

Medicaid: No time to be penny-wise, pound-foolish

By Linda T. Cammuso

We all love to save money, but when it comes to applying for MassHealth (Medicaid) benefits in a nursing home, the wise approach is to use an attorney to help you through the process. Applying for Medicaid is extremely complex — a fact that may not be obvious from a cursory glance at a blank application form or from others' anecdotal experiences. The reality is simple mistakes or oversights could needlessly cost you hundreds of thousands of dollars.



Legal Briefs

An elder care lawyer can advise you not only on the tricks and pitfalls of an application, but on possible ways to accelerate availability

and preserve assets. For example, few people know or fully understand that federal and state laws provide numerous protections for a Medicaid applicant's spouse who still resides in the community. As a result, many couples needlessly spend hundreds of thousands of dollars of their own assets before securing Medicaid eligibility. Some simple and effective legal and financial planning, even at the last minute, can completely avoid private spend downs for couples.

The law entitles the community spouse to receive a community spouse resource allowance (CSRA), which is an amount of so-called "countable assets" the community spouse can keep. However, the rules governing what is considered a "countable asset" can be murky and extremely fact-specific.

Spouses are also entitled to a monthly maintenance needs allowance (MMNA), which entails a range of income that the community spouse may retain on a monthly

basis. Here again, the rules regarding countability of income are not always clear, causing many spouses needless anxiety prior to applying. With diligent help from qualified legal and financial professionals, it might be possible to purchase an annuity using countable (non-exempt) assets to shelter those assets while providing the community spouse an additional income stream.

Couples who fail to obtain legal guidance in the Medicaid realm may also lose out on additional post-Medicaid eligibility planning opportunities.

The most common scenario that is overlooked is the community spouse predeceasing the nursing home spouse. Since most couples have so-called "reciprocal wills" that leave assets to each other, a nursing home spouse could end up with all the assets back in his/her name and lose the Medicaid benefits the couple worked so hard to secure. Single individuals also have planning opportunities,

ahead of time and at the last minute, that are too often overlooked.

As part of legal Medicaid planning, an elder law attorney will help identify planning concerns and opportunities that you may not even be aware of and develop solutions that protect assets for the spouse, children and beneficiaries. When long-term care services are needed, it is not the time to be penny-wise and pound-foolish. In the long run, working with an experienced attorney will ensure your assets are protected and that you get the proper assistance throughout the application process.

Linda T. Cammuso, a founding partner at Estate Preservation Law Offices and an estate planning professional, has extensive experience in estate planning, elder law and long-term care planning. She may be reached at www.estatepreservationlaw.com or by calling 508-751-5010. Archives of articles from previous issues may be read at www.fiftyplusadvocate.com.