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Seniors and Special Needs News - July 8, 2016

1 message

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With help, seniors and people with special needs can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care. They can use these protected assets to enhance their quality of life beyond what long term care alone will provide.

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The Koewler Law Firm
JAMES L. KOEWLER, JR.

Seniors and Special Needs News

Ohio Medicaid changes "Aged Blind Disabled" Eligibility
Miller Trust can't pay Health Insurance Premium

This week's newsletter continues the discussion of the changes to Ohio Medicaid's Aged, Blind and Disabled (ABD) program for people who need long term care coming in 2016-2017. The initial installment (April 28, 2016) provided an overview of the transition from the old system (following section 209(b) of the federal Medicaid law) to the new system (that will follow section 1634 of the federal Medicaid law.) The May 6, 2016 installment discussed the new income rules that will go into effect with the new eligibility system. The May 13, 2016 installment discussed setting up a Qualified Income Trust (aka Miller Trust) that will be necessary for people who need ABD Medicaid to help pay for long term care. The June 17, 2016 installment discussed the Ohio rules that describe how to use the Miller Trust each month. The June 24, 2016 installment discussed the difficulty in understanding the need for a Miller Trust. The July 1, 2016 installment, discussed the need to empty the Miller Trust account every month. Today's installment will discuss the need to balance the Miller Trust with the desire to have health insurance.

The Ohio Department of Medicaid has finalized its new rule on Miller Trusts (aka Qualified Income Trusts or QITs.) A copy of the final rule is available here. The form Miller Trust from the Ohio Department of Medicaid can be found here. Because the rule calls them QITs and today's installment makes a number of references to the new rule, for this installment, I'll usually call them QITs.

As discussed in previous installments, the QIT is tricky to use each month. Many people are considering whether it would simplify managing the QIT to put all of the person's income into the QIT each month. Section K of the QIT rule allows the Medicaid recipient "to have all,or only a portion, of his or her income placed into the QIT account" as long as at least the income over $2,199 is placed into the QIT account. No one can doubt that that it would be easier to deal with one bank account each month than it would be to deal with multiple bank accounts.

Once income is placed into the QIT account, it becomes subject to the limitations of the QIT rule and the QIT's declaration of trust. Section E of the QIT rule and Article III of the QIT template limit payments from the QIT account to (1) the monthly income allowance of the Medicaid beneficiary for his or her personal spending, (2) the share of the Medicaid recipient's income that must be shared with his or her spouse according to Medicaid's rules , (3) incurred medical costs of the Medicaid recipient, and (4) a small amount for bank fees, legals fees, accounting fees, and other similar fees. (Note: There is also a reference in subsection 2 to an income share for family dependents, but there has never before been a sharing of income with anyone other than the spouse, and there does not seem to be any change to the income rules allowing income to be shared with dependents, so I am not sure that sharing of income with dependents is really going to be allowed.)

None of the allowed payments from the QIT account is available for the payment of medical insurance premiums.

Before this recent change in rules, Ohio Medicaid allowed a covered person to use part of his or her income each month to pay for health insurance premiums. (The payment of insurance premiums leaves less money to pay for care costs, but Medicaid would increase its payment to the care provider to make up for the revenue lost to the insurance premium.)

The new version of the income rules has not changed the requirements regarding insurance premiums. A Medicaid covered person still can purchase medical insurance without running afoul of the new rules. BUT, the insurance premiums can't be paid out of the QIT. In short, medical insurance premiums are an allowed expense for the person, but not an allowed expense for the person's QIT.

So, if the Medicaid recipient wants to have medical insurance, payment arrangements must be made outside of the QIT. The ease of using the QIT to manage all income is lost if the person wants to keep medical insurance. Likewise, if the person handling the income for the Medicaid recipient wants