PD ExpertBriefing:

Planning Ahead When You Are Living With Parkinson’s

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Will begin:
Wednesday, January 13, 2010
at 1:00 PM ET

Parkinson’s Disease Foundation
Hope through Research • Education • Advocacy
Welcoming Remarks

Robin Elliott
Executive Director
Parkinson’s Disease Foundation
Planning Ahead When You Are Living With Parkinson’s

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Plan for Potential Disability

• Appoint Surrogate Decision-makers;
• Arrange for Financial Management;
• Formulate an Optimal Care Plan & Cost;
• Look at your options for Long Term Care;
• Look at your finances and sources of paying for your care plan and long term care;
• Review your options for health insurance coverage and gaps in coverage; and
• If needed, plan for Medicaid coverage.
1. Financial management in the event of disability

• Every person should make arrangements so that another designated person will be able to manage their finances in the event of mental incapacity. A Durable Power of Attorney for Property is almost always advisable; however, Living Trusts should also be considered as part of a property management plan.
2. Impact of long term care costs on financial resources

• Persons with Parkinson's should consider the possibility of the need for long term care and the costs associated with long term care. Ideally, the person affected should formulate a care plan and cost out the care plan. Sources of funding should be considered, including long term care insurance, if it is an option. If there are not adequate sources of funding, planning for Medicaid eligibility should be considered.
3. Health care surrogate decision making

- Every person concerned with quality of care and end of life decisions should execute a Durable Power of Attorney for Health Care. A Power of Attorney for Health Care allows persons to legally designate other persons to make enforceable health care decisions, including refusing and withdrawing life sustaining treatment, in the event that they are unable to make their own decisions.
4. Adequacy of health care coverage and continuation if disabled

- Health insurance policies should be reviewed for adequacy of coverage and coverage options if unable to work. Medicare, Medicare supplemental, Medicare RX, and other health care insurance policies should be reviewed for coverage and potential gaps in coverage. In particular, persons with potential disability should consider the possible need for home health care or nursing home care and coverage under existing insurance.
Powers of Health Care Agent (State Specific)

• Authority to make any and all decisions concerning personal care, medical treatment, hospitalization and health care and to require, withhold or withdraw any type of medical treatment or procedure, even though death may ensue

• Authority to access medical records

• Authorize an autopsy and direct the disposition of remains
Responsibilities of the Health Care Agent

• No duty to act
• When agent acts, it must be with due care for the benefit of the principal
• Duty to act for the benefit of the principal in accordance with the terms of the agency
Powers of Financial Agent

• An agent under a Power of Attorney for Property only has those powers specifically granted in the document.

• Usually, an agent has no authority to gift or to otherwise engage in Medicaid planning without specifically added provisions. Therefore, a Power of Attorney for Property should be drafted with an overall care and financial plan in mind.
Responsibilities of the Property Agent

- No duty to act
- When agent acts, it must be with due care for the benefit of the principal
- Duty to keep records
- Duty to preserve estate plan of principal
- Agent should not benefit from the agency to the detriment of the principal
Misuses of Powers of Attorney

- Obtaining a Power of Attorney for Property from a principal who lacks legal capacity
- Placing the agent’s name as a joint tenant on the principal’s accounts instead of as agent under the Power of Attorney for Property
- Using the principal’s assets or credit for the agent’s benefit
- Gifting the principal’s assets without the proper authority
- Changing beneficiary designations on the principal’s assets without the proper authority
- Failing to use the principal’s assets for the principal’s benefit
Living Trusts

• Established by a transfer of property to yourself or to another person to hold for your benefit

• The powers and responsibilities of a trustee:
  • Similar to those of an agent under a Power of Attorney for Property
  • Controlled and limited by the terms of the trust document

Example: Eliza transfers her house and her brokerage account to herself as trustee of the Eliza Living Trust. In the trust document, Eliza designates her son, Elliot, as successor trustee if she becomes disabled.
Trusts as Disability Planning Tools

Good disability tool:
- If trustworthy individual or corporate fiduciary is named as trustee
- If all assets are transferred to trust before disability
- To protect finances after disability
- No authority or protection over personal affairs
Social Security Disability Insurance and Medicare

• If you have paid into social security for a requisite number of quarters, and are unable to engage in any substantial gainful activity by reason of any medically determinable impairment(s) which is expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months, you should qualify for Social Security Disability Insurance.

• After you have been determined disabled for Social Security Disability Insurance for 24 months, you are eligible to enroll in Medicare.
The Listing of Impairments describes, for each major body system, impairments considered severe enough to prevent an individual from doing any gainful activity. Most of the listed impairments are permanent or expected to result in death, or the listing includes a specific statement of duration is made. For all other listings, the evidence must show that the impairment has lasted or is expected to last for a continuous period of at least 12 months. The criteria in the Listing of Impairments are applicable to evaluation of claims for disability benefits under the Social Security disability insurance program or payments under both the SSI program.

