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## Seniors and Special Needs News - December 23, 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 No more Monthly "Spend Down"

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. The [November 17, 2016](#) installment discussed the 2016 changes in how Ohio Medicaid will allow applicants to give away some of their assets cover the resulting penalty period through a return of part of the assets. The [December 1, 2016](#) installment discussed Ohio Medicaid's new prohibition on using promissory notes to recover from an applicant giving away assets. The [December 8, 2016](#) installment discussed the possibility of using a Special Needs Trust to recover from assets given away creating a Medicaid penalty period. The [December 15, 2016](#) installment discussed the use of short-term annuities to recover from a long term care Medicaid penalty period that results from giving away assets. Today's installment will discuss the end of the monthly "spend-down" to achieve income eligibility for the type of Medicaid that substitutes for health insurance.

The Medicaid that has no more monthly spend-down is NOT Medicaid for long term care. It's the Medicaid that provides financial support for doctor visits, prescriptions, hospital visits, etc. for the Aged, Blind, and Disabled population that has no more monthly spend-down. In other words, there's no more monthly spend-down for the Medicaid that is available to Aged, Blind, and Disabled people who need Medicaid because they can't afford privately purchased health insurance. We'll call this "health-insurance-Medicaid" (as opposed to the "long-term-care-Medicaid about which I usually write.)

Obviously, a statement that a monthly spend-down is no longer available means that there used to be a monthly spend-down. That's right. There used

to be a monthly spend-down that allowed many people to meet the income requirements necessary to receive Medicaid support.

Here's how it worked. Medicaid is available only to people below a certain level of income. Before the Affordable Care Act made health-insurance-Medicaid available to people based only on income, health-insurance-Medicaid used to be available only to people who had a particular, identified need AND whose income was low enough to qualify. For example, families with low income that qualified for the Aid to Families with Dependent Children also qualified for health-insurance-Medicaid.

One of the particular, identified needs that could qualify someone for health-insurance-Medicaid was a disability. People who were disabled (meaning that they cannot financial support themselves through work) who also had income below a certain level (which was adjusted for inflation from time to time,) qualified for health-insurance-Medicaid. So, some people who had disabilities could not qualify for health-insurance-Medicaid because their incomes were too high.

BUT, according to Ohio rules, a disabled person could spend money on his/her health care each month, and that amount would be deducted from his/her income. If, after the deduction of health care spending, the person's remaining income was below the income limit enough to qualify for health-insurance-Medicaid, then the person would receive health insurance Medicaid for that month.

This was a monthly nightmare for the various county Departments of Job and Family Services, the agency that oversees financial eligibility for Medicaid. According to some estimates, 20,000 to 30,000 people had have their monthly spending monitored to see if they qualified for Medicaid for that month. Then, next month, it would start over again.

I MUST HERE GIVE CREDIT TO OHIO for taking care of its people. (You won't hear that from me terribly often.) Most of these 20,000 to 30,000 people would have had no health insurance if Ohio had not allowed a monthly spend-down to qualify for health-insurance-Medicaid. With their disabilities, they would not have been able to get private health insurance because their disabilities would be "pre-existing condition" that health insurance companies would not have covered.

Then, after the Affordable Care Act was put into effect, all of the 20,000-30,000 could get health insurance. (Remember, pre-existing conditions could not be used as a reason to withhold insurance coverage.) So, Ohio ended its monthly spend-down program for disabled people with the expectation that all Ohioans (including people with disabilities) could get health insurance. Even if a good number of these 20,000 to 30,000 people qualified for

Medicaid under the Affordable Care Act income test, Ohio will have a smaller share of the health care costs for those people. Under the ACA, the federal government picks up a larger share of the cost than it picked up for pre-ACA health-insurance-Medicaid. The state saves money.

That savings of state money for disabled people's health-insurance-Medicaid is, in my view, the driving force behind all of the changes in Ohio's Medicaid rules of August 1, 2016. It's all about the money.

This is the end of the series on "Ohio Medicaid changes 'Aged Blind Disabled' Eligibility" for 2016, for now at least. (This series started April 28, 2016.) We finished just in time. The end of the year is here.

With Christmas and New Year's Day around the corner, I do not expect to publish another newsletter until January. Happy Holidays to all. Best wishes for 2017.

Peace on Earth! Good will to all Men and Women!

