ROTH ELDER LAW

HOW TO AVOID GOING BROKE IN A NURSING HOME

ELDER LAW SURVIVAL GUIDE

Legal Disclaimer: This report and the topics covered are for informational purposes only. This information should not be used as a substitute for specific legal advice, which would likely vary, based on your particular situation. If you or a loved one are contemplating entering a nursing home and are seeking to apply for Medicaid benefits, you should seek the counsel of a competent attorney.

Special Report on Medicaid Planning

Contents

Introduction 1

The Difference between Medicare and Medicaid 1

How Do You Qualify for Medicaid 3

Why Many Aging Seniors Rely on Medicaid 4

Different Kinds of Resources 5

How to Protect Your Assets 8

Conversions 8

"Spend Downs" 9

Medicaid-Approved Annuities 10

Transfer Your House Correctly 11

Don't Let the Deficit Reduction Act Hurt You 12

Traditional Estate Plans vs. Medicaid Planning 13

How Traditional Estate Planning Hurts Medicaid Eligibility 14

Use the Right Tools to Plan for Long Term Care 15

DIY Planning Can Cost You Tens of Thousands 17

Conclusion 17

About The Authors 18

Contact Us 22

Introduction

In the 2010 Census, there were over 40 million people in the United States aged 65 or older.

That's an amazing feat of medical progress, especially when you consider the fact that a little over a century ago, in 1900, there were only slightly more than 3 million people in that age range. Even more impressive – according to the Pew Research Center, 20 percent of the population in this country will be at least 65 years old by the year 2050.

If you are about to enter your Golden Years or have an aging parent or relative, this news is both a cause for celebration and trepidation. It's fantastic that people are living longer, but frightening because that means a greater need for care and more money to pay for it.

Unfortunately, many aging adults and younger caregivers know very little about how to gain access to the kind of care that's going to be needed – or even what will be needed. They are under the impression that things will just be taken care of for them, and they don't need to worry about it.

Who's going to be doing this care taking? Medicare and Medicaid, of course. But most people don't really understand either program and tend to lump them together, which is a big mistake.

The Difference Between Medicare and Medicaid

There are two main distinctions between Medicare and Medicaid. The first one involves whom the plan is for, and the second details what is (and isn't) covered. Medicare is medical insurance from the federal government designed to care for anyone who is 65 or older in our country. In addition to this, it also covers some people under 65 who have certain disabilities, as well as anyone in End-Stage Renal Disease. But if you're at least 65, it doesn't matter how much money is in your bank accounts or what preexisting conditions you have – automatic Medicare eligibility is granted to you.

Benefits for Medicare depend on which Medicare Part you have – A, B, or D. Many people have more than one. Part A is known as hospital insurance and covers home health care, nursing home care, hospice, and inpatient hospital care. Part B is insurance for your primary care physician and other doctors, as well as preventive care, durable medical equipment, outpatient care, and home health services. Part D covers prescription drugs.

The eligibility requirements for Medicaid are much stricter. They're determined by individual states, with many states offering additional benefits over what the federal government mandates. We'll cover the specific qualifications and benefits in New York later, but what it boils down to is this: to receive Medicaid, you have to meet the definition of low-income in your state along with requirements for residency, citizenship, and immigration status. Nationally, Medicaid and CHIP provide coverage to roughly 60 million people, including seniors, children, parents, pregnant women, and people with disabilities.

Where Medicaid is concerned, there are two categories of benefits: Mandatory and Optional.

The Mandatory benefits are the minimum benefits required by the federal government. Every state has to offer them, and they include things like inpatient and outpatient hospital services, EPSDT services, lab and x-ray services, family planning, transportation to medical care, and nurse midwife services. Optional benefits are offered at the discretion of the state, and different states offer different services. These can include such benefits as dental services, case management, optometry services, podiatry services, occupational and physical therapy, and prescription drug coverage. In the state of New York, two examples of optional benefits that are offered include limited prescription and dental coverage.

If it seems like there's a bit of overlap between the two programs, you're not wrong. In fact, oftentimes they work in conjunction to provide coverage in a particular area, with Medicare generally covering the bulk of the cost and Medicaid picking up the rest. But that's not always the case. There are a number of benefits important to aging seniors that you can only get through Medicaid.

