



Jim Koewler &lt;jameskoewler@gmail.com&gt;

## Seniors and Special Needs News - November 18, 2016

1 message

The Koewler Law Firm <Newsletter@protectingseniorsnews.com>  
 Reply-To: The Koewler Law Firm <Newsletter@protectingseniorsnews.com>  
 To: protectingseniorsnewsarchive@gmail.com

Fri, Nov 18, 2016 at 9:02 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.

Email not displaying correctly?  
[View it in your browser.](#)



**The Koewler Law Firm**  
 JAMES L. KOEWLER, JR.



# Seniors and Special Needs News

## Ohio Medicaid changes "Aged Blind Disabled" Eligibility End of Partial Give-Back

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.) The [October 27, 2015](#) installment discussed real property that is "essential for self-support."

The [November 10, 2017](#) installment discussed the retirement funds belonging to the spouse who does not seek Medicaid's help with long term care costs. Today's installment will discuss the 2016 changes in how Ohio Medicaid will allow applicants to give away some of their assets and still qualify for Medicaid.

Note: What I am calling "assets" Medicaid calls "resources." In Medicaid's terminology, "assets" includes both "resources" and "income." Because most of the public thinks of "resources" as human resources or natural resources, and thinks of money in the bank as "assets," I will use the term "assets" in this installment to refer to money in the bank and other similar things of value (like real estate, life insurance, etc.) that may be included in the applicant's life savings.

Generally, when an applicant for Medicaid for long term care services gives away something of value (aka "assets,") Medicaid will not pay for services for the amount of time that the given-away assets would have covered. This "penalty" is found within the "transfer of assets" rule in Medicaid's regulations.

Despite the penalty, some Medicaid applicants wish to give away some of their assets. Usually, the applicants wish to give assets to their children. The giving of these assets to the applicant's children often gives the applicants a great deal of emotional relief because it allows some of their money (the results of their working lives) to outlive them. Most parents want to leave something to their children and grandchildren. Finding a way to allow these

applicants to give some of their assets is what most elder law attorneys try to do.

The trick is finding a way to cover the applicant's long term care costs during the time that Medicaid will not (i.e., during the "penalty period" aka the "Restricted Medicaid Coverage Period.") There used to be 4 different ways to cover such a penalty period. During 2016, Ohio Medicaid changed the rules on covering this penalty period. Today's installment will discuss the "partial give-back" method.

Before January 2016, the Medicaid applicant could give away substantially all of his/her assets and then receive back enough each month to pay for his/her long term care for that month. (The conveyance back of pieces of the gift leads to call this the "partial give-back" approach.) The penalty period would be reduced a little bit at a time because the net amount given away went down a bit each month with the monthly return of part of the gift. At the same time, with the passage of a month during which Medicaid didn't have to pay for the person's long term care, part of the money still held by the applicant's children is forgiven (The amount of the gift that is forgiven each month that Medicaid doesn't have to pay for long term care is equal to the average amount that it pays to nursing homes throughout the state. That amount is adjusted from time to time with as the care costs go up with inflation.)

In January 2016, Ohio Medicaid enacted a rule that completely ended this partial give-back strategy.

The end of partial give-backs is an inconvenience but not a tragedy in the practice of elder law. It has, however, led to some Medicaid applicants getting caught in a penalty period without knowing it would happen.

Some Medicaid applicants have given gifts of money to family members within the five years before asking for Medicaid's help. If someone makes gifts to family and then fails to account for the resulting penalty period before applying for Medicaid, the Medicaid caseworker will probably find a record of the gift in the person's bank records. Then, the caseworker will have to impose a penalty period. By the time the person applies for Medicaid, however, he or she will have reduced assets to \$2,000 through spending or other gifts. If the reduction of assets leading up to the application doesn't include a way to cover the penalty from the prior gifts, the person will be left without a way to pay for care for the unexpected penalty period.

## **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**

11-17-2016 #Advocacy efforts for children with #SpecialNeeds <http://ow.ly/pRZM3066cRk>

11-16-2016 #Physicians focus on #FamilyCaregiver well being <http://ow.ly/A14o3066cpA>

11-15-2016 Where #LongTermCareInsurance fits into a lifetime #Insurance and #Investment plan <http://ow.ly/1CYD306685b>

11-14-2016 Low #ReimbursementRate makes #Medicaid for #HomeCare scarce <http://ow.ly/jQyI305XiUY>

11-13-2016 Should #Medicare change its approach to prevention of #Fraud and #Mistakes? <http://ow.ly/3tFM305Xhjn>

11-12-2016 #MedicaidExpansion increases care for #MentalHealth, but also increases burden on #Hospitals <http://ow.ly/iPeN305XghJ>

11-11-2016 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled program - Spouse's #Retirement Fund <http://wp.me/p47F09-mn>

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**

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.

5-16-2017 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 the University Hospitals Bedford Medical Center Senior Network at Light of Hearts Villa in Bedford, Ohio.

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, nurses, and 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, and nurses)
- 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**

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.

12-06-2016 Aging Services Network East, Euclid Hospital's  
Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

12-06-2016 Montrose SeniorCare Networking Group, Panera Montrose,  
Bath, Ohio 8:30 a.m.

12-06-2016 Stow ElderCare Networking Group, Corner Cup Coffee House,  
Stow, Ohio, 9:00 a.m.

12-07-2016 Stark Senior Services Network, Canton Regency, Canton, Ohio,  
3:00 p.m.

12-07-2016 Richfield Chamber of Commerce luncheon, Days Inn and Suites,  
Richfield, Ohio, 11:45 a.m.

12-07-2016 Summit Senior Sales, Administration and Marketing  
Association Holiday Party

12-07-2016 Medina County Senior Services Network's Client Services  
Committee, Sully's, Medina, Ohio, 3:00 p.m.

12-09-2016 CARE Coalition of Stark County, Mercy Health Center of  
Jackson, Massillon, Ohio 8:00 a.m.

12-13-2016 Professional Networking Group Holiday Luncheon, Grande  
Villlage, Twinsburg, Ohio, 12:30 a.m.

12-14-2016 Medina County Senior Services Network, Pearlview Care  
Center, Brunswick, Ohio, 8:00 a.m.

12-14-2016 Professional Association Specializing in Seniors ("PASS"), Care  
Corp, Chardon, 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](#).

## **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](#).

© 2016 The Koewler Law Firm. All rights reserved.

---

[follow on Twitter](#) | [friend on Facebook](#) | [forward to a friend](#)

*Copyright © 2016 The Koewler Law Firm, All rights reserved.*  
You are receiving this email because you subscribed through our website or asked to be on our mailing list.  
Our mailing address is:  
The Koewler Law Firm  
P.O. Box 443  
Richfield, OH 44286



[Add us to your address book](#)

[unsubscribe from this list](#) | [update subscription preferences](#)