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## Case Studies: How Medicaid Planning Can Help Almost Every Married Couple

*This issue presents the second in a series of case studies in which we explore the ways in which Medicaid eligibility planning can make a real and substantial difference in outcomes for elders who suffer the misfortune of having medical conditions that require long-term care. As you read these, think of elders and families you are working with now, who might benefit from and appreciate this assistance.*

### Case #2. George's Alzheimer's Has Gotten Much Worse.

George is 80; his wife Ruth is 77. Over the past several years, George's Alzheimer's disease has gradually diminished his capacity. Although 8 inches shorter and 75 pounds lighter than her husband, Ruth has done her best to care for him at home. She has given it her very best effort, but their children can notice in Ruth's eyes that she is growing increasingly tired and weary. For the past month, she has had the sniffles.

Within the past month, George's Alzheimer's has gotten much worse. He has become frequently agitated, sleeps at odd hours if at all, and has difficulty following even simple instructions Ruth gives him. Other than his Alzheimer's, George is as healthy as a proverbial horse. Both of his parents lived into their 90s.

Ruth is finally prepared to say that George would probably be better off being cared for in a nursing home. For their mother's sake as well as their father's, the children readily agree that it's the right thing, and it needs to be done right away.

George and Ruth own the following assets:

- Their home, worth \$100,000;

- George's IRA, worth \$40,000;
- A joint checking account with a \$5,000 balance;
- A joint money market account with a \$23,500 balance;
- Two jointly-owned CDs, worth \$50,000 each;

- George's life insurance policy, with a \$6,000 death benefit and a \$5,000 cash value;
- Ruth's life insurance policy, with a \$7,500 death benefit and a \$6,500 cash value.

Their only income is from Social Security. George gets \$1,000 a month and Ruth gets \$700. The \$1,700 is about how much they spend in an average month. They have no debts. The nursing home Ruth and the children have chosen for George costs \$140 per day, which figures out to around \$4,200 per month. Fortunately, it has a few Medicaid beds immediately available. George's prescriptions, even with a Medicare Part D plan, cost them around \$3,500 per year out-of-pocket.

George and Ruth have typical "sweetheart" wills. When the first of them dies, everything will go to the survivor, and when the second of them dies, whatever is left will go to their children.

*Let's take a look at how informed legal planning, or a lack of planning, can impact George and Ruth's outcome.*

### George and Ruth's Results Without Planning.

If George and Ruth live in Missouri, George will only get to keep one bank account with \$999.99 or less. Ruth will get to keep half of their financial assets, or \$90,000 worth. The other \$89,000, including George's IRA and his life insurance policy, will have to be spent down to pay for George's nursing home care and pre-

### Announcing Our Inaugural Monthly "Lunch and Learn" Telephone Seminar!!

#### **Advance Legal Planning to Protect Assets From Nursing Home Spend-Down: Who's a Candidate, and How Do We Plan?**

*Under the new federal Medicaid laws that have already been adopted in Missouri and will soon be adopted in Illinois, the "look-back" period for gifts and other transfers increases from three years to five, and penalties run from the month of application rather than the month of transfer. These new laws make it critically important that seniors who are at risk of needing future nursing home care plan as far in advance of that need as possible.*

*This valuable and informative seminar will help you learn how to identify a good candidate for this type of planning, and introduce you to the special planning techniques we can utilize to help individuals and married couples best protect their assets from the financial devastation that can accompany an extended nursing home stay.*

***This is a FREE seminar, and better yet, you don't even need to leave your desk to attend!***

***Date: Wednesday, September 19, 2007***

***Time: 12:00 Noon to 1:00 p.m.***

***To register, call us at 314-567-9292 in Missouri or 618-659-9292 or 618-659-9292 in Illinois, or e-mail [beth@coulsonlawgroup.com](mailto:beth@coulsonlawgroup.com).***

***Call now, and mark your calendar!***

scriptions. It will take a little less than two years to go through the rest of the money. Only then will George be eligible for Medicaid.

