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## Seniors and Special Needs News - October 28, 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 Property Essential to Self-Support

This week's newsletter continues the discussion of the changes to Ohio Medicaid's Aged, Blind and Disabled program 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 5, 2016](#) installment discussed the new income rules that will go into effect with the new eligibility system. The [May 12, 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 16, 2016](#) installment discussed the Ohio rules that describe how to use the Miller Trust each month. The [June 23, 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 7, 2016](#) installment discussed the need to balance the Miller Trust with the desire to have health insurance. The [July 15, 2016](#) installment discussed the confusing deposit rules for Miller Trusts. The [July 21, 2016](#) installment discussed the changes that the Ohio Department of Medicaid made to the form Miller Trust document. The [July 28, 2016](#) installment discussed whether income is supposed to go directly

into the Miller Trust. The [August 4, 2016](#) installment discussed Medicaid's insistence that the transfers (or deposits) into the Miller Trust account be automatic. The [August 11, 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 18, 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 25, 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.) The [September 22, 2016](#) installment discussed keeping the house with an intent to return to home. The [September 29, 2016](#) installment discussed keeping the house while a dependent family member lives there. The [October 6, 2016](#) installment discussed the home that is co-owned by someone else (other than the spouse.) Today's installment will discuss real property that is "essential for self-support."

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. Under the new rules, if the applicant for Medicaid for long term care owns a parcel of real estate and the parcel is "essential to [the applicant's] self-support," the applicant may keep the parcel. The complicated criteria for "essential to self-support" are set forth in Ohio Administrative Code section 5160:1-3-05.19 (which was amended effective August 1, 2016.)

The first way in which real estate can qualify as "essential to self-support" is to be used as part of the applicant's employment. For a person in long term care, however, employment is unlikely. To qualify for help with long term care costs, a person must need help with activities of daily living (such as bathing and dressing) or be unsafe to stay home alone. A person who needs

help with activities of daily living or who cannot stay home safely is unlikely to be able to work. Because of the applicant's likely inability to work, this language in the Medicaid rules seems pointless.

The second way that a parcel of real estate qualifies as "essential to self-support" is to be a "nonbusiness property used to produce goods or services essential to basic daily living needs." "Basic daily living needs" is defined as "food, basic clothing, basic housing, and medical care." So, for example, a farm produces food, so it can qualify as "essential to self-support." For these nonbusiness properties, however, only \$6,000 of the equity in the property is excluded from the Medicaid eligibility calculation. As a result, this exclusion is not very helpful for real property. (The same exclusion rules apply to personal property used to produce goods or services essential to basic daily living needs. For personal property (aka the "stuff" that someone owns other than real estate) the \$6,000 exclusion can be useful.

Finally, the last type of real property "essential to self-support" is "nonbusiness income-producing property" such as rental property or mineral rights. Like with properties that help produce goods and services for basic daily living needs, only the first \$6,000 of equity is exempted from the Medicaid eligibility calculation. However, that exclusion applies only if the annual rate of return is 6% (subject to certain limited exceptions on the rate of return target.) Because of the \$6,000 limit, this is not very useful for people trying to shelter resources from the costs of long term care. In addition, the rate of return target may make even the \$6,000 exclusion inapplicable.

All in all, the "essential to self-support" rule only works for people who fall within the "aged blind disabled" program who do NOT need long term care. Unfortunately, the Ohio Medicaid rules do not explain this limitation. Applicants are left to realize for themselves that "essential to self-support" isn't useful for very many people who need long term care.

## **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

10-27-2016 #DJ with #Down'sSyndrome remixes biased statement to combat #Prejudice <http://ow.ly/OZce305qOWA>

10-26-2016 Call for #National plan to help #FamilyCaregiver <http://ow.ly/xrWH305qHV7>

10-25-2016 #LongTermCareInsurance is for people in the middle of the wealth range <http://ow.ly/uCSV305qDub>

10-24-2016 How often to visit an #AgingParent in a #NursingHome <http://ow.ly/hxXn304wTZM>

10-23-2016 Making #Computers more accessible to #OlderAdults <http://ow.ly/hhQu304wSXg>

10-22-2016 #SkinCare for #OlderAdults <http://ow.ly/Y0iP304wSb8>

10-21-2016 2016 #Medicare #OpenEnrollment is here. Choose your #Insurance plan wisely. <http://wp.me/p47F09-nD>

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

## The Koewler Law Firm News

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.

12-9-2016 Jim Koewler will participate in a panel discussion on paying for

post-acute care at a meeting of the CARE Coalition of Stark County at Mercy Health Center of Jackson, in Massillon, Ohio.

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](http://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**

10-28-2016 Eldercare Professionals of Ohio, Crossroad Hospice, Valley View, Ohio, 9:00 a.m.

11-01-2016 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

11-01-2016 Montrose SeniorCare Networking Group, Panera Montrose, Bath, Ohio 8:30 a.m.

11-01-2016 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.

11-02-2016 Stark Senior Services Network, Myers Lake Ballroom, Canton, Ohio, 9:00 a.m.

11-02-2016 Richfield Chamber of Commerce luncheon, The Taverne of Richfield, Richfield, Ohio, 11:45 a.m.

11-02-2016 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

11-09-2016 Medina County Senior Services Network, Medina Recreation Center, Medina, Ohio, 8:00 a.m.

11-09-2016 Summit Senior Sales, Administrators and Marketers Association, Hudson Elms, Hudson, Ohio, 2:30 p.m.

11-10-2016 Lorain County Senior Services Network, St. Mary of the Woods, Avon, Ohio, 8:30 a.m.

11-15-2016 UH Bedford Medical Center Senior Network, Village of Marymount, Garfield Heights, Ohio, 8:30 a.m.

11-16-2016 Professional Association Specializing in Seniors ("PASS"), Lantern of South Russell, South Russell, Ohio, 8:30 a.m.

11-18-2016 Eldercare Professionals of Ohio, Cornerstone of Hope, Independence, Ohio, 9:00 a.m.

11-21-2016 Medina County Senior Services Network's Education Committee, Tres Potrillos, Medina, Ohio, 11:30 a.m.

11-22-2016 Summit County Senior Services Network, Kucko Anthony Kertesz Funeral Home, Akron, Ohio, 8:00 a.m.

11-22-2016 Professional Networking Group, Montefiore, Beachwood, Ohio, 9:00 a.m.

11-22-2016 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

## Newsletter Archive

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

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