Why Many Aging Seniors Rely On Medicaid

There's an unfortunate truth about living longer. While some people enjoy good health well into their later years, many older Americans slowly deteriorate over a long period of time. When they can no longer handle all of the tasks of everyday life on their own, they require what's known as long-term care.

What is long-term care? The Federal government defines it as "assistance with the basic personal tasks of everyday life, sometimes called Activities of Daily Living (ADLs)," and most often what it means is that the person in question needs a home health aide, a nursing home, or an assisted living facility. That way, trained medical professionals will be able to help them move, eat, dress, bath, go to the bathroom, manage their medication, and more – or less, depending on the individual's need.

You may think that this won't ever happen to you or your loved one, but the statistics tell a different tale. Of the roughly 40 million Americans 65 or older in 2000, 9 million of them required long term care. That's almost 25 percent of the population, and you can bet that number goes up the older you get. In fact, it's estimated that 40 percent of people who reach the age of 65 will have to go into a nursing home eventually.

This type of care isn't cheap, either. Average national costs range from $2,100/month at an adult day health care center to over $7,500/month for a private room at a nursing home. In a New York nursing home it can cost upwards of $11,000/month or $132,000/year. And while Medicare does cover home health care and nursing home care, there's a huge caveat – it does not cover long term care.

In order to get Medicare to pay for these services, you have to be able to show that you have the ability to get better and are actively working to do so. That doesn't work for aging seniors in decline. At best, seniors receiving long-term care might be able to get Medicare to cover the cost of their stay in a nursing facility or in-home health for 100 days. After that, if they haven't gotten better, they're out of luck.

Medicaid, on the other hand, will pay for long-term care – but only if you qualify.

How Do You Qualify for Medicaid

Traditionally, in order to qualify for Medicaid and enjoy long-term care benefits, you have to pass three tests: the Medical Test, the Asset Test, and the Income Test.

Obamacare and the Affordable Care Act are bringing changes to this process for some, but the requirements that have been in place for years still apply to the elderly. The actual financial limits may change, but not the process.

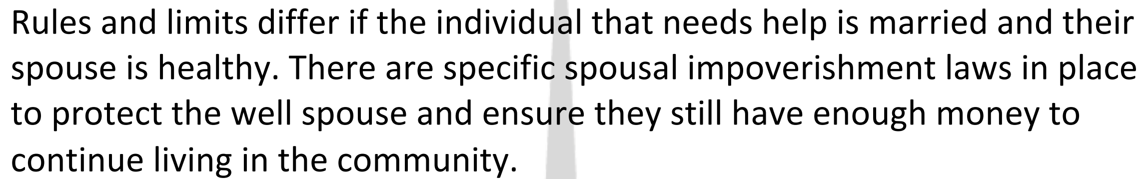
Because of that, it's important to understand what the tests mean.

Medical Test – This test is pretty straightforward. It relates to the definition of long term care previously mentioned. In order to receive Medicaid, an individual has to be able to demonstrate that they need help with the "activities of daily living."

Typically, this means getting a doctor to sign off on the fact that someone can no longer care for himself or herself without assistance. There are very specific things that a person must show that they need help with, such as:

- Bathing
- Eating (the act of chewing and swallowing)
- Feeding (setting food up and getting it to one's mouth)
- Dressing
- Incontinence
- Using the toilet
- Personal hygiene
- Mobility

Asset Test – As you'll see below when we get into different kinds of assets and what can be counted against you and what can't, this is a lot more complicated than it's going to sound here. That being said, for a single person to be eligible for long term care on Medicaid, they must have less than $14,850 in countable assets in 2016.



Rules and limits differ if the individual that needs help is married and their spouse is healthy. There are specific spousal impoverishment laws in place to protect the well spouse and ensure they still have enough money to continue living in the community.

Income Test – New York has a specific set of rules regarding how much money an individual can earn and still be eligible to receive Medicaid. Countable income includes things like:

- Wages
- Salaries
- Social Security Benefits
- Pensions
- Veterans benefits
- Dividends from bonds and stocks
- Interest earned on CDs and bank accounts
- Distributions from Retirement Accounts

Most of the time, "income" such as federal housing assistance and food stamps will not be counted, but that's not always the case.