Of course, there is no guarantee that there will still be a Medicaid bed available by then in the nursing home George is in. If not, Ruth will either have to move George to another nursing home or continue to pay out-of-pocket for his care until a Medicaid bed becomes available.

In Illinois, George and Ruth will fare a little better. George will get to keep twice as much -- \$2,000 instead of \$999.99. Ruth will get to keep \$101,640 of their financial assets instead of \$90,000. The remaining \$76,630 will have to be spent down before George qualifies for Medicaid, which will take about 18 months. George will then be eligible for Medicaid, but as in Missouri, George and Ruth will have to hope that a Medicaid bed is available at that time, or Ruth will have to move him or continue to pay out-of-pocket for his care until one is.

George and Ruth's residence will then be at risk, in either state. It will not have to be sold as long as Ruth still lives there, but after George and Ruth have died, it will be subject to Medicaid "estate recovery." What that means is that the house will then have to be sold and the money first applied to repay the Medicaid benefits paid for George's care during his lifetime. If George lives another two years after qualifying for Medicaid, chances are that all or most of the proceeds of sale will go to the State.

In either state, if Ruth dies before George (as overburdened caregiver spouses sometimes do), that will result in an immediate and great problem. George will inherit everything from Ruth, and all of the financial assets he inherits above \$999.99 in Missouri and \$2000 in Illinois will have to be spent down to pay for his care. The house will likely have to be sold, in which case the money from the sale would also have to be spent down. If the house isn't sold, it will be subject to "estate recovery" when George dies.

George and Ruth's Results With Planning. All of the financial assets that Ruth would not otherwise be permitted to keep, including George's IRA, will be converted into a stream of income for Ruth, and Ruth will get to keep all of that income. None of their assets will have to be spent down to pay for George's nursing home care or prescription costs. He will qualify immediately for Medicaid, at a time when the family knows that a Medicaid bed is available in their nursing home of choice. George will only be required to contribute his Social Security income, less a \$30 monthly allowance, toward the cost of his care. Ruth will get to keep all of her income.

George and Ruth will prepay for their funerals. They will assign their life insurance policies toward payment, thus assuring that they realize the full death benefit value of those policies rather than the lower cash surrender values.

Ownership of George and Ruth's residence will first be placed into Ruth's name only. Then Ruth will establish a living trust, and transfer ownership of the real estate into her living trust. Those transfers will not have any effect at all on George's Medicaid eligibility. When the latter of George and Ruth dies, their house will – at least based on the way the Medicaid rules are now, and historically always have been, applied – be pro-

tected from Medicaid estate recovery. Their children will be able to inherit it.

George and Ruth will protect against the risk of Ruth dying before George by having Ruth execute a new Will. It will provide for George, during his remaining lifetime, through a "special needs trust." The money will be available to pay for goods and services that will benefit George and that are not provided by the nursing home or covered by Medicaid. The availability of the money in that limited way will preserve George's eligibility for Medicaid. After George dies, their children will be able to inherit the rest of the money.

It is very important to note that the profoundly better result George and Ruth can achieve through proper legal planning will occur in either Illinois or Missouri, and these results can be achieved under the "new" Medicaid rules as well as under the "old" rules. If the facts were different, the results may differ somewhat in Missouri or Illinois, and not necessarily be the same in both states. Every case is different, which is why every couple facing this kind of situation should have a skilled elder law attorney review their individual circumstances and recommend a personalized plan that will achieve the best possible results for them. One thing is clear: for almost any married couple in either Illinois or Missouri, that owns a home or has more financial assets that the "spend-down" rules would otherwise let them keep, the outcome that can be achieved with proper legal planning will be far better than without it.

## New ... and Improved!

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If you are still receiving this on paper and you have an e-mail address, you would be doing yourself (and us) a favor if you would furnish us with your e-mail address so we can send it that way.

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