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ELDER LAW NEWS

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Medicaid Division of Assets

Medicaid law is complex and there is a great deal of confusion over the “division of assets” and the “Medicaid spend-down.” Everyone’s situation is different and the following example is just one of the ways in which many of our clients are able to qualify their spouse for Medicaid without spending down.

Bonnie’s husband has advanced Alzheimer’s and must go into a nursing home. She’s afraid that their entire life savings will be gone in a year if she has to pay the nursing home \$5,000 per month, and that she won’t be able to pay her monthly bills.

The couple has \$92,000 in savings, a house and a car. His social security check is \$1,342, and her social security check is \$942. The house and car are exempt. Without a court order, the state will total all of the countable assets and Bonnie would only be able to keep one-half, or \$46,000. Also, she would only be able to keep \$1,515 per month income.

There is good news for Bonnie. It’s possible she will get to keep everything — all of the assets, all of the income and the house — and still have Medicaid pay her husband’s nursing home costs.

Nevada law allows her to seek an increase in the amount of assets and income she can keep. Bonnie will need to petition the court to increase the assets and income, with what is called a Petition to Divide the Assets and Income and for Support. The Court can then set aside to Alice the new increased maximums for 2004: assets of up to \$92,760, and income of up to \$2,319 per month.

With proper advice, she’ll be able to avoid the spend-down and keep everything she and her husband have worked so hard for.

Myths of Aging

New research challenges traditional ideas about aging, suggesting that seniors can continue to work, drive, and live independently longer. Seniors often compensate for modest changes in their brains with powerful vocabularies, and advanced knowledge through experience.

In reading comprehension, seniors actually outperformed young adults when the information to be remembered was relevant to their lives. On reasoning tests, seniors performed just as well when the problems to be solved were practical and involved an emotional component.

Age-related stereotypes and low expectations may cause seniors to create a self-fulfilling prophecy. Seniors performed quite well when presented with information to give them confidence about their own abilities before memory tests, closing the gap between themselves and college students from 15% to 3%.

Researchers do stress that the aging process does involve some loss of brain cells. However, mental and physical exercise, good nutrition, reduced stress, adequate sleep, and social activity help to slow or even reverse the loss of brain cells.

Kim Boyer offers free in-service training on the following topics:

Division of Assets Medicaid Planning
Guardianship Advance Directives
Other Elder Law Issues

This information is for general informational purposes only and does not constitute legal advice. For specific questions, you should consult a qualified attorney.