A Medicaid recipient is allowed to keep $50 per month in income. Anything in excess of this amount must be contributed to the nursing home against the cost of services provided. The income allowance for a community spouse is $2,980.50 per month in 2016.

Different Kinds of Resources

As mentioned above, all assets are not created equal, and there are several different categories of assets defined by the New York state Medicaid program. When your assets are calculated, they will fall into one of three groups: Available Assets, Exempt Assets, and Unavailable Assets.

Countable Resources Also known as Countable Assets, these are the assets that count "against" someone when they apply for Medicaid. In order to receive long-term care, an individual can have no more than $14,850 in

Available Assets in 2016.

The types of things that fall into this category include:

- Cash
- Savings accounts
- Checking accounts
- Real property (excluding your primary residence)
- Secondary motor vehicles (for people who own more than one automobile)
- Stocks
- Bonds
- CDs
- Cash Value of Life Insurance

Those who have more than $14,850 in Available Assets may still be able to qualify, but typically they have to undertake a "spend down" process. This is where they relieve themselves of any assets that would place them over the limit. There are a number of ways to do this, and many complicated rules and restrictions that govern the process.

Later on, we'll discuss how you can get the most value out of a "spend down" if you are required to go through one.

Exempt Assets This is the first of two categories of assets that will not count towards your Medicaid eligibility. These include:

- **$14,850** in cash, real property, or stocks (for a married couple, there is a range which varies).

- **The individual's primary residence** – But normally only if they have a spouse, a child under 21, a disabled child over 21, or a sibling who is living at the home.

Additionally, the federal minimum protection allows for someone to keep a primary residence worth up to $500,000. Many states don't put a monetary

value on this asset exemption at all, or increase the minimum. In New York, someone can have up to $828,000 of equity in their primary residence and still utilize this exemption in 2016.

- **Personal items**. Such as clothes, jewelry, and so on.
- **Household items deemed "essential"** Such as; appliances, furniture, etc.
- **One automobile of any value**. It should be noted, however, that a motor vehicle is only exempt if it will be used to transport a disabled individual, take the Medicaid recipient to medical treatment appointments, or take them back and forth to their place of employment.
- **Burial funds**. $1,500 for an individual. Irrevocable burial funds are entirely exempt. However, as for irrevocable funds, any funds remaining after the burial are to be paid to the local Medicaid agency.
- **Burial plots**.
- **Term life insurance.** Life insurance with a cash surrender value can also be exempt, but only if the policy is for less than $1,500, which essentially means that most policies are not exempt.
- **Long-term care insurance policy –** If you have one of these policies covering part of your nursing home costs, that monetary value won't be counted as an asset.
- **Unavailable Assets** This category might very well be the most interesting one, because it involves assets that simply cannot be disposed of. What does that mean? Well, assets that fall into this category are things that the individual can't sell off because they are prevented from doing so by a law, court order, contract, or simple lack of interest in the market for that particular item. An example of this is in situations when real property is owned jointly with another and that other owner doesn't agree to a sale. These items cannot be counted as a resource against the applicant, however, it is possible that the county will place a lien on the property for Medicaid benefits paid to the applicant.

How to Protect Your Assets

Now that you know the different categories of assets out there, as defined by Medicaid, it's time to learn how you can protect the assets that you have and still maintain your eligibility.

This last part is incredibly important, because it is possible for someone to violate Medicaid eligibility rules by incorrectly reallocating assets. Anyone looking to protect their money and property should consult with an experienced elder law attorney before making any monetary decisions that could impact their ability to qualify for Medicaid

Conversions

One of the best things that you can do to protect your assets is convert them so that something that otherwise would be counted against you moves to the exempt or unavailable category.

Here are several ways that you can convert your money without being penalized:

- **Pay friends and family for "services**" – Medicaid rules allow applicants to pay people for services rendered. The definition is quite broad, and can include things like transportation, home repair, housekeeping, and more. This is a great way to make sure that an applicant's money goes where they want it to. Just be sure to create a written agreement and keep careful records in case there are questions during the Medicaid application process.

