



Pathfinders in Elder Law



Elder Care Through Shared Housing - A Solution For Your Family?

Mom seemed “different” last night when Debbie called. Debbie tells her husband that she is worried about mom continuing to live alone. She is not ready for a nursing home, but they realize that her diabetes and increasing memory loss could mean that she will need extensive care some day. Mom could afford assisted living for a while, but the costs would eat into her savings. In-home services can be expensive and difficult to manage from a distance. An unspoken thought passes through each of their minds: should mom come live in our house?

There are several reasons to explore this option:


- The vast majority of people prefer care from family to care in an institution
- Sharing one home is nearly always less costly than maintaining two
- Medicaid legal planning can allow substantial transfers of assets for shared housing arrangements with

no transfer of assets penalty if Mom later needs nursing home care

- Medicaid in-home services may help with care needs and costs
- Debbie may be fairly compensated by her mother for taking time off to take mom to the doctor, managing her money and even direct personal care if she has a valid Personal Services Agreement
- Mom’s funds may be used for home modifications, addition of in-law quarters or the purchase of a different home to accommodate her if certain legal requirements are met

Debbie mentions her concerns to her friend, Jane, whose brother, Mark, had taken in their mother a few years ago. She describes how well the plan developed by their elder law attorney worked out.

Jane and Mark’s mother, Mary, was 78, widowed and becoming more frail. She lived in the family home, across town from both of them. Mom had had some fender-benders that convinced them all that she should no longer drive. Mom had heard that some people “lose their homes to Medicaid” when they need care. It was important to her that she be able to leave a legacy to her two children. Jane called Severns Associates and arranged an appointment for mom.



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First, the attorney determined that Mary had deep trust in both Jane and Mark. She wanted to give them Power of Attorney to manage finances for her and help her make a plan that would work over the long term to protect assets and allow her to have good care, close to family.

Mary had about \$80,000 in savings and investments. Her home was recently assessed for taxes at \$140,000, but in the depressed housing market, \$120,000 was what it would sell for. Her Social Security was \$1,400 per month.

Through the course of the discussions, the attorney discovered that Mark's wife was particularly fond of Mary and that they had considered moving Mark's mom into the extra room at their house. Jane supported the idea, but she wondered quietly how this arrangement would work out financially.

The attorney set out some options for the family to consider, and after a few weeks, they had a complete plan in place. Here's what happened:

Mary transferred \$100,000 to Mark and he and his wife gave Mary a "life-estate deed" to their home. Mark used \$20,000 to make some changes in the home to


accommodate Mary. He put the rest aside in a Trust that he and Jane managed.

A Personal Services Agreement specified that any services that Jane, Mark or Mark's wife provided for Mary would be fairly compensated from Mary's funds. Mary also agreed to pay her 1/3 of the household expenses while living with Mark and his wife.

In the second year, Mary had several health issues. Under the Personal Services Agreement, Mary's funds paid both Jane and Mark's wife for the time that each took from work to care for Mary as she recuperated.

In the third year, Mary had to be hospitalized and the doctor recommended discharge to a nursing home. The family was pleased to know that none of the money that Mary had transferred for housing or care would prevent Medicaid from helping her if she had to stay in the nursing home for years, even under the more restrictive "DRA transfer of assets rules" (see related article) that had been adopted.

As it turned out, Mary was able to return to Mark's home after 3 months and for a portion of the remaining two years of her life, the elder law attorney helped her qualify for Medicaid in-home services to help meet her needs.



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In the end, most of Mary's savings and the proceeds of the sale of her home had gone to her family. The Trust that held the money that she paid for the "life estate" in Mark's home was split between Jane and Mark to carry out her wish that they "share and share alike."

Jane was grateful that the legal plan had allowed her mother to remain with family, permitted Medicaid help when it was needed and still preserved a fair distribution of her funds between her children.

Debbie talked with her husband and mother that evening and the next day they called Severns & Stinson for an appointment. 🏡

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