## **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**

12-22-2016 Giving people with #SpecialNeeds their independence <http://ow.ly/Z3Yr307dTcY>

12-21-2016 #FamilyCaregiver hints for #OlderAdult with impaired #Vision <http://ow.ly/S9Zn307dGSN>

12-20-2016 #LongTermCareInsurance can help multiple #Generations of a #Family <http://ow.ly/wmdy307dPbR>

12-19-2016 Be cautious when hiring #HomeCare providers <http://ow.ly/KwZe307dHNX>

12-18-2016 #Holiday plans with #OlderAdults <http://ow.ly/fjUt307dMMq>

12-17-2016 Planning ahead for the possibility that you need someone to make your #HealthCare decisions for you <http://ow.ly/Y5IZ307cHu4>

12-16-2016 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled program - Penalty Recovery through #Annuities <http://wp.me/p47F09-oi>

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

1-17-2016 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration as part of a continuing series of seminars on long term care issues by Visiting Angels of Canton, Liberty Home Equity Solutions, and The Koewler Law Firm at the offices of Visiting Angels in Canton, 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.

2-21-2016 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration as part of a continuing series of seminars on long term care issues by Visiting Angels of Canton, Liberty Home Equity Solutions, and The Koewler Law Firm at the offices of Visiting Angels in Canton, Ohio.

3-9-2017 Jim Koewler will discuss legal representation that can help people who need long term care and people who have special needs at a meeting of the Medina County Senior Services Network at the Medina County Department of Developmental Disabilities.

3-21-2016 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration as part of a continuing series of seminars on long term care issues by Visiting Angels of Canton, Liberty

Home Equity Solutions, and The Koewler Law Firm at the offices of Visiting Angels in Canton, 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.

5-2-2017 Jim Koewler will discuss legal representation that can help people who need long term care and people who have special needs at a meeting of the Aging Services Network East at Euclid Hospital in Euclid, Ohio.

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 2016 changes to its Medicaid eligibility rules at a meeting of Eldercare Professionals of Ohio at Chippewa Place in Brecksville, Ohio.

6-19-2017 Jim Koewler will speak at a two-day Continuing Legal Education seminar in Akron, Ohio sponsored by the National Business Institute entitled "Elder Law and Medicaid Planning: Everything you Need to Know." Jim will make three presentations on the first day of the seminar covering Medicaid Benefits and Eligibility Rules, Preserving Family Assets when Qualifying for Medicaid, and Medicaid Application Procedure and Tactics.

6-21-2017 Jim Koewler will speak at a two-day Continuing Legal Education seminar in Cleveland, Ohio sponsored by the National Business Institute entitled "Elder Law and Medicaid Planning: Everything you Need to Know" (repeating the program from Akron.) Jim will make three presentations on the first day of the seminar covering Medicaid Benefits and Eligibility Rules, Preserving Family Assets when Qualifying for Medicaid, and Medicaid Application Procedure and Tactics.

11-21-2017 Jim Koewler will discuss changes in federal and state laws and rules affecting people who need long term care at a meeting of the University Hospitals Bedford Medical Center Senior Network at the Solon Senior Center in Solon, Ohio as part of the Network's Legislative Affairs Committee.

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**

01-03-2017 Montrose SeniorCare Networking Group, Panera Montrose, Bath, Ohio 8:30 a.m.

01-03-2017 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.



01-04-2017 Stark Senior Services Network, Meyer's Lake Ballroom, Canton, Ohio, 9:00 a.m.

01-06-2017 CARE Coalition of Summit County, Laurel Lake Retirement Community, Hudson, Ohio, 8:00 a.m.

01-10-2017 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

01-11-2017 Medina County Senior Services Network, Waite & Son Funeral Home, Medina, Ohio, 8:00 a.m.

01-12-2017 Lorain County Senior Services Network, Location TBA, Ohio, 8:30 a.m.

01-12-2017 Richfield Chamber of Commerce annual dinner, The Taverne of Richfield, Richfield, Ohio, 6:00 p.m.

01-13-2017 Eldercare Professionals of Ohio, Crystal Waters, Strongsville, Ohio, 9:00 a.m.

01-16-2017 Medina County Senior Services Network's Education Committee, Yours Truly, Medina, Ohio 11:30 a.m.

01-17-2017 University Hospitals Bedford Medical Center Senior Network, Cornerstone of Hope, Independence, Ohio, 8:30 a.m.

01-18-2017 Professional Association Specializing in Seniors ("PASS"), Hamlet Village, Chagrin Falls, 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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