- **Annuity for a spouse** – Transferring assets to an applicant's spouse does little good, since their combined assets will be counted towards eligibility. However, it is possible in some instances to transfer assets to an applicant's spouse and then use those assets to purchase an annuity, effectively increasing the spouse's income. To do this without penalty, however, the annuity must meet certain requirements that we will discuss later on. New York Medicaid normally must be the primary beneficiary when the spouse dies on the annuity.

- **Disabled child benefits** – If the applicant has a child who is blind or disabled permanently in another way, there are no penalties for transferring whatever assets they want to that child. It is also possible to put money into a trust at any time for someone who is under 65 years old and permanently disabled without affecting eligibility.

- **Joint purchases** – You might remember that we briefly touched on joint purchases above when discussing Unavailable Assets. These can be tricky, so anyone wanting to go down this road definitely needs to talk to a lawyer or financial advisor first, but making the right kind of joint purchase can allow your co-owner to keep the property in question without violating Medicaid eligibility rules.

"Spend Downs"

If you or your loved one is required to "spend down" assets in order to qualify for Medicaid, it's important that you do it the right way. This means not only divesting assets in ways that are approved by New York Medicaid, but also making use of the "spend down" so the money isn't going to waste. Here are some of the most useful ways to get down to the asset limit.

- **Use the money on a home** – Since a primary residence is an exempt asset, putting money into a home can be a smart strategy. Those who don't already own a home should buy one (in their spouse's name), provided they have a spouse who will remain in the house, or siblings or children who can meet the requirements laid out in the exemption. The reason the house should be in the community spouse's name is so they can sell it later if they need to without harming the applicant's eligibility. For anyone who already has a house, you can use assets to pay down your mortgage or make home improvements.

- **Buy things you need** – Remember, furniture, appliances, clothing, and other essential items are not counted as assets in most cases. If there's anything of that nature that you need, make sure that you purchase it before applying for Medicaid.

One big purchase people can make is a new car. Unlike in many other states that cap the motor vehicle value limit at $4,500 – or less – New York allows you to keep one car of any value. Using this exception wisely can be a way to

protect a fair amount of your assets. It is also smart to get a burial plot for the applicant if they don't already have one, and set up a prepaid burial account.

- **Pay off debts** – This was touched on briefly above when we mentioned paying off the mortgage on a house, but it goes further than that. Any legitimate debt, such as credit card bills, car payments, utilities, medical bills, taxes, rent, and so on, can be paid by the applicant during a "spend down." This way, applicants can affectively "clean the slate" before going on Medicaid and lower or remove many financial obligations for themselves or their spouse.

Medicaid-Approved Annuities

Above we mention the possibility of an applicant getting an annuity for their spouse as a way to convert Countable Assets to income, but this process is a lot easier said than done. It won't do to just set up any old annuity and expect that you'll be in the clear. Medicaid has very specific rules governing how applicants can and can't use annuities and violating them can ruin your eligibility chances.

What happens if that person faces extreme financial hardship? Medicaid Qualifying Annuities (MQAs) created less than five years before a person applies for Medicaid have to be done in a very specific way.

Among other things, annuities must:

- Be actuarially sound
- Begin payments immediately
- Have payments made in equal installments
- Not have any balloon payments
- Have specific requirements for beneficiary designations

Doing this correctly will not only allow the community spouse to keep well above Medicaid's spousal income limit, but also reinvest the money so they can continue to earn income. However, if this process isn't overseen by a legal expert and a mistake is made, the applicant will face a lengthy penalty

period during which Medicaid won't cover their long term care.

Transfer Your House Correctly

We've already described how an applicant can transfer their house to their spouse or other designated relatives once they're getting ready to apply for Medicaid. This will keep it from being considered an Available Asset that will impact their Medicaid eligibility, as well as allowing those relatives to continue to live there. Unfortunately, there is a potential problem with this strategy. Generally speaking, a person's home is their most valuable asset, and many states have enacted rules that allow Medicaid to put a lien on an individual's house when they start receiving Medicaid.

What does that mean? This lien won't prevent an applicant's spouse or other qualified family members from keeping the house as long as they reside in it, but it will stop them from selling the property or making any money off of it. And when they pass away, the state could force the sale of the property to recoup the money that was spent on their care.

How can recipients avoid this scenario? There are a number of potential ways to do it, but one thing is true for all of them – you have to plan ahead. In order for these methods to work, applicants need to transfer ownership of their house at least 60 months – five years – before they apply for Medicaid.

