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Seniors and Special Needs News - September 16, 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 Real Estate blocks Eligibility

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. The [July 8, 2016](#) installment discussed the need to balance the Miller Trust with the desire to have health insurance. The [July 15, 2016](#) installment discussed installment discussed the confusing deposit rules for Miller Trusts. The [July 22, 2016](#) installment discussed the changes that the Ohio Department of Medicaid has made to the form Miller Trust document. The [July 29, 2016](#) installment discussed whether income is

supposed to go directly into the Miller Trust. The [August 5, 2016](#) installment discussed Medicaid's insistence that the transfers (or deposits) into the Miller Trust account be automatic. The [August 12, 2016](#) installment discussed money that doesn't actually reach the Medicaid-recipient that, nonetheless, counts as "income" for purposes of using a Miller Trust. The [August 19, 2016](#) installment discussed the appearance that a person on long term care Medicaid has an increase in income when he/she stops paying Medicare premiums. The [August 29, 2016](#) installment discussed the impact of tax withholding on certain income sources and the difficulty that the tax withholding creates for the Miller Trust. The [September 2, 2016](#) installment discussed the limit placed on monthly costs of the Miller Trust. Today's installment will discuss the Ohio Department of Medicaid's change in policy regarding real estate (other than the residence.)

Very few real properties are worth less than \$1,500 (the resource limit for Medicaid eligibility under the old rules.) So, ownership of real property would prevent eligibility for Medicaid for long term care. Under the rules in place before August 1, 2016, the value of the real property did not count toward financial eligibility for Medicaid as long as the real property was up for sale.

According to Ohio Administrative Code section 5160:1-3-05.15, real property was exempt from the resource calculation for a Medicaid recipient/applicant if the property was up for sale through a broker or agent. (Sale by owner was not sufficient.) The broker or agent had to list the real property on the multi-listing service (the MLS.) And, the asking price could not exceed the value listed in the county appraisal records. If these conditions were met, the property was not counted against the Medicaid recipient/applicant.

As soon as the property sold, the Medicaid recipient/applicant would have to spend down the proceeds to resume Medicaid coverage. If the property didn't sell before the person passed away, the state could place a lien on the property through the Medicaid Estate Recovery process as a way to partially replenish the Medicaid coffers. (This exemption of real property during the period it was listed for sale was very important during the 2008-2009 real estate market meltdown.)

Under the new rules that took effect on August 1, 2016, Medicaid has gotten out of the real estate business. Ohio Administrative Code section 5160:1-3-05.15 has been rescinded. There is no longer an exemption for real estate even if it is up for sale. (Note: The residence is different and will be discussed in the future.) The ownership of real estate will prevent an applicant from receiving Medicaid coverage for long term care unless the total value of all owned properties is less than \$2,000 (the new limit on

resources for a Medicaid recipient.) In other words, the real property has to fit into the low limit placed on all resources of a Medicaid recipient.

Now, sale of the real property is not enough to qualify for Medicaid for long term care. Sale of the property turns an illiquid asset (real property) into liquid assets (cash.) The cash proceeds are not likely to be less than \$2,000, so the former owner of the real estate would be Medicaid ineligible because of the cash resources he/she has received. The person who needs long term care can do much more with cash than with real estate to move toward Medicaid eligibility. The cash can be used for medical/care expenses, or it can be used to buy some items that the Medicaid applicant would like. Of course, if the proceeds are great enough, some can be given to the person's children and some used to pay off the Medicaid penalty that results from giving away assets.

Then, when the person's assets are below \$2,000 (and, if necessary, arrangements have been made for a penalty period, the person becomes eligible for Medicaid for long term care.

Because the new rules effectively prevent Medicaid eligibility for a real estate owner, I'm advising clients to sell properties quickly. Because of the speed with which a deal can be completed, I'm starting to move to auctions rather than traditional listings for real property. (I do apologize to my friends in the traditional real estate brokering business, but my clients' needs must come first.)

Suggest a Newsletter Topic

I try to write something new (and useful) in my newsletter every week. So, I know that I will sometimes have writer's block. I'd like your help, please.

