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ONE FAMILY AT A TIME!**

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A GIFT FOR YOUR FAMILY DURING THIS HOLIDAY SEASON: *Part 2*

A critical question: What can happen when a family hires someone who is not an experienced Elder Law Attorney to assist them with Medicaid Planning/spend-down/application?

The point of this writing, in part, is that choosing the wrong people to assist you can, and often does, cost the family dearly. In fact, the amount of litigation over the failure of successful Medicaid planning is so significant it is causing a push for more regulations in who may assist families in applying for Medicaid benefits.

Here are a couple of real-Life examples.

In just the last few months we have been contacted by two families for assistance with Medicaid applications. I would like to take a moment to tell you what happened in these two cases as I believe they are representative of the kinds of things that can happen to a family when they choose to work with someone who is not an experienced Elder Law Attorney with significant asset protection and Medicaid planning knowledge.

The **first family** (not the one in the White House) that reached out to us had hired an attorney to assist them in applying for Medicaid, however this attorney does NOT specialize in Elder Law.

In this case the attorney did not recommend a plan of action for the spend-down. The default plan was for this family to pay the nursing home a sum well in excess of \$100,000 and then to apply for Medicaid. This is \$100,000 that the Kiniry Law Firm is in the process of saving for the community spouse (who will need those funds over the remainder of her lifetime). In other words, the community spouse legally had the opportunity to practice financial self-defense but was not being provided that option due to the lack of knowledge of those assisting her.

The **second family** (also not in the White House) asked the nursing home to take on the role of assisting them in making the application for Medicaid (this is NOT the same as quarterbacking a Medicaid strategy). As you are aware a nursing home is typically a for-profit business and the way they make a profit is to provide long-term care services. Perhaps you can see how asking the long-term care facility to help you in Medicaid planning could be a conflict of interest and not one that is necessarily going to help a community spouse practice financial self-defense. Even if you do not agree that there is a conflict of interest, those who are performing the task of assisting the family do not have the knowhow to quarterback a spend-down that is going to provide the community spouse with all the advantages the law offers.

Luckily, someone was kind enough to suggest to this family that they contact the Kiniry Law Firm. In this case we have crafted a spend-down which will result in the community spouse retaining approximately \$135,000, of which some, or all, would have been spent-down.

In both of the above cases, I cannot emphasize enough how much of a difference the additional funds will make in providing financial security for both of the community spouses for years to come.

So here is your gift of advice: **If you desire to start protecting your assets today, or would like to plan now for a possible Medicaid spend-down and application (this is ideal), or need to apply for Medicaid under emergency conditions, it is imperative that you have an experienced Elder Law Attorney as your quarterback** (you could get Tom Brady, but he left us)!

I am aware this does not seem like such a great gift as you sit on your couch, sipping coffee in the comfort of your current life circumstances, HOWEVER, if you find yourself in the midst of an emergency Medicaid spend-down (meaning you did not plan ahead and the world now has a plan for you) you will experience a daunting level of stress, fear and loss of control (everyone does) and hiring a competent Elder Law Attorney can bring some certainty and therefore peace of mind.

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



The Bow Young at Heart Club

Upcoming Event

JANUARY 25, 2023

Bruce Treat will be doing a presentation on Maple Sugaring.
At Old Town Hall, 91 Bow Center Road, 11:30 AM – 2:30 PM.

Presentation begins at 12:30 PM. The public is invited to attend.

Discounts for Students with a "B" or Better Average



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