# A MEDICAID STORY

## (BASED ON REAL LIFE EVENTS)

BY BEN KINIRY, ESQ.

I was contacted by a woman named Kim (not her real name), one of our fellow Bow residents, seeking counsel regarding a Medicaid matter. Her husband, Jason (you guessed it, not his real name) had been diagnosed with dementia some years ago and was now in a long term care facility.

Kim and I met to discuss her concerns. Here is what she told me: Jason is 72 years old. Some years after the diagnosis of dementia his mobility had declined and he eventually took a fall in their home. The fall necessitated a short hospital stay and a couple months of rehabilitation. Jason returned home for a week or so, but fell again. It was clear to Kim, and her family, that he required a level of care she was not equipped to provide in their home.

At our meeting, Kim made a statement similar to statements I've heard in the past. In regards to her effort to keep Jason at home she said "I thought I might die if I continued to take care of him." I, most unfortunately, had a previous client who was taking care of her husband and she died. I can't say that it was her endless efforts that eventually led to her demise, but to this day I believe her efforts played a role. Since that time, I'm a much better counselor and when I see the signs, I'm compelled to speak my mind. I certainly understand that spouses will make heroic efforts to keep their loved one out of a long term care facility, however, I suggest that you know your limitations and when to ask for help.

Also, regarding the family finances, Kim had been paying out of pocket for Jason's long term care for some months. In Jason's case the monthly bill for his long term care is in excess of $7,000. Considering their given income level and the fact that all of their other life cost won't go away, the result is that most of the $7,000 would need to come out of their life savings if something didn't change. How long could she withstand this monthly expenditure? How long could your family?

Granted, Jason needs to receive this care, but Kim is only 68 years old and has many years ahead of her, how is she going to pay for her cost of living if their life savings is gone?

Kim had discussed the cost with the nursing home and with the State agency that implements the Medicaid for long term care program (helps pay for some or all of the long term care bill, which is designed to protect the healthy spouse financially)(see prior articles on this

topic at www.thebowtimes.com under the Elder Law tab). Kim was informed, in so many words, that Jason would not qualify for assistance and therefore she would need to continue to pay the full bill out of pocket until half of the family assets were spent on Jason's care (excluding the home and automobile).

Additionally, she was led to believe Jason's income would need to be paid to the nursing home. Jason is the breadwinner, so to speak, and his income is $5,500 per month. Kim's income is under $400.00 per month.

Basically, Kim was being told she would eventually have to survive on her income alone and half of what would be remaining of their life savings. *Are you feeling Kim's stress*?

**What could be done to help Jason and Kim?** Though Kim was told Jason did not qualify for Medicaid for long term care, this was not the absolute truth of the matter. For purposes of this article, there are two sides to applying for the Medicaid long term care benefit, the asset side and the income side.

**The asset side**. Technically, Jason and Kim did not qualify due to how they titled their assets. A few changes to their financial accounts would place them more in line with being approved. Ideally, Jason (through the use of his Durable Power of Attorney (see prior articles)) would transfer his share of the family home to Kim (if not immediately, then in the very near future).

Did Kim really have to spend half of their assets? No, this is not accurate. It's possible, once the funds are moved into Kim's name, to then change how she holds title to those funds. The result is significantly more than half of the family assets will be retained by Kim.

Good news, Kim will still have savings to help provide for her remaining years!

The **income side**. It's true that Jason's income, at a quick glance, disqualified him for the Medicaid long term care benefit.

However, that is only the beginning of the analysis. There are deductions that must be subtracted from Jason's total income (such as medical insurance premiums and any income that Kim is entitled to keep (discussed below)) prior to an eligibility determination being made. In my opinion, after the required deductions, Jason will qualify for the program.

What about Kim's income? Even if she keeps additional savings, the loss of Jason's monthly income of $5,500 per month would be devastating. How could Kim live on less than $400 per month? Does this seem unfair or extreme to you?

Well here is another issue that was not brought to Kim's attention. Under federal law, there is a formula that is designed to protect Kim, to make sure she has a minimum amount of income.

In her case, the formula results in a requirement that Kim receive $1,800 per month of Jason's income, prior to the remaining income going to the nursing home providing Jason's care.

More good news, Kim will still have income to help provide for her remaining years!

**The end result**: Kim will retain well in excess of half the family assets and a total monthly income of $2,200 per month.

Jason's remaining income will go to pay for his care at the nursing home and the Medicaid long term care benefit will pay the remaining fee balance, at a reduced rate.

I'm so glad to have had the opportunity to serve Kim, and her family, in this difficult time in their lives.

The information provided in this article does not constitute legal advice.

It's more like a motivational speech to get you to take action in regards to setting up an estate plan.

***Prepare for the worst, hope for the best!***