

“Let our advance worrying become advance thinking and planning” – Sir Winston Churchill

C. DAN CAMPBELL, P. C.

ELDER LAW TODAY

****NEWSFLASH: WE ARE GOING DIGITAL****

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Exciting News!!! In addition to our paper version, we are launching an email version of Elder Law Today. It will allow us to offer more information on matters which may be of interest to you. To subscribe please telephone (940) 696-5015 or email danna@cdancampbell.com with your email address.

Well, let's talk about eleven “myths” about Medicaid.

1.) “I have to “spend down” all of my assets before Medicaid will pay.” Not true. Depending on whether we have a single person or a married couple, the amount that can be protected will vary considerably. But in either case, certain assets are “exempt” (not countable) such as a homestead; furniture/furnishings; one vehicle; prepaid funeral plan. While it is true in case of a single person, his or her “countable” assets (eg: financial assets; rental property) must be reduced to below \$2000.00 in order to qualify for Medicaid, there are perfectly legal ways to protect all or a significant portion of these assets without having to spend down on nursing home care. And in case of a married couple, quite often we can protect 100% of these “countable assets” without any “spend down”!

2.) “I can't give away anything and get Medicaid”. Not true. While in some cases, gifting assets can result in a “transfer penalty” (a period of ineligibility for Medicaid), in many cases, there are perfectly legal ways to protect all or a significant portion of those assets that you are wanting to transfer.

3.) “I have to wait 5 years after giving anything away to get Medicaid”. Not true. There are two basic types of Medicaid transfer plans. One is a “non-crisis” plan where we believe our client will not need Medicaid for at least 5 years. The other is a “crisis” plan –where the client is either already in a nursing home or will be in a very short time and did no advance planning. These are the most common situations we see in our practice. Even in a “crisis

plan” we can usually protect a very significant portion of our client’s “countable” assets.

4.) “I can keep all of my separate property (which I either owned before marriage or inherited) and get my spouse on Medicaid”. This is a common myth. HHSC (Health and Human Services Commission which administers Medicaid) makes no distinction between “separate property” and “community property” so in Medicaid planning we have to take into account ALL property of both spouses. This is not to say that we cannot protect this property –but it has to be taken into account in developing the plan.

5.) “If I transfer all of my property to my spouse, I can qualify for Medicaid”. Not true. Again, HHSC will look at all property in either spouse’s name. While we will likely be able to protect a significant portion of the property, transferring it to the other spouse does not automatically protect it.

6.) “Medicare will cover my nursing home bill”. Not usually. Medicare will cover only a small portion of the nursing home bill. If you have a Medicare supplement, and you spent at least 3 days in a hospital before entering the nursing home, Medicare will cover the first 20 days of nursing home care. If you still need skilled care, you can get up to 80 additional days of long term care provided you are “rehabilitating” –else you may be cut off before the 80 days has run. After that, unless you have long term care insurance (nursing home insurance) you will have to private pay, unless you get on Medicaid!

7.) “If I enter a nursing home as a private pay resident, I must use up all of my assets before I can get on Medicaid”. False. While some folks (perhaps an uninformed neighbor) may tell you that, it is not true. *Again, we can help our clients legally protect significant portions of their assets when nursing home care is needed.*

8.) “My agent under my Durable Power of Attorney can take care of handling my assets if I

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 We are dedicated to providing solutions for seniors.



Well, that's it for now! Have a great Summer!

My associate, Dean Godfrey and I are hosting our
Summer Seminars
 at Work Services Corporation, 1343 Hatton Road
Tuesday, June 19th @ 6:00 pm – Estate Planning
Thursday, June 21st @ 6:00 pm – Medicaid Planning
 As a “bonus” on Tuesday, Beth Phelan will discuss senior
 care services and on Thursday, Michelle Kuehner will
 discuss dementia & financial planning.
**** Please call Danna for reservations at 696-5015****

protect the assets of the first spouse to die for the
 benefit of the surviving spouse yet not have those
 assets countable for Medicaid should she need long
 term care in a nursing home.
11.) I can hide my assets and get eligible for
 Medicaid. Not true. Intentional misrepresentation
 on a Medicaid application is a Federal crime. You
 could face criminal prosecution subjecting yourself
 to criminal penalties or even imprisonment!

become incapacitated and get me on Medicaid if I
 have to go into a nursing home”. Not necessarily.
 While a Statutory Durable Power of Attorney for
 financial transactions – as contrasted with a Medical
 Durable Power of Attorney – is extremely
 important, **quite often the POAs we see do not
 have “Medicaid transfer language” to enable the
 agent to make necessary transfers if you become
 incapacitated and need long term care.**
9.) “All of my income will have to be paid
 to the nursing home for my spouse’s nursing home
 bill.” Not true. The spouse who is not in the nursing
 home can retain for himself/herself all of his or her
 income and not have to pay any of it to the nursing
 home.
10.) “My wife and I have “mama-papa
 Wills” (all passing outright to the survivor) and
 there is nothing I can do to protect assets for her
 should I die first (and she is either in a nursing
 home or may need to go to a nursing home). Not
 true. You and your wife could sign “spousal care
 trust Wills” that will