

## ***Medicaid Myths & Mysteries***

**Estate Planning isn't just about "later", it's also about now:** Wills and Trusts can provide instructions and protections for your loved ones "later", after your death. But proper planning should also address your possible future disability, and provide solutions and your instructions in such event. Durable Powers of Attorney, Living Will, Designation of Health Care Surrogate, and specific provisions in your Living Trust are the typical tools.

**The Greatest Fear is the Fear of the Unknown:** Current statistics indicate that 1/2 of all woman, and 1/3 of all men, who survive beyond age 65 will spend some time in a nursing home. That statistic, taken together with the average monthly nursing home cost, can be fear filling. However, the greatest fear is always fear of the unknown. What about Long Term Care Insurance? It is no accident that you have recently been receiving a series of solicitations, which many quickly discard because "it's too expensive". Find out! Ask for a quote based upon your age and circumstances. Ask for several quotes, but get the information. Education overcomes fear of the unknown, and presents solutions.

**Medicaid Eligibility:** If Long Term Care Insurance is not an available option, or is no longer an option, and circumstances nevertheless dictate the need for skilled nursing care then, after a brief period which may be covered by Medicare, all costs will be the responsibility of the patient until Medicaid eligibility has been sought and granted.

**Myths, Mysteries & Misunderstandings:** "If I apply for Medicaid they will take my home." "If I make any transfers before applying there will be a 5 year penalty." "Medicaid is only for the totally impoverished." All 3 are common statements confirming general misunderstanding. All 3 statements are wrong! Get the facts!

**Medicaid Income Test:** There are a series of qualifications (including a determination of care level) that must be met prior to Medicaid approval. The 2 financial tests relate to income and assets. Florida is an "income cap" state (be aware that Medicaid is very state specific); this year the applicant's gross monthly income, from any and every source, may not exceed \$2,022.\* If applicant's income exceeds the cap by even a few cents, applicant is ineligible, but there is a solution (there's always a solution). Medicaid rules permit the creation of an Irrevocable Qualified Income Trust as a remedy. *\*now \$2,250*

**Medicaid Asset Test:** Medicaid eligibility dictates that the applicant's countable assets not exceed \$2,000. However, certain transfers are permitted and many types of assets are deemed not countable; such as the applicant's home, car, irrevocable prepaid funeral contract, to name a few. Medicaid eligibility is not intended to require a family's impoverishment (all income of applicant's spouse is irrelevant for eligibility caps; all or a portion of applicant's income may be diverted if needed for support of spouse; in addition to home and other non-countable assets, applicant's spouse may own countable assets of \$109,560)\* and Medicaid eligibility does not mandate that a single person's legacy must consist only of unpaid bills and funeral expenses. Planning is permissible.

*\*\$123,600*

**Gifts and Transfers For Less Than Full Consideration:** If you make, or have made an “uncompensated transfer” (a gift, or a transfer for less than full fair market value) within 5 years prior to the date of Medicaid Application (within the “lookback period”) then you will not automatically be ineligible for 5 years, but the transfer(s) may result in some period(s) of ineligibility. If there is an ineligibility period, it’s duration is measured in months based upon the total amount of all gifts versus the “Penalty Divestment Divisor”<sup>\*</sup> (1 month ineligibility for each ~~\$5,000~~<sup>\*</sup> gift increment), but actions can be taken to correct the transfer and avoid or diminish the period of ineligibility. *\*now \$8,944*

**Cautions and concerns:** Many times families are first introduced to the option of Medicaid in the midst of crisis, when Spouse, or Mom or Dad has been hospitalized and will next require long term care. The emotional crisis is real and the financial crisis is looming. Medicaid is an excellent program, but the details of the eligibility requirements are often overwhelming. There is a vast amount of shared misunderstanding about Medicaid, but understanding can be found and should be sought in order to avoid the expense of unnecessarily delayed eligibility.

**Recommendations:** 1. Long Term Care issues and options (including long term care insurance) should be considered and explored in the course of your Estate Planning process. 2. Have your current planning documents (Will or Trust, Durable Power of Attorney, Healthcare Power of Attorney) reviewed to determine if they fully reflect and accomplish your current goals, then update as appropriate. Is your Durable Power of Attorney “medicaid ready”? 3. Medicaid Application requires complete and accurate disclosure of all income sources and assets. Never submit an application before gathering all necessary information, and never submit an application unless you are confident of eligibility. 4. Never take any action you believe (or have heard) will “enhance” your medicaid eligibility, unless you are aware of all consequences and unless it is part of an overall strategy. 5. If you or a loved one is currently faced with the expense of nursing home care, promptly consult with and seek solutions and advice from an attorney having current knowledge and experience in the area of Medicaid eligibility.

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