



HOW TO AGE IN PLACE:

Hiring and Working With a Caregiver

Presented by

Legal Assistance for Seniors

& HICAP

The Health Insurance
Counseling and Advocacy
Program



**LEGAL ASSISTANCE
FOR SENIORS**

Health Insurance Counseling
and Advocacy Program



SHIP

State Health Insurance
Assistance Program

Navigating Medicare

Legal Assistance for Seniors

- Our mission is to ensure the independence and dignity of seniors by protecting their legal rights through education, counseling and advocacy.
- Our legal, community education, and individual Medicare counseling services are all **free** of charge.
- LAS is a 501(c)(3) agency (non-profit) that has served seniors and others in Alameda county since 1976.





LAS Helps With...

- Government Benefits
(Social Security, SSI, CAPI)
- Senior Immigrant Issues
- Elder Abuse Prevention
- Kin Caregiver Issues
- Planning for the Future
- Health Care Coverage
(Medicare & Medi-Cal)
- Housing
(limited case-by-case basis)

Health Insurance Counseling and Advocacy Program (HICAP)

HICAP provides assistance with Medicare and related health insurance by offering **free and objective** information to consumers about their benefits and options.



HICAP Services



- LAS receives HICAP federal and state funds through the Alameda County Area Agency on Aging.
- HICAP Counselors are registered with the state of California & must fulfill initial and continuing education requirements.
- LAS offers HICAP appointments at 30+ locations throughout Alameda County.
- LAS/HICAP provides educational presentations throughout the county to help Medicare beneficiaries know their rights and options.
- Difficult cases can be referred to the legal department.
- All services are free.

What is the difference between Home Health Care and Personal Care Services?

Home Health Care

- Physical, Occupational, or Speech Therapy – exercises and training to maintain or improve function
- Skilled Nursing – patient assessment and monitoring, patient/family teaching, intravenous therapy, wound care, catheter care, pain management, injections
- Medical Social Services – assistance with social, emotional, and financial concerns, and assistance with government applications
- Registered Dietician – nutritional assessment, diet teaching and menu planning
- Home Health Aide Services – If needed to maintain your health or treat your illness or injury while you are receiving skilled care

Personal Care Services

- Help bathing, dressing, or using the restroom
- Assistance with exercising, transferring, ambulating (walking), and/or positioning
- Housekeeping duties, food shopping, and laundry
- Driving to appointments or errands
- Preparing meals or assistance with eating
- Providing company and assisting with telephone calls and mail

Who Pays?

Home Health Care (skilled care)

- Medicare Part A (Hospital Insurance)
 - Fully covered with no copays
- Medicare Part B (Medical Insurance)
 - 80% covered by Medicare with 20% coinsurance
 - *Durable medical equipment (DME) and medical supplies related to Home Health Care are under Part B
- Medicare Part C (Medicare Advantage Plan)
 - Copays, if any, are determined by the plan in which you are enrolled

Personal Care Services

- Private pay – out of pocket
- Long Term Care Insurance – depending on the policy
- Medi-Cal – In Home Support Services (IHSS)
- Medicare Advantage Plans (Part C) – very limited and only under certain circumstances
- VA – Aid & Attendance (if served during wartime)

More About Medicare

From The Center for Medicare Advocacy

Home health care coverage under Medicare can be appealed if it's denied or terminated and meets the following criteria:

A physician has signed or will sign a care plan, certifying that the services are **medically necessary**

The patient is homebound. This criterion is generally met if non-medical absences from home are infrequent and leaving home requires a considerable and taxing effort.

*Occasional "walks around the block" are allowable.
Attendance at an adult day care center or religious services is not an automatic bar to meeting the homebound requirement.

The patient needs skilled nursing care on an intermittent basis (less than 7 days per week but at least once every 60 days) or skilled physical therapy, speech therapy, or continuing occupational therapy.

*Daily skilled nursing care is available for periods of 21 days or less (with extensions in exceptional circumstances when the need for additional daily skilled nursing is finite and predictable).

The care must be provided by a Medicare-certified provider.

COVERABLE HOME HEALTH SERVICES (Described on slide 6) If the triggering conditions above are met, the beneficiary is entitled to Medicare coverage for home health services.