More on that in a bit. First, let's talk about some of the potential options available to you.

Give the house as a gift – If an applicant gives their home to someone they trust (a sibling, a child, a valued friend), there will be no way for the state to place a lien on it because it won't be one of the applicant's assets anymore. Drawbacks to this plan include potential consequences involving the gift tax law and a negative impact on the applicant's income taxes. Additionally, not owning the house anymore means that they will be at the mercy of the person they gifted it to. Even small gifts can come back to bite you, so it's better to just not do it.

Create a life estate – This is a potential answer to the above question. In this

scenario, the applicant gives their home to loved ones but sets aside what's known as a life estate. Basically, it grants them the legal right to stay in their house for the rest of their life, so they don't have to worry about it being sold or taken away. Downsides include the fact that the value of the life estate will be deemed a countable resource if it is ever sold while the applicant is alive and receiving Medicaid benefits and potentially adverse tax consequences.

Set up an income-only irrevocable trust – Some states have expanded the definition of estate to allow them to collect on this trust after you die. Thankfully, though, New York is not one of them, so this can be a good method to protect an applicant's home. Transferring their house into an income-only irrevocable trust effectively removes it from an applicant's estate, but still allows them to live there and collect any income that the trust generates.

Before trying any of these methods, you should consult a legal professional who is familiar with all of the New York state laws on the matter. There may be other options available to you, and you need to understand the repercussions involved in any action that you take.

Don't Let the Deficit Reduction Act Hurt You

Speaking of repercussions, it's time that we delve more deeply into a subject that's only been mentioned in passing so far: the Deficit Reduction Act of 2005 and the 5-Year Look-Back Rule.

In the last section, you might have noticed that we said all of those strategies for gifting or transferring an applicant's home should happen at least 60 months – or five years – before they apply for Medicaid. Why? Because when someone applies for Medicaid, states have the right to look back into their finances to ensure that they aren't just giving away assets, so they'll be eligible for assistance. Before 2005, the look-back period was 36 months, but the Deficit Reduction Act increased this to 60 months and most states have switched to this standard.

How does the 5-Year Rule work? Basically, if someone who applies for Medicaid has given away any money or assets in the five years preceding their application, the state can penalize them for their actions. They do this

by withholding Medicaid for a specific number of months. The higher the monetary value of the assets that were incorrectly given away or transferred, the longer this penalty will last. They calculate the length of the penalty by adding up the total of the gifted assets and dividing that by the average monthly cost of nursing home care in particular regions within the state. For the sake of simplicity, if someone gifted or transferred $55,000 in assets within the 5-year look-back period and the average monthly cost of nursing home care in the region was $11,000, they would face a penalty period of 5 months. Please note that this example is just for illustrative purposes only as the regional rates vary across the state.

Five months may not seem like that long of a time period, but when someone is in need of expensive long-term care, it can feel like a lifetime. The solution to this problem is twofold, and the first part is easy: if someone is going to be applying for Medicaid within the next five years, they shouldn't give away any of their assets. Unfortunately, it's not always enough for an applicant to simply get rid of assets more than five years before applying to Medicaid. In order to avoid state scrutiny – and penalties – gifting and donating also need to be done in the right way. That means working with an elder law expert to learn what is and isn't acceptable where Medicaid is concerned, and create a plan so that the application process goes smoothly when the time finally comes.

Traditional Estate Plans vs. Medicaid Planning

Most people don't think a whole lot about aging and dying. We tend to believe that it's enough to create a will and update it every once in a while when a life-changing event like getting married or having a child occurs.

Then there's the group that's a little more focused on their future and their finances. They may have purchased life insurance, looked into trusts, and possibly even sat down with a professional to put together a true estate plan.

When it comes to planning for Medicaid, both of these groups are in trouble. Why? Because Medicaid planning requires you to focus on different goals than those that are common to most estate plans. In fact, some of the

things that people are told to do in traditional estate planning can actually harm your chances when applying for Medicaid.

