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Seniors and Special Needs News - January 19, 2017

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 2016 Rule Changes Change of Heart on "Intent to Return" Home

Well, the discussion of the 2016 changes to Ohio Medicaid's rules continues.

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. The December 22, 2016 installment discussed the end of the monthly "spend-down" to achieve income eligibility for the type of Medicaid that substitutes for health insurance. The [January 12, 2017](#) installment followed up the [September 15, 2016](#) installment on a 2016 change to how Medicaid views real estate holdings with a discussion of a [December 30, 2016 state hearing decision](#). Following up on the , today's installment will discuss what appears to be a shift in policy by Ohio Medicaid on the applicant's "intent to return" home.

Note on real estate: Before the rule changes, Medicaid treated the home differently than it treated other real estate. Now, after the rule changes, Medicaid still treats the home differently than it treats other real estate.

However, neither the home nor other real estate is treated the same way now as it was before the rule changes.

If the applicant still lives in the home, its value is not counted toward the applicant's financial eligibility for Medicaid. Likewise, if the applicant's spouse or dependent child lives in the home, its value is not counted. These policies regarding home occupancy by the applicant or spouse have not changed during 2016.

Now, however, occupancy by other family members who are dependent on the applicant for support also keeps the house out of the eligibility determination. This is new and a result of the new rules.

If the applicant is not in the house and the house is not occupied by the spouse or a dependent family member, the house's value is counted toward the applicant's financial eligibility unless the applicant intends to return home. This is also new and also a result of the new rules. BUT, there seems to have been a switch in the interpretation of the "intent to return" in just the few months since the August 1, 2016 rule change.

Right after the rule change, county Medicaid officials explained that an applicant listing a house for sale shows that he/she does not intend to return and the house's value should be counted in the eligibility determination. At the time that Medicaid explained its policy that putting a house up for sale showed an intent NOT to return, certain elder law attorneys explained that the applicant may need to move to a more suitable house. (For example, a smaller, one floor house with a larger bathroom and open space under the kitchen counters may be easier to navigate for someone who now needs a walker or a wheelchair.) A more navigable house would, after all, make it easier for the Medicaid applicant to return home. Nonetheless, the county officials explained that planning to move to a different house isn't actually a "return," so the house's value is counted in the eligibility determination.

Now, in a recent public meeting, county Medicaid officials have expressed a change of heart on how it views an applicant's plan to "return" home but to a "different home." Now, Medicaid no longer automatically concludes that putting a house up for sale shows an intent not to return. Ohio Medicaid has apparently concluded that making it easier to allow a person receiving long term care to move out of a nursing home or assisted living into a home of his/her own could be a good thing.

After all, most people want to stay in their own homes. Living at home, even if one receives long term care, has certain emotional benefits for some people. It also allows Medicaid to pay for care without also paying for housing.

Assuming that the position expressed by this county official in fact reflects the state policy, it's a move to make the application process for long term care

Medicaid and, even more, the location where one receives the care itself, more favorable to the person.

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

01-19-2017 Father of son with #Autism tries to describe what it's like
<http://ow.ly/e1m5307NGAu>

01-18-2017 #FamilyCaregivers must heed their #Emotional
#Health <http://ow.ly/Tkfg307dNKK>

01-17-2017 Should we think about #LongTermCareInsurance like we think
about #RetirementSavings? <http://ow.ly/JYwo307NFYB>

01-16-2017 Looking at the options for #LongTermCare through the eyes of a
#Family in need <http://ow.ly/g6Au307O2UH>

01-15-2016 The importance of setting up a #PowerOfAttorney <http://ow.ly/5uRX307O66a>

01-14-2016 Projected increase in liability costs for #LongTermCare
providers <http://ow.ly/Glh7307O2dA>

01-13-2017 #Ohio #Medicaid changes rules for #Aged #Blind #Disabled
program - Change to #RealProperty rule may not
stick <http://wp.me/p47F09-pe>

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

1-24-2017 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration to help pay for long term care as part of a joint seminar with Christina Hronek of Hronek Law, LLC on planning ahead for long term care at The Heights in Broadview Heights, Ohio. There will be sessions of this program in the morning and in the evening.

