Protecting the Spouse at Home from the Long-term Care Costs of the Spouse in Need

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An unplanned need for long-term care by one spouse, can have a devastating effect on a married couple's life savings. Writing monthly checks in excess of $7,000 per month for the ill spouse's long-term care needs can leave the healthy spouse living in poverty in a matter of months. Fortunately, with the combination of federal Medicaid legal protections and sound legal planning, most of the marital assets can be preserved for the healthy-spouse's benefit despite the needs of the ill-spouse.

Whereas, the Medicaid resource limit for a married couple is typically $3,000, the resource limit where only one spouse needs long-term care services is much higher. These special Medicaid provisions are often referred to as "spousal impoverishment" rules. These rules are designed to keep the spouse at home (community spouse) from becoming completely impoverished because a lengthy, debilitating illness befalling the ill spouse (institutionalized spouse).

The spousal impoverishment rules protect a certain portion of the couple's countable assets under the Medicaid program. The general rule is that the the community spouse is allocated at least one-half of the couple's countable assets, subject to a floor of $23,844 and ceiling of $119,220 (2015). The Medicaid resource limit, then, is the community spouse's resource allowance plus the institutionalized spouse's resource standard of $2,000, unless increased by a judge's order. Available assets are counted toward these limits and excluded (or exempt) assets are not. Medicaid counts the separate property of both spouses, as well as other joint property, and revocable trust property when evaluating eligibility.

Not all Assets Count Toward the Resource Limit

Certain assets are excluded for purposes of determining eligibility for Medicaid. For example, a home in which the applicant or applicant's spouse lives or intends to return with equity of less than $552,000, rental real estate, one car, and household goods and personal effects are not countable assets. Certain annuities that have been annuitized are not countable.

For a married couple, real estate in the sole name of the community spouse is exempt. Recent Medicaid policy has also opined that the community spouse's retirement accounts are exempt.

Medicaid planning typically requires spending or sheltering excess resources in exempt form. With proper planning, the amount of assets allocated to the institutionalized spouse can also be protected for the benefit of the community spouse resulting in most of the marital assets remaining for the community spouse. In certain circumstances, the community spouse may also keep a portion of the institutionalized spouse's income as well. If you or someone you know has a spouse in need of Medicaid benefits, please contact us to schedule an appointment at 317-622-8181.

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