65 year-olds may never need LTC, but 20% will need it for longer than 5 years

Source: Administration for Community Living (acl.gov/ltc/)

Distribution and Duration of LTC Services

Type of Care	Average Number of Years People Use This Type of Care	Percent of People Who Use this Type of Care
Any Services	3 years	69%
At Home		
Any Care at Home	2 years	65%
Unpaid Care Only	1 year	59%
Paid Care	< 1 year	42%
In Facilities		
Any Care in Facilities	1 year	37%
Nursing Home Facilities	1 year	35%
Assisted Living	< 1 year	13%

Source: Administration for Community Living (acl.gov/ltc/)

Cost Scenarios

- A 65 year-old has a 69% chance of needing LTC
- The length of that care will be around 3 years
- 1 year of care will be unpaid in-home services
- 1 year of care will be paid, in-home services at around \$60,000/year
- 1 year of care will be in a nursing home at around \$90,000/year
- A person in the 31% category (no LTC) will have \$0 LTC costs
- A person in the 69% category will average \$150,000 in costs
 - (\$60,000 in home services + \$90,000 nursing home)

The Outlier Scenario

- Of the group needing LTC, 20% will require LTC for longer than five years
- Assuming one year of no cost LTC; five years of LTC will cost \$240,000 - \$450,000
- Someone in the 20% group could easily pay \$500,000+ in LTC

The Problem is the Outlier Scenario

- Most farms probably have enough income and savings to cover average LTC costs
- Most farms can also cover some above average costs by selling machinery, livestock and other operating assets
- Many farms' land is in jeopardy if they are an outlier
- The outlier scenario is what most farmers worry about
 - We all know someone who has been in a nursing home for 10 years
- The average LTC scenario does not jeopardize most farms, the outlier scenario does

How are LTC Costs Paid?

1. LTC Insurance

- If an insurance policy is in place, these funds will be used first to pay for LTC

2. Income

- If no insurance or insurance does not cover LTC costs, income is used to pay for LTC

3. Savings/Financial Resources

- Savings is usually first asset used to cover insurance/income deficiency

4. Non-real Estate Farm Assets

- Machinery, equipment, livestock, grain, crops can be sold to pay for LTC costs

5. Real Estate

- Most farmers will protect the land above other assets

Risk Assessment is Critical in LTC Planning

- A risk assessment must be done on a case-by-case basis to know which LTC strategy is best to implement
- Risk assessment analyzes potential LTC costs, income and savings to determine what is actual risk to farm assets
- A good risk assessment is a requirement for good LTC planning

Developing the Risk Assessment

1. Determine LTC costs for your state
2. Is LTC insurance available to pay some or all of LTC costs?
3. What after-tax income is available to pay for LTC costs?
4. What savings/investments are available to pay for LTC costs?
5. What operating assets are available to pay for LTC costs?
6. What is risk tolerance for land being used for LTC?

Risk Assessment - Example 1

- Assume nursing home costs \$90,000/year
- Primary assets are machinery, livestock and land
- Unmarried person has \$70,000 year retirement income* and \$250,000 savings
- Income and savings will pay for nursing home for 12.5 years

Average Scenario – no risk to farm assets

Outlier Scenario – low risk to farm assets

*use after-tax income for the risk assessment

Risk Assessment - Example 2

- Primary assets are machinery, livestock and land
- Machinery and livestock valued at \$500,000
- Couple has \$70,000 year retirement income and \$250,000 savings
- At-home spouse requires \$50,000 income for living needs
- Income and savings will pay for nursing home for 3.5 years
- Machinery/livestock will pay for 7 additional years

Average Scenario – low risk to farm assets

Outlier Scenario – high risk to operating assets/lower risk to land

Risk Assessment - Example 3

- Only major asset is farmland that is cash rented
- Unmarried person has \$50,000 year income and \$20,000 savings
- Income and savings will pay for nursing home for a few months

Average Scenario – high risk to farmland

Outlier Scenario – farmland will be sold

What Role Does Medicare Play?

- Medicare is a federal program providing health insurance to mostly people over 65
- Medicare will pay LTC costs for 20 - 100 days if the LTC costs are related to a hospital stay
- Medicare should not be included in LTC strategies

What Role Does Medicaid Play?

- Medicaid is a joint federal and state program that provides health coverage for people with limited income and resources
- If a person does not have resources to pay for LTC, Medicaid will pay
- To qualify for Medicaid, a single person can own no more than \$2,000* in assets and a married couple cannot own more than \$139,400**
 - Some assets such as home, vehicle and personal items may not be countable assets towards the asset limit, but estate recovery applies
- Few farmers will qualify for Medicaid without aggressive planning

*Ohio, 2022. Will vary by state and year.