How Traditional Estate Planning Hurts Medicaid Eligibility

The reason that traditional estate plans can negatively impact your ability to qualify for Medicaid is because they are focused on different goals. In a traditional estate plan, you are typically looking to do one or more of the following:

- Create a strong Will
- Set up a living trust that's revocable
- Create statutory power of attorney for personal and real property
- Create a health care proxy
- Include asset protection from creditors and others for your beneficiaries
- Work to minimize the effect of federal and state taxes, including the estate tax
- Avoid probate to that the extent that you are able
- Designate money to go to charitable causes

It's not that these actions aren't valid or useful for someone, but if an individual ends up needing help from Medicaid, they skip over a number of important points. Moreover, some of them can actually hurt your chances.

For example, Medicaid still considers revocable trusts to be part of a person's assets. If you or a loved one have a lot of assets in a revocable trust when applying for Medicaid, the value of that trust will be negatively counted and could hurt eligibility. On the positive side, because the trust is revocable, it's possible to end it and set up a trust that won't count towards Medicaid – as long as you do it at least five years prior to applying.

Use the Right Tools to Plan for Long Term Care

At this point, hopefully it's clear that there are very specific things one needs to do to properly plan for long term care and a likely need for Medicaid. In order to qualify and avoid incurring penalties, you not only need to utilize the correct tools, but also ensure that the language is specific enough to say and do exactly what you intend.

Here are some potential tools that are worth looking into:

First-party Special Needs Trusts – Another name for these kinds of trusts is "Self-Funded SNT" because it involves creating a trust with the Medicaid applicant's own money. Since special needs trusts are established and protected by federal law, a Medicaid applicant can't be penalized for putting their assets into one – provided it's set up correctly. Most often, this type of trust is used when someone is already receiving Medicaid and gets money from a court settlement or inheritance. However, these trusts are only allowed in very specific circumstances:

- The beneficiary has to be under 65 and disabled
- They must be created by a court, guardian, parent, or grandparent
- Any money that the New York Medicaid program spends on the beneficiary will be repaid
- The trustee has to be given complete discretion in deciding whether or not to use resources of the SNT to pay the beneficiary

Third-party Special Needs Trusts – The difference between first-party and third party trusts is that only other people (not the beneficiary) are allowed to contribute their assets in a Third-party trust. Because the beneficiary does not own the assets, the state also has no claim over this kind of trust. The only stipulations are that the trustee isn't required to use the trust to assist the Medicaid recipient, the beneficiary can never receive cash from the trust, and care must be taken to ensure that any benefits the recipient gets don't render him or her ineligible for Medicaid by counting as Available Assets, and that it follows Social Security and Medicaid rules.

What's interesting about this kind of trust is that, so long as it's set up early enough and done the right way, an individual could potentially pass assets to another person and then benefit from the trust (set up with assets that

were originally theirs) without incurring penalties.

Pooled Trusts – Also known as a 4dc Trust, the main benefit of this type of trust is that it can be created without incurring penalties even if the applicant is over 65 and within the five year look-back window. Pooled trusts are run by nonprofits that take assets from multiple individuals and put it all together into a "master trust." In order to ensure that each individual's money stays separate, this master trust is divided into "sub-trusts." When the Medicaid recipient passes away, the state will collect money from this "sub-trust" as reimbursement for care expenses. Any money left over after this will be divided between the nonprofit and the designated beneficiary.

Qualified Income Trusts – These trusts are useful and fairly straightforward, though it's vital that the correct wording is used to keep a Medicaid recipient under the income limit in New York. They work by placing the beneficiary's money in a trust and limiting the amount that the individual receives each month to help them stay under the income limit so that they can receive Medicaid. Qualified income trusts can be set up to provide money both to the Medicaid recipient and their spouse, with the remainder of it going to pay for long term care.

Deed With Life Use – With one of these deeds, an applicant effectively removes their house from their estate while still retaining the ability to live there and enjoy most of the benefits of ownership. This is considered a gift for Medicaid and thus will result in a transfer penalty.

Medicaid Asset Protection Trusts - These trusts are often one of our most used planning tools. When designed correctly, assets placed in the Trust are not counted as an available resource after the 5-year look-back. As such the Trust can protect a substantial amount of assets when used correctly.