ADDITIONAL HINTS

Medicare coverage should not be denied simply because the patient's condition is "chronic" or "stable." "Restorative potential" is not necessary.

Resist arbitrary caps on coverage.

Do not accept provider or home health agency assertions that aide services in excess of one visit per day are not covered, or that daily nursing visits can never be covered.

There is no legal limit to the duration of the Medicare home health benefit. Medicare coverage is available for medically necessary home care even if it is to extend over a long period of time.

The doctor is the patient's most important ally.

If it appears that Medicare coverage will be denied, ask the doctor to help demonstrate that the criteria above are met. Home care services should not be ended or reduced unless it has been ordered by the doctor.

In order to be able to appeal a Medicare denial, the home health agency must have filed a Medicare claim for the patient's care. Request, in writing, that the home health agency file a Medicare claim even if the agency insists that Medicare will deny coverage.

What to Consider

Assessing the Need

- Imagine the quality of life you want (Picture an ideal day)
 - Determine the level of assistance needed
 - Write down the needs and limitations, likes and dislikes, expectations
 - Know your NEEDS versus your WANTS
 - Discuss with your doctor to get authorization or recommendations *
- * Medicare requires a doctor's authorization for covered home health care services
- * LTC Insurance requires a doctor's report confirming the need for personal care services
- *Medi-Cal requires a doctor's authorization for In Home Support Services (IHSS)

What to Consider (cont.)

Other Decisions

- Determine who will pay and for how long...
- Create a realistic budget
- Find a reputable home care agency if you plan to go that route
- If hiring privately, how will you pay? (Cash, payroll system, etc.)
- Who is “the boss”?

Decide who will be responsible for:

-hiring

-communicating duties

-taking reports

-communicating with the agency (if using one)

*Power over care decisions should lie with the person receiving care to the extent that they have capacity to make those decisions

Where do I find a Caregiver?

- **Agency (Key Questions)**

- Is the agency licensed by the state? How long have they been in business?
- Are the caregivers licensed and insured? How does the agency train, supervise, and monitor their caregivers?
- Request that the agency send you a packet of information that describes their services, fees, and a list of references so you may review the information before sitting face to face with an agency representative.

** Some agencies allow you to set up trial services to test if they are a good fit for your needs. It is recommended doing this before a crisis or emergency situation occurs, so you can decide what services and care are important to you.*

- **Caregiver Registry**

1-877-424-5778 <https://www.cclid.dss.ca.gov/hcsregistry/About.aspx>

- **Local colleges**

- Nursing programs
- Community College HHA (Home Health Aide)/CNA (Certified Nursing Assistant) programs

Where do I find a Caregiver? (cont.)

- **Personal referral**

- Ask friends or neighbors who have employed caregivers
- Consult the community: Nextdoor or local community webpages, Facebook groups, Senior Centers, or local houses of worship
- Contact the Area Agency on Aging and ask for recommendations

- **In Home Support Services (IHSS)** for people with Medi-Cal*

- Registered providers through Public Authority (510)577-1980
- Family members, friends, neighbors

- **Local Resources**

- Easy Does It (Berkeley) (510) 704-2111 <https://easydoesitservices.org/>
(can assist with emergency caregiving needs in the Berkeley area)
- J-SEI Caregiver Directory (510)654-4000
- Family Caregiver Alliance (800)445-8106

*Effective January 1, 2024, Medi-Cal no longer uses assets to determine eligibility

Working with an Agency

Benefits

- Help with care plan/case manager
- Prescreened workers
- Relevant experience with a variety of needs
- Back up care
- Ability to change caregiver quickly if client needs change
- Someone to report to/help resolving issues
- Liability protection
- No paperwork with payroll, scheduling, or taxes

Challenges

- More expensive than private pay
- Choices limited to available staff
- Less flexibility around duties, hours, and overtime
- Minimum hours required by the agency
- May schedule more than one attendant if work hours are not consistent, needing to separately orient and adjust to each new person
- May experience more staff turnover
- May limit or charge more for certain tasks

Using a Registry or Personal Referral

Benefits

- May be more likely to find someone who speaks another language or shares interests
- Flexible hours around part-time or unusual schedules
- Spend less; pay more (A registry may have a one-time fee.) No agency fees so you can pay the caregiver a higher wage and still spend less than the cost of an agency
- Ability to set rules and expectations