** \$3,000 if both married persons are receiving LTC

Five-Year Lookback

- Assets transferred for less than full value for the five years prior to Medicaid application are considered an improper transfer
- For each \$6,905*, the applicant is ineligible for Medicaid for one month
 - A \$100,000 gift will cause ineligibility for 15 months
- Gifts made prior to Five-Year Lookback are not an improper transfer so ineligibility caused by improper transfer is essentially capped at 60 months
 - A \$1,000,000 gift will cause ineligibility for 145 months. However, by waiting 60 months to apply for Medicaid, the gift is no longer improper and eligibility is not affected

*Ohio, 2022. Will vary by state and year.

Five-Year Lookback

- This rule prevents someone from giving away all their assets today and being eligible for Medicaid tomorrow
- It is a necessary rule to keep Medicaid solvent
- This rule causes LTC planning to be done five years in advance which makes LTC planning difficult and always speculative to some degree

The Medicaid Strategy

- Some people will take the strategy of making themselves eligible for Medicaid by gifting their assets and waiting the five-year Lookback Period
- After the five-years, Medicaid will pay for LTC costs (if otherwise eligible)
- Disadvantages to relying on Medicaid for care
 - May not get to select care facility
 - Probably not eligible for a private room
 - Rely on government program for care

Strategies to Deal with Long-Term Care Costs

LONG-TERM CARE INSURANCE

- Purchase an insurance policy that will pay for LTC costs
- Many types of policies and coverages

Advantages

- Provides protection to assets without giving up control of assets

Disadvantages

- Premiums can be expensive, must purchase long before needed
- Some people are not insurable
- How much coverage to carry? How long is the term?

Strategies to Deal with Long-Term Care Costs

DO NOTHING

- For some people, assume adequate resources are available to pay all LTC costs so no need to do anything
- For other people, must keep every asset to live and/or cannot afford to transfer assets away
- The most common strategy

Advantages

- No cost
- Keep full control of assets

Disadvantages

- No assets are protected

Strategies to Deal with Long-Term Care Costs

GIFT ASSETS THAT ARE TO BE PROTECTED

- Gift assets that are to be protected from LTC costs and incur the improper transfer penalty or wait the five-year lookback period

Advantages

- Relatively inexpensive to execute

Disadvantages

- Loss of ownership, control and income from the assets
- Giftee may develop their own financial issues and jeopardize the assets
- Loss of stepped-up tax basis at death

What Happens if Money is Exhausted before Five-Year Lookback?

Scenario: Joe gifts his assets away to protect them from LTC costs but goes into a nursing two years after making the gift and has insufficient income to pay the nursing home

- Gifts can be returned by giftee to avoid improper transfer status, nursing home/Medicaid cannot undo gift
- The giftees can keep the gifts and pay the LTC costs
- Giftoor can apply for a hardship but must show they did everything possible to get the gifts back and no alternative income or resources are available

Strategies to Deal with Long-Term Care Costs

IRREVOCABLE TRUST

- Transfer assets to an irrevocable trust

Advantages

- Trust can include an estate planning component
- Trust can be set up to retain the income and stepped-up basis at death
- Can protect against giftee's financial problems and/or poor management

Disadvantages

- Can be expensive to establish and maintain trust
- Transfer to the trusts are improper transfers – subject to five-year lookback
- Loss of ownership and control of the assets
- Loss of stepped-up tax basis if income is not provided
- Trust cannot be changed except for beneficiaries (limited power of appointment)

Strategies to Deal with Long-Term Care Costs

SELF-INSURE

- Intentionally reserve assets for LTC costs
- Usually, savings or investment accounts but can be land or other farm assets

Advantages

- No fees or expenses required
- Keep full control of assets

Disadvantages

- How much is needed? All assets at risk if LTC costs exceed reserves
- Impoverished spouse issue

Strategies to Deal with Long-Term Care Costs

WAIT AND SEE

- Wait to see if LTC will be needed
- Have enough resources to pay for five years of care
- Gift assets that wish to protect at beginning of five-year look back period
- After five years, gifted assets are protected

Advantages

- Provides flexibility
- Reduces unknown aspect of LTC planning

Disadvantage

- Does not protect assets for five years

Summary

- There are no easy solutions for LTC planning
- What are potential LTC costs?
- What resources are available if LTC would be incurred?
- What is the true risk to the farmer?
- Which strategy may work best based on risk assessment?
- Each situation is different, and planning should reflect the situation

A farmer has little control over the long-term care they may need, but they do have options as to how to plan for those costs

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