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PROPER PLANNING MAY CREATE PEACE OF MIND



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MYTHS ABOUT MEDICAID

In past issues we have addressed myths and misconceptions about Medicaid and asset protection planning. In this newsletter we'd like to discuss a misconception about the Florida homestead.

The Tale: A widowed client conveyed all her interest in her Florida homestead to her children. Less than three years after the transfer her children sought to apply for Medicaid for the mother. The application was denied because the transfer of the homestead created a penalty period that was still running. Until the penalty expired, the family would have to pay privately for the mother's medical care.

The Tip: Florida homestead is a non-countable asset for Medicaid. It does not have to be sold and so long as it will go to family members at the owner's death it is not subject to the Medicaid lien. Some families wish to avoid the probate process and so they either add the names of their children onto the deed or, transfer ownership to the children, both of which create a problem for Medicaid eligibility. Title to the homestead can be structured in a way to avoid probate and not create a

penalty for Medicaid. It must be carefully drafted so that the children do not receive a present ownership interest, yet their interest becomes effective upon the parent's death.

It is important that people do not rely on advice that may have been given to their neighbor. Medicaid rules change so the law that applied when the neighbor obtained advice or applied for Medicaid may not apply to you. In addition, the facts of each person's life will be different and your neighbor may not disclose all of their facts to you. It is recommended that each person's situation be analyzed by a competent elder law attorney to arrive at the best solutions possible.

New 2004 Eligibility Requirements:

A healthy spouse may keep \$92,760.00 of assets in order to qualify their ill spouse for Medicaid. The healthy spouse should have a minimum of \$1,515. monthly income in order to meet household expenses; if the income is below that they are entitled to some of their ill spouse's income. A person applying for Medicaid cannot have gross income exceeding \$1,692.00 per month; if they do they need an income trust.

"If you have clients who need assistance finding the right place for their ill family member to live and in determining how to pay for it we can assist them with becoming eligible for Medicaid."

ANNOUNCEMENTS:

Stephanie has been elected Chair of The Florida Bar Elder Law Section as of July 1, 2003.

Our firm is a proud Business Patron of the Eagle Program of the Academy of Florida Trial Lawyers.

Meet The Staff

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