DIY Planning Can Cost You Tens of Thousands

The bottom line with all of these strategies is that they are complicated and confusing, and even making a small mistake can end up hurting your Medicaid eligibility. With penalties that can end up draining your savings to the tune of roughly $11,000 per month, doing it yourself and hoping you get

it right just isn’t worth it.

Seek out the help of an experienced elder law attorney or a financial planner who focuses on issues related to aging, and do so long before you or your loved one believes they are going to be in need of long term care.

At the very least, you want to start planning for Medicaid five years before applying, but ideally even earlier than that. You might be worried about the cost of such services, but not utilizing them is almost guaranteed to cost you more in the long run. At the very least, you owe it to yourself and your family to arrange an initial consultation offered by many Medicaid planning professionals. That way you can get a sense of the cost – both for their services and in what could happen if you don’t get their help.

Conclusion

As you can see, planning in this area is very complex and not something we recommend you trying to do alone. In addition, Medicaid planning is often influenced by the interaction of several other areas of law - not just Medicaid laws. For example, in addition to Medicaid laws, Tax laws, Estate and Gift Tax laws, Real Property laws, New York General Obligations laws and potentially more can be affected by Income. The money spent on professional planning is well worth the investment. The good news is we can help you through this complex process. Call us today to schedule a consultation to learn how we can help you and your family. We can be reached at 607-962-6162.

About the Authors

Patrick J. Roth, Esq., CPA

Typical "Bio's" merely list off major accomplishments and dry, boring information. They don't really tell you much about the person. Don't get me wrong, I think background information is still important – and I'll fill in the gaps of mine below – but I think getting to know the person is even more important. To that end…here goes!

I always wanted to have my own business, but I did not know what exactly I wanted to do. I was nudged by my older brother to learn a technical skill - hence my accounting degree from St. Bonaventure University (which ultimately lead me to get my CPA license). While attending St. Bonaventure I was again nudged by my business law professor who suggested that I should go to law school. After 4 years of college, I had no interest in continuing with formal schooling so I got a job instead. A few years later, however, and I decided I was ready to tackle law school.

I attended University of Buffalo Law School and after graduation, I started working with a law firm in Elmira, New York. My duties included preparing estate plans and working with small businesses. I was lucky enough to really enjoy these areas and my CPA background really helped in these areas as well. However, my desire to have my own business did not go away. After several years I parted ways with my old firm and struck out on my own.

A recent turn of events in my own family cemented to me what I should be doing (luckily I was on the right track). This experience convinced me that I was supposed to help people plan their estate and make things as easy as possible for them and their loved ones.

Working with families the way that I do, I witnessed what I thought were terrible things. Parents and children not speaking with each other, siblings that once got along great were now bitter towards each other. I've personally seen too many people get hurt or fight over estates. This often occurred in families where people did not think it would happen to them because their families were so close. Sadly, they were wrong. And I

realized that there weren't enough professionals providing good plans and trying to prevent these unfortunate incidents.

These experiences inspired me and set me on my current mission. No longer do I sit back and hope these things don't happen to my clients. Instead, my work is focused on designing estate and business succession plans for people who want to be proactive and do everything possible to make things easier for their loved ones. This includes both while they are alive in case of a disability, and after they have passed away. Dealing with disability is a central part of my plans, unlike typical estate plans that only focus on where property should go after someone passes away. Instead I work on plans that are carefully designed to work in case of a disability, in addition to addressing how to pass on family wealth, the family businesses *and* family values. Many of my plans even include provisions to provide asset protection for loved ones – protection from divorcing spouses, creditors, predators and lawsuits – that they are not able to provide for themselves. All this while minimizing taxes and fees.

Besides the law, I am first and foremost a husband and a father. My family is my life's focus. I have an eleven-year-old son and twin girls who just turned nine – if I look tired; now you know why. Because of my work, I have seen what can go wrong with an estate plan – and why. Fortunately this experience allows me to make sure my children won't have to face that. This is also why I create unique and personal plans for each of my clients. It may take longer and cost more, but ultimately it provides much better protection than the one size fits all plans that other attorneys prepare.

As an individual I have a passion for learning. One great thing about being an attorney is the continuing education opportunities that are available to me. I commit a substantial amount of time and energy to professional development such as attending estate planning and asset protection conferences to learn new techniques or ways to improve on traditional, old school planning. Not only is it fulfilling to me, but it also allows me to create better plans for my clients as well as for my own family.

