

Medicaid Matters and more...

Helping seniors and their families make informed decisions about long term care.

January 2010

New Year's Medicaid Tip: A Power of Attorney for Property is an important document that can allow people to protect their assets and qualify for full Medicaid benefits. A Power of Attorney can also help avoid the costs of having a court appointed Guardian, should one become unable to handle their own affairs. There are pro-bono legal services that can prepare a Power of Attorney for a small fee. There is no excuse to put this off – resolve to make an appointment to get your Power of Attorney prepared or updated this year.

Upcoming Seminars:

4 Mondays @ Mather Café – 7134 W. Higgins, Chicago, IL – (773) 774-4804 – Solving the Long Term Care Puzzle

This 4-part series helps you make informed choices regarding long term care for you or your loved ones. Come to one or all four. Each session builds on previous material. 2/1 – Medicare & Long Term Care Insurance; 2/8 – Reverse Mortgages & In-Home Care Options; 2/15 – Medicaid Basics & More; 2/22 – Legal Issues from a [former] Paralegal's Point of View.

Medicaid Matters welcomes the opportunity to help everyone make informed decisions about long term care. If you would like Medicaid Matters to present to your organization, please contact Wendy @ (847) 757-8259.

Life and Death:

Several of my clients have been caught without a very simple document that could have protected additional assets. A Power of Attorney for Property could have more fully protected life insurance for the purpose in which it was intended: burial expenses.

Some families with limited resources do not see the value in getting legal documents, such as a Power of Attorney, prepared. After all if there is no property, why would one need a Power of Attorney for Property? A Power of Attorney as kind of like a reservation at a restaurant: you may not need it, but it is really helpful if you do. In the case of a Power of Attorney for Property, having one can make a difference between having a decent funeral or being buried in a pauper's grave.

Under the Illinois Medicaid rules, a life insurance policy that has been irrevocably assigned to fund a prepaid funeral plan is considered a non-countable asset (Policy Manual: 07-02-08-d: Prepaid Burial Contract Funded by Life Insurance). Medicaid also allows a certain amount of assets to be transferred to the non-Medicaid spouse. However, if the owner of the life insurance is no longer competent to sign an assignment or transfer of ownership, and there is no one appointed under a Power of Attorney for Property, there may be no way to sell, transfer, assign, or cash in the life insurance policy. The cash value of life insurance can be considered a countable asset and cause a spend-down.* In addition, the life insurance death benefits could be reduced or lost altogether if there are no funds to pay the premiums.**

Editorial comment: Although court proceedings could be initiated to have someone appointed Guardian with the ability to transfer property, the cost of doing so may not be worth the value of the property being protected. The client is in a catch-22 in that they are expected to pay a spend-down, but how? If the client is not able to transfer, assign, or cash in the life insurance policy, and that is their only asset, how are they supposed to pay the spend-down? It doesn't seem fair that Medicaid only allows a \$1,500.00 burial allowance (or up to a \$3,500.00 cash value, if the \$2,000.00 Medicaid applicant's asset allowance is also taken into account). Perhaps the rules pertaining to life insurance and the burial exemption could be amended, so that those unable to make transfers (that they would be able to make if they were competent or had a Power of Attorney) aren't penalized in this way. Especially in cases when a life insurance policy was purchased to alleviate family members of the burden of paying burial expenses.

*Assets that exceed certain asset and burial allowances can cause a spend-down. Medicaid benefits begin after the applicant has provided proof of (medical) expenses which are expected be paid or "spent-down" from those excess funds.

**Medicaid recipient's income less certain deductions is considered available as his/her co-pay. In the case of a single person, there may not be any income left after the deductions and co-pay to cover life insurance premiums.

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