If you have a topic for my newsletter that you'd kindly suggest, I promise to consider it. (I don't promise to pursue it. I just promise to consider it.) I try to write about issues concerning seniors, health care, long term care, special needs, Veterans Pension (aka Aid and Attendance) benefits, and Veterans Compensation benefits. Please keep your suggestions within or near to those topics.

Please submit your suggestion [here](#). If I use your topic suggestion, I'll put the content in both my blog and newsletter.

Thank you for your help.

Social Media Posts since the last newsletter

09-12-2016 #HomeCare providers squeezed by increasing costs and shrinking government payments <http://ow.ly/EYDm303SVNO>

09-11-2016 How to speed up #Veterans claims for #Compensation or #Pension (aka #Aid&Attendance) <http://ow.ly/RHRG303SUIL>

09-10-2016 #Medicare focus on #Hospital #Readmissions may be misplaced <http://ow.ly/e1FZ303SSnB>

09-09-2016 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled program - #TaxRefunds may be counted Twice <http://wp.me/p47F09-IH>

(Sorry, I wasn't able to get something posted every day last week.)

Older social media posts can be found in the [social media post archive](#) on the firm's website, ProtectingSeniors.com.

The Koewler Law Firm News

9-17-2016 The Koewler Law Firm will have a table display at the Walk to End Alzheimer's organized by the Alzheimer's Association at the Medina County Community Recreation Center in Medina, Ohio.

9-21-2016 The Koewler Law Firm will have a table display at the Senior Health Fair organized by the University Hospitals Elyria Medical Center and the Lorain County Senior Network at the University Hospitals Fitness Center in Avon, Ohio.

9-22-2016 Jim Koewler will discuss "Changes in Ohio Medicaid Eligibility Rules for 2016" at Bath Manor Special Care Centre in Akron, Ohio.

Continuing education credit will be available for social workers, counselors, and nurses.

9-28-2016 The Koewler Law Firm will have a table display at the Wellness Expo organized by the University Hospitals Bedford Medical Center Senior Net at the Senior Center in Solon, Ohio.

10-2-2016 The Koewler Law Firm will have a table display at the Walk to End Alzheimer's organized by the Alzheimer's Association at the University

of Akron's Stile Athletics Field House in Akron, Ohio.

10-6-2016 Jim Koewler will discuss Veterans Benefits that Help with Long Term Care at Fairview Hospital in Cleveland, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

10-26-2016 Jim Koewler, as Chair of the Education Committee for the Medina County Senior Services Network, will help host a Caregiver Lifeline panel discussion at the Rustic Hills Country Club in Medina, Ohio.

10-28-2015 The Koewler Law Firm will have a table display at the Wadsworth Community Center Field House & Soprema Senior Center in Wadsworth, Ohio for a Senior/Care Partner Expo and, as part of the event, will make a free chair massage available to care partners.

11-15-2016 Jim Koewler will discuss Veterans Benefits that Help with Long Term Care at University Hospitals Elyria Medical Center in Elyria, Ohio. Continuing education credit is available for Certified Case Managers, social workers, counselors, and nurses.

12-14-2016 Jim Koewler will discuss Medicaid Qualifying Asset Transfers as part of a National Business Institute Seminar on Medicaid Lookback Rules and Planning in Cleveland, Ohio. Continuing Legal Education credit will be available.

12-14-2016 The Koewler Law Firm will participate in the Senior Holiday Party organized by the Summit County Senior Sales, Administration, and Marketing Association at Saferstein Towers in Akron, Ohio.

Older items of firm news can be found in the [news archive](#) on the firm's website, ProtectingSeniors.com.

Jim's available presentations

- Changes in Ohio Medicaid Eligibility Rules for 2016 (Continuing Education credit available for social workers, counselors, and nurses and has been requested for Certified Case Managers)
- ABLE accounts for people with Special Needs: Their Use and Misuse
- Ethical Issues in Case Management and Discharge Planning (Continuing Education credit and Ethics credit available for social workers, counselors, nurses, and Certified Case Managers)
- Veterans Benefits that Help with Long Term Care (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- Overcoming Seniors' Resistance to Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)