Oh, and I'm a huge Pittsburgh Steelers fan (as those of you who've been to my office well know!) Don't worry if you're not, I won't hold it against you…much.

Now for the more traditional stuff (if you are interested):

I graduated from the University of Buffalo law school in 1999 and was admitted to the New York State Bar. While attending law school, I earned a certificate in Taxation Law and won the school's Moot Court Competition. I find it amusing that although I won the highest law school award for advocacy, which gave me a membership to the Order of Barristers, I now spend most of my time helping people avoid court completely.

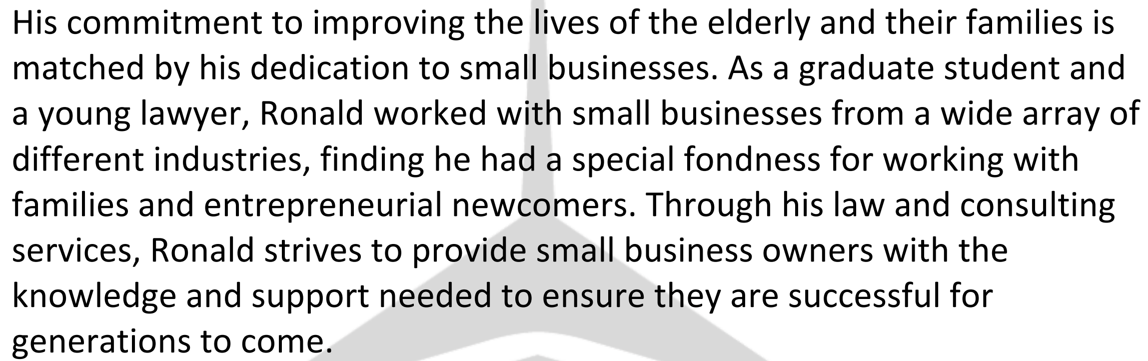
My undergraduate education also comes in very handy in my line of work: I graduated from St. Bonaventure University in 1992, with a BBA in Accounting and later became a CPA. That means not only can I help my clients with the legal aspects of their estate or business planning, I'm pretty good at the tax and financial side of that planning as well. (After all, that's kind of what you want in a good estate planner, right?)

I now live in Painted Post, New York and am involved with several local charitable organizations including the Corning Chamber of Commerce and the Corning Painted Post School District Foundation. I also speak at several presentations on various estate and business planning topics every year.

Ronald J. Klokus - New York Estate Planning Attorney

Amidst attending marketing classes and studying for political science exams as an undergraduate at Syracuse University, young Ronald J. Klokus still managed to find time to volunteer for Meals on Wheels. And it's fortunate he did—it was during his time volunteering with the elderly that the aspiring lawyer developed a passion for Elder Law.

"Being able to help families through what can be a very difficult time is some of the most gratifying work that I have been a part of," says Ronald.



His commitment to improving the lives of the elderly and their families is matched by his dedication to small businesses. As a graduate student and a young lawyer, Ronald worked with small businesses from a wide array of different industries, finding he had a special fondness for working with families and entrepreneurial newcomers. Through his law and consulting services, Ronald strives to provide small business owners with the knowledge and support needed to ensure they are successful for generations to come.

Ronald has received his share of degrees, honors, and accolades. After graduating with a degree in marketing and political science, the Corning-native returned to Syracuse University to pursue his Juris Doctor and Master of Business degrees. While in graduate school, Ronald received a Corporate Counsel certificate for law and an Entrepreneurship and Innovation certificate for business. After his admission to the New York State Bar, he headed home to Corning to practice law.

Outside of work, Ronald enjoys sports, baking, and playing trivia. He currently serves as the vice president of the Corning branch of Meals on Wheels, and works as lead chair of the planning committee for its charity golf tournament. While he hasn't yet accomplished his childhood dream of playing shortstop for the New York Yankees, he remains a devoted fan to the baseball team, as well as to Syracuse Orange.

Patrick J. Roth, Esq., CPA
Attorney at Law

Ronald J. Klokus, Esq., MBA
Attorney at Law

607 – 962 – 6162 | info@rothelderlaw.com
109 W. Water Street | Painted Post, NY | 14870