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.

1-31-2016 Jim Koewler will discuss legal issues that people must consider after retirement to prepare for the possibility of long term care, and plan for end of life at Christ United Church in Berea, Ohio as part of Baldwin Wallace University's Institute for Learning in Retirement.

2-8-2016 Jim Koewler will discuss Legal Issues when someone has Dementia at a meeting of the Summit County, Ohio Chapter of Association of Medical Social Workers at Akron Family Restaurant, in Akron, Ohio. Continuing education credit is available for social workers, counselors, and nurses.

2-21-2017 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration to help pay for long term care as part of a series of seminars on long term care issues by Visiting Angels of Canton, Senior Mortgage Advisors, and The Koewler Law Firm at the offices of Visiting Angels in Canton, Ohio.

2-23-2017 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 at the Family and Community Services Building, Ravenna, 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.

3-21-2017 Jim Koewler will discuss how families can get help from Medicaid and/or the Veterans Administration to help pay for long term care as part of a series of seminars on long term care issues by Visiting Angels of Canton, Senior Mortgage Advisors, and The Koewler Law Firm at the offices of Visiting Angels in Canton, Ohio.

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](#).

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

01-24-2017 Summit County Senior Services Network, Anthony Kucko
Kertesz Funeral Home, Akron, Ohio 8:00 a.m.

01-24-2017 Professional Networking Group, Walton Manor, Walton Hills,
Ohio, 8:30 a.m.

01-24-2017 Wayne Holmes Senior Service Coalition, Wayne County Care Center, Wooster, Ohio, 8:30 a.m.

01-26-2017 Portage Senior Services Network, Family and Community Services Building, Ravenna, Ohio, 8:30 a.m.

01-26-2017 The Association of Specialists in Aging, Radisson Hotel, Eastlake, Ohio, 8:00 a.m.

01-26-2017 Summit Senior Sales, Administrators and Marketers Association, D'Agnese's Trattoria and Cafe, Akron, Ohio, 5:00 p.m.

01-27-2017 Eldercare Professionals of Ohio, Walton Manor, Walton Hills, Ohio, 9:00 a.m.

02-01-2017 Stark Senior Services Network, Meyer's Lake Ballroom, Canton, Ohio, 9:00 a.m.

02-01-2017 Richfield Chamber of Commerce luncheon, Days Inn and Suites, Richfield, Ohio, 11:45 a.m.

02-01-2017 Medina County Senior Services Network's Client Services Committee, Sully's, Medina, Ohio, 3:00 p.m.

02-07-2017 Aging Services Network East, Euclid Hospital's Waltz Auditorium, Euclid, Ohio, 8:30 a.m.

02-07-2017 Montrose SeniorCare Networking Group, Panera Montrose, Bath, Ohio 8:30 a.m.

02-07-2017 Stow ElderCare Networking Group, Corner Cup Coffee House, Stow, Ohio, 9:00 a.m.

02-08-2017 Medina County Senior Services Network, Life Care Center of Medina, Medina, Ohio, 8:00 a.m.

02-08-2017 Summit Senior Sales, Administration and Marketing Association, Bath Creek Estates, Cuyahoga Falls, Ohio 2:30 p.m.

02-09-2017 Lorain County Senior Services Network, Location TBA, Ohio, 8:30 a.m.

02-10-2017 Eldercare Professionals of Ohio, Danbury Senior Living, Broadview Heights, Ohio, 9:00 a.m.

02-15-2017 Professional Association Specializing in Seniors ("PASS"), The Weils of Bainbridge, Chagrin Falls, Ohio, 8:30 a.m.

