



**PROVIDING PEACE OF MIND
ONE FAMILY AT A TIME!**

**ELDER LAW + ESTATE PLANNING
PROBATE LAW + VETERANS PENSION
SPECIAL NEEDS TRUST/DISABILITY PLANNING
CONSERVATORSHIPS/GUARDIANSHIPS
ASSETS PROTECTION/MEDICAID PLANNING**

9 Van Ger Drive, Bow, NH 03304 Tel: (888) 471-2903
Email: Ben@KiniryLawFirm.com www.kiniryfirm.com

YOU NEED TO HAVE YOUR MEDICAID STRATEGY IN PLACE NOW!

"If I could only provide one piece of advice to all people over age 60, it would be to establish an estate plan today, that best prepares you for a Medicaid Application tomorrow!" Benjamin J. Kiniry.

What if you or a loved one's health is declining to the point of needing long-term care nursing services. As you are no doubt aware, paying for nursing care is a rather expensive undertaking. Ask around and you will find families who were unprepared and ultimately found themselves in shock and awe over paying for the high cost of long-term care (not to mention the massive undertaking it is to apply for Medicaid to pay for that expensive care which is a topic for another day).

When I meet with a new family, we always discuss the elephant in the room, the fear about how they will pay for long-term care. Either I bring it up or they do. Generally, there is a question asked such as "How do I protect my spouse financially when she has to use our income and principle to pay for my nursing care? Financially speaking, they want to find the best way, given their specific circumstances, to protect what assets they can for their spouse's benefit, or alternatively, to leave a legacy to their children.

As the title states, **you need to have your medicaid strategy in place now!** You think lawyers are expensive, wait until you start writing those checks to the nursing home, that will take your breath away, perhaps literally. The best defense is a good offense and a good offense in this case means planning with a professional now and having an estate plan in place that maximizes benefit to you under the spider web of Medicaid laws!

What is Medicaid? Glad you Asked! The Medicaid program is the answer for many families. The following paragraphs explain what you should know about the Medicaid program as a starting point. The following paragraphs were taken from a writing by the National Academy of Elder Law Attorneys, Inc. (NAELA).

THE ISSUE

Medicaid is a joint federal and state program that provides payment for medical care for persons unable to afford to pay. Medicaid covers physicians' services, hospital care, supplies and other necessary services once a person has been made eligible for the program. It also pays for the expenses of long-term care in a nursing home.

The Medicaid program is administered independently in each state. While the basic eligibility standards are the same throughout the United States, there are significant differences between the state Medicaid programs. Despite these differences, eligibility is generally based upon the amount of assets a person has along with the income that the person receives. Eligibility is determined at state Medicaid offices and, in the case of married individuals; the assets and income of both spouses are considered in the determination process.

It is important to distinguish between Medicare and Medicaid. Medicare is an insurance program providing payment for medical needs for persons 65 and over and for certain people with disabilities. All persons 65 and over, regardless of financial resources or income, are eligible for Medicare. Medicare and Medicare supplemental insurance, however, provide very limited coverage with regard to the cost of long-term care in nursing homes. These non-covered services must be paid privately by the individual, unless the individual has coverage under a long-term care insurance policy. Medicaid, on the other hand, pays for medical needs for those of any age that have been determined to be eligible. In fact, a person with limited income and resources who has Medicare coverage may also qualify for Medicaid benefits.

WHAT YOU NEED TO KNOW

Medicaid is considered to be one of the most complex laws of the United States and, further complicating matters, each state has a different version of Medicaid. Many Elder Law attorneys have carefully studied the Medicaid statutes and regulations and are able to assist clients.

Medicaid is often of importance to middle-income Americans because Medicare does not cover the costs of long-term care for illnesses such as Alzheimer's disease or paralysis caused by a stroke. Most people who need such care for extended periods will eventually deplete their assets and become unable to pay the costs of their care.

At such a time Medicaid is available to pay the difference between their income and the actual costs of care provided in a nursing home, including room and board, as well as physicians' care, hospital care and all other reasonable necessary medical expenses. Medicaid covers the costs of such care in nursing homes, adult care homes, hospices, and, in appropriate cases, in the individual's own home.

If faced with the possibility of such long-term care expenses, there are certain rules that you should be aware of:

- In determining eligibility for Medicaid payment for long-term care expenses, the eligibility team will review the individual's actual need for care, the person's available resources (including life insurance and retirement plans) and income received from any source. In some states, if monthly income exceeds a certain amount, then the individual is ineligible for Medicaid, even though the individual's long-term care expenses exceed his or her income.
- In determining eligibility, a person will be disqualified from Medicaid for gifts made within the previous few years.
- In determining eligibility for one spouse, the assets and income for both spouses are considered, regardless of premarital agreements, community property laws or the nature of the ownership of the asset.
- Assets of married couples, however, receive special treatment so that the spouse who remains living at home will not be unduly impoverished. Such a community spouse is permitted to keep one-half of all of the available assets (up to a federally-established maximum) and is allowed to keep a minimal amount of income of the couple in order to provide for support expenses at home.
- In addition, there are certain resources that are considered non-countable for eligibility purposes; these include the family residence, household contents, a vehicle, a prepaid burial fund and other necessary items.
- It is important to be aware of the state specific eligibility provisions and exemptions so that assets will not be unnecessarily spent down before applying for Medicaid.
- Finally, it is important to know that there are appeals processes built into the Medicaid system. If you are unhappy with eligibility determinations, care decisions or placements made under Medicaid, there is a process for an administrative hearing and even court proceedings to enforce your rights."

THE TIME TO ACT IS NOW, NOT IN A STATE OF EMERGENCY!

My opening statement is the absolute truth. I see the devastation to families firsthand and I, and other Elder Law Attorneys, have the knowledge to lessen the blow significantly. When you know things that can keep others from suffering and you want to share it, this is me sharing it.

I want to encourage you to act now. Practice financial self-defense by being pro-active. Elder Law Attorneys know things that no one else knows, and this knowledge is the key to having life go as smoothly as possible in a long-term care scenario by establishing a plan today, so that you will not suffer unnecessarily tomorrow.

ENOUGH SAID.

*National Academy of Elder Law Attorneys, Inc.
Guardianship & Conservatorship (2008) (NAELA).*