- Preventing Senior Fraud (Continuing Education credit available for social workers, counselors, and nurses)
- My Care Ohio and Medicare/Medicaid “Dual Eligibles” (Continuing Education credit available for social workers, counselors, and nurses)
- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, and nurses)
- What people "Know" about Long Term Care that is Wrong (Continuing Education credit available for social workers, counselors, and nurses)
- Government Benefits that can help Pay for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Legal Issues for People with Dementia (Continuing Education credit available for social workers, counselors, and nurses)
- Advance Directives – Powers of Attorney, Living Wills, etc. (Continuing Education credit available for social workers, counselors, and nurses)
- Buying Long Term Care Insurance Wisely (Continuing Education credit available for social workers, counselors, and nurses)
- Planning Ahead to Protect against Long Term Care Costs (Continuing Education credit available for social workers, counselors, and nurses)
- Organizing for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Pre-planning your Final Arrangements (Continuing Education credit available for social workers, counselors, and nurses)
- Elder Law: A Primer (Continuing Legal Education credit available)
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for up to 20 audience members)
- Health Insurance for Families: The Affordable Care Act ("ObamaCare,") Medicaid, and Medicare
- Myths about Long Term Care Costs
- How to help your Parents Manage their Affairs
- Legal Lessons for Life

Upcoming meetings

09-09-2016 Eldercare Professionals of Ohio, Westlake Village, Westlake, Ohio, 9:00 a.m.

09-14-2016 Medina County Senior Services Network, Brookdale Medina, South, Medina, Ohio, 8:00 a.m.

09-14-2016 Summit Senior Sales, Administrators and Marketers Association, The Merriman, Akron, Ohio, 2:30 p.m.

09-17-2016 Walk to End Alzheimer's, Community Recreation Center, Medina, Ohio

09-19-2016 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 a.m.

09-20-2016 UH Bedford Medical Center Senior Network, Kindred-Stratford Commons, Solon, Ohio, 8:30 a.m.

09-21-2016 Professional Association Specializing in Seniors ("PASS"), The Atrium at Anna Maria, Aurora, Ohio, 8:30 a.m.

09-22-2016 Portage Senior Services Network, Brooks House, Hiram, Ohio, 8:30 a.m.

09-23-2016 Eldercare Professionals of Ohio, Stratford Commons, Solon, Ohio, 9:00 a.m.

09-27-2016 Summit County Senior Services Network, Kucko Anthony Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

09-27-2016 Professional Networking Group, Village of Marymount, Garfield Heights, Ohio, 9:00 a.m.

09-27-2016 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

09-28-2016 UH Bedford Senior Network's Wellness Expo and Cookoff, Solon Senior and Community Center, Solon, Ohio

09-29-2016 The Association of Specialists in Aging, Mentor Senior Center, Mentor, Ohio, 8:30 a.m.

10-02-2016 Walk to End Alzheimer's, Stile Athletics Fieldhouse, University of Akron, Akron, Ohio.

10-04-2016 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

10-04-2016 Montrose SeniorCare Networking Group, Panera Montrose, Bath, Ohio 8:30 a.m.

10-04-2016 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.

10-05-2016 Stark Senior Services Network, Myers Lake Ballroom, Canton, Ohio, 9:00 a.m.

10-05-2016 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

10-05-2016 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

10-06-2016 Professional Networking Group of Cleveland, Medina General Hospital Health Fair, Medina, Ohio, 11:00 a.m.

10-12-2016 Medina County Senior Services Network, Avenue at Medina, Medina, Ohio, 8:00 a.m.

10-12-2016 Summit Senior Sales, Administrators and Marketers Association, Arbors of Stow (formerly Maison Aine), Stow, Ohio, 2:30 p.m.

10-13-2016 Lorain County Senior Services Network, Richard E. Jacobs Healthcenter, Avon, Ohio, 8:30 a.m.

10-14-2016 Eldercare Professionals of Ohio, Busch Funeral Home, Parma, Ohio, 9:00 a.m.

Newsletter Archive

Past issues of this newsletter can be found in the [newsletter archive](#) on the firm's website, ProtectingSeniors.com.

Contact Jim Koewler

If you'd like to contact Jim, this newsletter has a dedicated [contact page](#) on the firm's blog site, ProtectingSeniorsNews.com.

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