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Seniors and Special Needs News - September 23, 2016

1 message

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Fri, Sep 23, 2016 at 9:01 AM

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 Intent to Return Home

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. The [September 9, 2016](#) installment discussed how Ohio's Medicaid rules appear to count income tax refunds twice. The [September 15, 2016](#) installment discussed the Ohio Department of Medicaid's change in policy regarding real estate (other than the residence.) Today's installment will discuss the intent to return home.

Before July 31, 2016, a single person who asked for Medicaid's help to pay for long term care costs and who owned a home had 13 months after the beginning of Medicaid coverage during which to put the home up for sale. (If the Medicaid applicant were married and the spouse still lived in the home, there was no obligation to sell.) That 13-month time period is gone. As part of the big August 1, 2016 change in rules, Ohio Medicaid rescinded the 13-month rule. Now, the person must decide to keep the house or to sell the house before applying for Medicaid.

If the person decides to sell, then the rules regarding real estate discussed in the [September 15, 2016](#) installment apply.

If the person decides not to sell, then one of a number of certain conditions must apply. The most likely condition that Medicaid recipients will invoke is the "intent to return home."

If the person intends to return home, he/she is not required to sell the house before getting Medicaid coverage. The intent to return must be expressed in a written, signed statement. This exemption of the house ends if the person establishes a "principal place of residence" anywhere else. This new "principal place of residence" is, in my opinion, how people will be tripped up in obtaining or keeping Medicaid coverage.

If a person has been in a nursing home or assisted living community for many months (unless on rehab,) I doubt that the house can be called the "principal place of residence." If the person's health isn't likely to improve, the "principal place of residence" has probably become the nursing home or assisted living community. Even if the "intent to return home" is real, it may

not be realistic. The “principal place of residence” allows Ohio Medicaid to avoid covering someone whose intent to return home is not realistic.

Now, during this first year or two under the new rules, I’m not sure that Medicaid will challenge an applicant’s written statement of an intent to return home. (There are so many changes, and they are so complex, that I expect the county Medicaid offices to be overwhelmed trying to keep up with new applications and annual renewals. For example, the computer changes that the new rules necessitated have not gone well. Some county Medicaid offices have been unable to process applications for weeks.) At the person’s annual renewal, however, if he/she is still in the nursing home or assisted living community, the Medicaid office can decide that the house is no longer the “principal place of residence.” (By the time of the first annual renewal, the person will have been out of the house for at least a year, after all.)

Medicaid coverage can be suspended until the house is sold and the proceeds spent.

Even if the Medicaid office allows the person to keep the house (i.e., Medicaid accepts the person’s statement of intent to return home even if it’s not likely that the person can ever return,) the person will not have money to keep up the house. Medicaid rules allow the person to keep only \$2,000 in savings and \$50 of monthly income. The person can’t keep up with property taxes, insurance, and maintenance on the house with that low amount of money.

In addition, if the person keeps the house until he/she dies, Medicaid will place a lien on the house for the amount of money that Medicaid spent on the person’s care. (A lien on real estate is one of the methods of “estate recovery” after a Medicaid recipient dies.)

For a single person who needs Medicaid’s help to pay for long term care who owns a home, I suggest that the person decide what will happen with the house before applying for Medicaid rather than kicking the can down the road. The statement of “intent to return” might be a way to delay making a decision, but the inability to pay to keep up the house will put the person in a financial bind quickly and also might cause the house to lose value. In addition, the risk of Medicaid estate recovery always looms over the house.

For these reasons, I suggest dealing with the house (or at least deciding what to do with the house) sooner rather than later.

Letting go of the house is terribly emotional. Still, I think it’s better to deal with it sooner rather than later.

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

09-22-2016 #Speechless - #Television show including main character with #SpecialNeeds <http://ow.ly/RpoK304k7mJ>

09-21-2016 Different forms of #Dementia <http://ow.ly/OqI7302wJ3f>

09-20-2016 Another view on buying #LongTermCareInsurance <http://ow.ly/FzfX304k4aC>

09-19-2016 Choosing when to move from #HomeCare to #NursingHome <http://ow.ly/v2Tf304jXOq>

09-18-2016 #VAPension aka #AidAndAttendance benefits for #Veterans who need #LongTermCare <http://ow.ly/Wlgs304jl74>

09-17-2016 #HealthyOhio, a plan to require "HealthSavingsAccount-like payments from #Medicaid recipients, rejected by feds <http://ow.ly/985p304ioab>

09-16-2016 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled program - #RealEstate blocks Eligibility <http://wp.me/p47F09-mr>

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

9-20-2016 Jim Koewler discussed legal issues impacting caregivers at a meeting of the Southwest Area Caregiver Support Group at Southwest General Health Center in Middleburg Heights, Ohio.

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.

10-5-2016 Jim Koewler will discuss estate planning and wills at Wellness Day for Midview Schools at Midview High School in Grafton, 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.

1-25-2017 Jim Koewler will discuss the new requirements for Medicaid in Ohio to the Mandel Jewish Community Center lunch group at Warrensville

Center Apartments in Warrensville Heights, Ohio.

3-23-2017 Jim Koewler will discuss what must be done at the time someone retires to prepare for the future at a meeting of the Portage County (Ohio) Senior Services Network.

5-26-2017 Jim Koewler will discuss Ohio's rules on Qualified Income Trusts (aka Miller Trusts) for people who need Medicaid to pay for long term care at a meeting of Eldercare Professionals of Ohio at Chippewa Place in Brecksville, 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

09-23-2016 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.

10-17-2016 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio, 11:30 a.m.

10-18-2016 UH Bedford Medical Center Senior Network, Woodside Village, Bedford, Ohio, 8:30 a.m.

10-19-2016 Professional Association Specializing in Seniors ("PASS"), Brooks House Assisted Living, Hiram, Ohio, 8:30 a.m.

10-21-2016 Professional Networking Group of Cleveland, Highland Heights Senior Center Health Fair, Highland Heights, Ohio, 11:00 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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