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## ELDER LAW NEWS UPDATE

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TO: Clients, Friends and Colleagues

\*\*Check out [www.eldercareatty.com](http://www.eldercareatty.com).

### MEDICAID PLANNING IS LAWYERLY WORK

It has come to the attention of the Elder Law community of attorneys and their network of professional support, that hospitals and nursing home facilities in this state may be discouraging patients from seeking out legal advice when applying for Medicaid Assistance. More to the point, nursing home facilities are now taking on the Medicaid Applications for patients needing care and working directly with the Department of Social Services. Patients are not benefitting from professional legal services which protect patients' resources above the allowable 2019 threshold of \$15,450.00. This process is costing families hundreds of thousands of dollars in many cases, which will be budgeted and paid directly to the nursing home facilities instead.

#### **Medicaid Planning is lawyerly work. This is a BIG deal!**

*It is the omission of information which is most devastating to the patient's financial status, such as:*

- Protecting resources above \$15,450.00 with promissory note and gift planning,
- Spousal refusals may not be recommended,
- Legal safeguards for the well spouse, such as trusts & advance planning, will not be implemented,
- Penalty periods will not be ascertained and planned for upon application so that patients may be denied Medicaid for a period of time and their families may unexpectedly have to pay for the patient's bed,
- Guardianship proceedings will not be brought to protect a patient's resources,
- Medicaid will be named as a beneficiary on all of a patient's annuities submitted at application,
- Disabled children, allowable recipients of resources, may be left without support,
- Unincurred legal fees will now be paid to the nursing home for the patient's bed, as a spend down,
- No steps will be taken to protect the family home, etc.

I alert you to this practice so that you may be informed and first seek counsel, if you, a loved one or a friend are in need of Medicaid Assistance.

### ELDER LAW WORKSHOPS ARE COMING

In the Spring, I will be setting up a series of Elder Law Workshops, as an interactive forum for clients, their families and friends to bring their questions and learn. Some of the topics will be Avoiding Probate, the 2020 Medicaid eligibility requirements, and when is a Guardianship appropriate? A winter Newsletter will provide more information for those of you interested.

*Have a wonderful Holiday Season!!*