11.06 Parkinsonian syndrome with the following signs: Significant rigidity, bradykinesia, or tremor in two extremities, which, singly or in combination, result in sustained disturbance of gross and dexterous movements, or gait and station.

http://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm
http://www.ssa.gov/disability/professionals/bluebook/evidentiary.htm
Gaps in Medicare Coverage

- Co-insurances and Deductibles
- Nursing Home coverage is limited to 100 days per spell of illness and only if skilled nursing or rehab is required on a daily basis
- In-Home care is limited to part time, intermittent skilled care
- Custodial care is not covered
- “Donut-hole” in Medicare RX plans (possibly reduced by pending health care legislation)
Paying for Long Term Care

• Private Pay
• Long Term Care Insurance
• Medicaid coverage of:
  • Nursing Home
  • Assisted Living (State specific)
  • In-home programs (State specific)
Medicaid Eligibility for Long Term Care

• Applies to Nursing Home, Assisted Living, In-Home Programs (State Specific)

• Eligibility depends on:
  • Age or Disability
  • Limited Assets
  • No “penalized” transfer during Look –Back Period
  • Income insufficient to pay for needed care
Medicaid Exempt Property

- $2000 Asset Disregard
- Homestead Property (DRA limit on equity)
- Personal Effects and Household goods
- Automobile worth $4500 or less (unless needed for Medical Transportation, modified, or for employment)
- Burial Plot and Tangible Burial Merchandise
- Exempt Prepaid Burial Arrangements
Income Eligibility – Spend Down (Varies by State)

- Most states are “spend down” States: if an applicant’s countable income is $1 less than the private pay cost of care, the applicant is income eligible. Some States have maximum income limits for Medicaid eligibility purposes – “income cap” states. The Community Spouse’s income is not counted.

- Countable income is the income left after certain deductions:
  - Personal Needs Allowance - $30 (State specific)
  - Amounts need for Health Insurance premiums
  - Community Spouse Maintenance Needs Allowance
  - Amounts needs for medically necessary items and services not covered by Medicaid
Community Spouse Maintenance Needs Allowance

• If Community Spouse’s gross monthly income >$2,739, in many states he/she is eligible for diversion of income from the nursing home spouse in an amount sufficient to bring monthly income to $2,739.

• Many states use a standard lower than $2,739, which is the federal maximum.
Community Spouse Asset Allowance

• Generally, $\frac{1}{2}$ of the total non-exempt assets of the married couple at the time of the admission to the nursing home by the nursing home spouse, to a maximum of $109,540, is allocated to the Community Spouse. There is a minimum amount which varies by state. Many states automatically allow the $109,540 regardless of the amount of total non-exempt assets.

• Planning options vary by state - some states allow the Community Spouse to “just say no” and refuse to disclose or contribute separate assets to the nursing home spouse. Obtaining a divorce, legal separation, or other court orders may be an option. Sometimes the purchase of an annuity may be a planning option. Consult a qualified elder law attorney in your state.  www.naela.org
Deficit Reduction Act of 2005

• The federal Deficit Reduction Act of 2005, Pub. L. No. 109-171 (DRA), signed into law by President Bush effective February 8, 2006, made substantial, and for the most part punitive, changes to the eligibility rules for long-term care coverage. Most states have implemented the DRA.
Transfer of Asset Penalties for Long Term Care Medicaid Programs

- DRA Rule is a 60-month look back

- If a nonallowable transfer occurs during the look back period, a penalty period of ineligibility is calculated by dividing the total transfers made in each month by the average or actual private pay cost of the nursing home and begins with the day that the Medicaid applicant is receiving covered long term care and is otherwise eligible for Medicaid.
Medicaid Allowable Transfers

• There are certain allowable transfers that will not affect eligibility for Medicaid:
  • Transfer to or for the benefit of a adult disabled child (SSA definitions of disabled)
  • Transfers to a trust for the benefit of a disabled person
  • Transfers made exclusively for reasons other than to become eligible for Medicaid
  • Transfers for fair market value
  • Where the imposition of a penalty period will cause a hardship
  • Certain transfer of Homestead property (to spouse, disabled child, 2 year live-in caregiver child, etc.)
Exempt Trusts - OBRA

• OBRA Trusts allow Medicaid recipients to set aside their nonexempt funds in an irrevocable trust which can be used for their benefit and remain eligible for Medicaid.
  • Medicaid recipient must be disabled;
  • Trust must be Irrevocable and for the exclusive benefit of disabled Medicaid recipient; and
  • Trust must contain a “pay back” provision to the State at the death of the beneficiary
OBRA Trusts

• Individual OBRA Trusts
  • Available only to disabled persons under the age of 65

• Pooled OBRA Trust Subaccounts
  • May be available to persons over 65 depending on the State
  • Must be managed by a not for profit agency
Questions and Answers
Closing Remarks

Robin Elliott
Executive Director
Parkinson’s Disease Foundation
The archive for this *PD ExpertBriefing* will be available on

**Monday, January 18**

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Nutrition and Parkinson’s Disease
Christine C. Tangney, Ph.D., F.A.C.N., C.N.S.
Tuesday, February 23, 2010 at 1 PM ET

What’s in the Parkinson’s Pipeline?
David G. Standaert, MD., Ph.D.
Tuesday, April 20, 2010 at 1 PM ET

Fatigue, Sleep Disorders and Parkinson's Disease
Joseph Friedman, M.D.
Tuesday, June 1, 2010 at 1 PM ET
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(800) 457-6676

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