Challenges

- Hiring process will take much more time and effort
- Responsible for calling references and/or doing a background check
<https://www.caregiver.org/background-checking-resources-help>
- Finding emergency coverage for illness or vacation coverage
- Paperwork including getting an employer identification number, withholding and paying Medicare, Social Security, and Unemployment taxes
- Must obtain Liability and Worker's Compensation insurance for protection
- Possible training costs for caregiver
- Ultimate responsibility for any complaints about care

Job Description Tips from the Family Caregiver Alliance

- **Training desired:** CNA (certified nursing assistant), LVN (licensed vocational nurse), HHA (home health aide)
- **Driving:** Do you want help transporting care receiver? Their car or yours? Reimbursement for mileage? Check with the DMV to confirm their driving record.
- **Transferring skills:** Getting someone out of bed, chair, using Hoyer lift
- **Experience with people with memory or other cognitive impairments**
- **Language skills:** Especially for people who are hard of hearing, or whose primary language is not English.
- **Housekeeping:** What sort of housekeeping do you want in addition to care for the care receiver? Cooking? If so, what kind of foods? Can the caregiver accommodate a special diet?
- **Pets:** What kind of care do they require, and what do you expect the caregiver to do?
- **Smoking:** Does the care receiver smoke? Does the caregiver smoke? If so, is this ok? Where is smoking permitted?
- **Hours:** What times/days are you hiring for?
- **Wages:** Hourly or shift payment? Holiday, vacation, or sick pay (most states now require three paid sick days/year)? How will the caregiver be paid, including withholding and taxes (Social Security, Medicare, disability, unemployment)? Cash or check? Weekly, semi-monthly, monthly? Employee or contract worker (W-2 or 1099)? For a fee, an accountant or household employee payroll service provider can assume this responsibility.
- **Are you providing food** for meals, or does the caregiver bring their own food?

Getting help for someone in an Assisted Living Facility (ALF) or Nursing Home

- Some people may choose to hire a caregiver to work with a person living in a facility where some level of care is already being provided.
- The caregiver can personalize the care and provide more support to the client. Many care facilities do an excellent job, but the individual attention is by nature limited.
- The cost for this would be in addition to the cost associated with residing in the facility, which is anywhere between \$3,000 - \$10,000/month.

Remember...

Caregivers are employees

(both hired through agency and/or hired on your own)

CA labor laws and local laws apply, including laws regarding:

- sick time
- over time
- minimum wages

*Always maintain proper documentation of hours worked and payment made to the caregiver



Additional Resources



Medicare www.medicare.gov **1-800-MEDICARE**

California Health Advocates www.cahealthadvocates.org Consumer information about Medicare and related health insurance topics for California beneficiaries (Fact sheets by subscription)

Center for Medicare Advocacy

www.medicareadvocacy.org or homehealth@medicareadvocacy.org

Detailed information about Medicare coverage

Hand in Hand <https://domesticemployers.org/> Tips and resources for interviewing and hiring caregivers

CANHR www.canhr.org **415-974-5171** or **800-474-1116** Consumer information on nursing homes, assisted living, Medi-Cal for LTC, and elder law attorney referrals

National Clearinghouse for Long Term Care Information

www.longtermcare.gov **202-619-0724**

California Partnership for Long Term Care www.rureadyca.org **916-552-8990**

California Department of Aging www.aging.ca.gov **916-419-7500** Can order or download **Taking Care of Tomorrow - A Consumer's Guide to Long Term Care**

For an Appointment...

with a HICAP Counselor in Alameda County,

call **(510) 839-0393**

or statewide **(800) 434-0222**

www.lashicap.org



- Are you looking for rewarding volunteer opportunities? Call our office and ask to speak with the Volunteer Coordinator for more information about how you can become a Medicare counselor with HICAP.
- If you would like us to present this information to a group or organization you know, please call our office and ask for the community education department or speak to us before you leave.

Contact Us:

Legal Assistance for Seniors

- (510) 832-3040
- www.lashicap.org
- 333 Hegenberger Road, Suite 850
Oakland, CA 94621



*LAS-HICAP is a non-profit organization.

Please consider making a donation so that we may continue to offer our legal and counseling services to seniors in Alameda county. You can talk to the presenter or go to our website for more information about how to make a tax deductible donation.