

The “Daily Plan-It™”

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Estate Planning Essential: Know the Medicaid Rules

Do you remember the 1980's ad campaign, "This is not your father's Oldsmobile?" It was an attempt to win over a new and younger demographic of car buyers. In the same way, traditional estate planners need to become aware of the relevance of Medicaid rules to their estate planning practice in order to stay current.

Adverse consequences

Medicaid laws impact virtually every aspect of estate planning. Typical strategies that lawyers use often create adverse consequences to Medicaid eligibility. Take, for example, the transfer of a home to children to "protect" it from future nursing home claims. In almost all cases, the home is exempt when determining Medicaid eligibility. In addition, that simple transfer can unintentionally create other adverse consequences.

Did you know, for example, that if the house is transferred without reserving a life estate, there's a loss in the "step-up" in basis at the client's death, and a completed gift has occurred? If it's transferred with a reserved life estate, a gift of the remainder interest has occurred without the ability to utilize the annual gift tax exemption because it's not a present-interest gift. There are other adverse effects: The property could become owned by an unintended beneficiary, such as the spouse of a deceased child; it could become listed in a bankruptcy petition of a child or liened by a judgment creditor of a child. The transfer also has Medicaid qualifying implications: It can disqualify an individual from Medicaid for 60 months or more.

Trust and gift planning

Medicaid also has an impact on trust and gift planning. Many clients believe that their trusts are protected from Medicaid by Revocable living trusts. But the truth is, whatever a client can get, Medicaid can get. All assets in a revocable trust are considered "available" when determining Medicaid eligibility.

Gifts can also have significant ramifications. A simple gift to a grandchild for college, or to your

church to build a new hall, can lead to Medicaid disqualification for up to five years, or even more.

How much do you know?

These consequences are not likely to be your client's intention, of course. But a larger question looms: Are you aware of Medicaid eligibility rules? Can you guide clients on transferring assets, creating trusts, or giving gifts? Don't be intimidated because the rules are constantly changing. That's typical in our industry. If you aren't able to handle these complex issues for your clients, are you really serving their needs?

Going with the flow

Estate planning is not the same as your father's Oldsmobile, but it's not what it used to be. As a skilled financial professional, you must commit to learning the Medicaid laws and rules to accomplish the goals and objectives of your clients. Otherwise, you may suffer the same fate as Oldsmobile.

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