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Expansion of Look Back Period

A “look back period” is a number of months prior to an individual applying for Medicaid to pay for the costs of long-term care. If that individual made any gifts during the look back period, then the individual will not be eligible for Medicaid right away and will have to privately pay instead. In some instances, the gift may need to be returned.

There are two major government programs that pay for long-term care: *chronic* Medicaid and *community* Medicaid. Chronic Medicaid pays for the costs of long-term care in a skilled nursing home setting. Community Medicaid pays for the costs of care in other settings including: at home; through the Program of All-Inclusive Care for the Elderly (P.A.C.E.); through a Consumer Directed Personal Assistance Program (CDPAP) in which a family member or friend can be paid to provide care; and in assisted living program facilities.

Since 2006, there has been a sixty-month look-back period in place for chronic Medicaid benefits. For now, there is no look-back period in place for community Medicaid benefits. This means that an individual may transfer assets presently and be eligible for community Medicaid benefits the next month. However, a thirty month look-back period for community Medicaid benefits is scheduled to take effect on October 1, 2022, unless the federal government steps in to delay implementation.

This means that families considering applying for community Medicaid benefits have a very limited time to act so that they can preserve assets to the fullest extent possible. If you or anyone you know may need community Medicaid in the near future, contact us so we can review your options. Please view our free, informational video, “**Community Medicaid: What You Need to Know About the Lookback Period,**” available on our website under the Workshops tab.

Why Do People Put Off Estate Planning?

The statistics are rather alarming. In 2005, 50 percent of Americans had a will; today, only 32 percent of us have one. Meanwhile, only one in three Americans over the age of 55 has a durable power of attorney, and a mere 41 percent of this same demographic has advance health care directives.

Why is this? People often excuse their lack of estate planning by explaining “they haven’t gotten around to it”, they “don’t have enough assets to leave to anyone”, they are “too busy”, they think estate planning is only for “old” people, and they do not want to think about the inevitability of death.

In truth, proper estate planning isn’t just about what happens to one’s assets after death, it’s about taking control of one’s life. Everyone can benefit from having an estate plan. At the very least, your plan should include all of the following documents:

Last Will and Testament

A last will and testament allows you to accomplish a number of important goals. You can name your beneficiaries and specify the assets you want them to receive; name a guardian for your minor children; and choose the person you want to settle your estate (known as the Executor).

Health Care Proxy

This important legal document allows you to name a person you trust to make health care decisions on your behalf if you are no longer able to make them on your own.

Living Will

This allows you to express your wishes regarding what medical treatments you want, or do not want, in an end-of-life situation. A living will differs from a health care proxy in that it details your specific wishes, rather than merely appointing the person you authorize to direct your care.

HIPAA Release

A HIPAA release lets you choose who can receive information about your medical condition. Hospitals and medical providers can be prosecuted for violating the Health Insurance Portability and Accountability Act (HIPAA) if they reveal your medical information to people not named in your HIPAA Release.

Power of Attorney

This document is similar in concept to a health care proxy: it allows you to designate another person to make decisions on your behalf. Unlike a health care proxy (which controls decision making for *medical* purposes), a power of attorney allows another person to make decisions about your finances.

Estate planning can help you accomplish many other goals as well. For example, trusts can protect your privacy and enable your estate to avoid the delays and frustration of probate. Trusts can also stipulate when and under what conditions your heirs will receive their assets, which is helpful if you think your children are not mature enough to manage an inheritance. An irrevocable trust can protect your assets against threats like long-term care costs, divorce, creditors, lawsuits, and more.

As you can see, proper planning allows you to take control of your affairs while you are alive *and* after you pass away.

Educational Offerings

Know someone who would benefit from learning about estate planning? Wondering whether your estate plan is still up-to-date and poised to meet your goals? Know someone concerned about financing the costs of long-term care? It is easier than ever to participate in one of our workshops from the convenience of your computer, tablet, or smart phone. Visit www.cg-lawyers.com/workshops/ or call (315) 309-8211 to register for one of our free, virtual workshops:

Estate Planning Essentials.

This workshop is the starting point for the estate planning process. It provides an important background for anyone seeking to learn more about the components of a sound plan.

Community Medicaid: What You Need to Know About the Lookback Period.

This workshop explores changes to New York law regarding look-back periods for community-based Medicaid benefits.

Never Too Late: Protecting Assets from Long Term Care Costs if you did not Plan in Advance

This workshop explores options for financing long-term care for individuals who did not plan in advance. Even if someone is already in a nursing home, it may not be too late to save significant assets.