

# Estate and Long-Term Care Planning Basics

By Bryana Cross Bean, Attorney at Law

# What is Estate Planning?

- Estate Planning is the process of planning for death or incapacity through legal documents such as Wills, Durable Powers of Attorney, and Advanced Directives (Living Wills).

# Essential Documents

- Will – Property transfer at death
- Durable Power of Attorney – Appointing someone you trust to make medical and financial decisions for you when you are unable to make them for yourself
- Health Care Directive (Living Will) – Any life-sustaining treatment if in permanent unconscious condition (“final days” document)

# Other Estate Planning Tools

- Guardianships – last resort, if you do not have a Durable Power of Attorney
- POLSTs (Physician Order of Life-Sustaining Treatment) – bright green form that your doctor signs
- Community Property Agreements – a way to avoid probate BUT can result in Medicaid ineligibility
- Disposition of Remains – tells funeral home what you want done with your body when you pass away

# Consequences of No Planning



- Not having Estate Planning documents means that someone else could make decisions for you that you don't want.

# Do-It-Yourself Estate Planning

- Every state has different rules, but online and store-bought documents have the same rules across all states.
- Estate Planning documents might not be accepted by financial institutions or courts.
- Attorneys know the state laws and can advise you on your options and the consequences of certain actions.

# Washington Probate

- Probate is the legal process of distributing a person's assets and paying off debts after that person passes away.
- 4-6 month process (one of the shortest in the country)
- Very little court involvement
- Main ways to avoid probate:
  - Estate worth less than \$100,000
  - Community Property Agreement

# Medicare vs. Medicaid

- Medicare – traditional-type health insurance for adults 65 and older
  - Covers very little nursing home care
- Medicaid – 2 types:
  - 1<sup>st</sup> type – traditional insurance for low income individuals (part of “Obamacare”)
  - 2<sup>nd</sup> type – pays for nursing home and other long-term care, if applicant meets medical and strict financial requirements



# Medicaid Basics

- Medicaid: a government program that pay for long-term care
- 2 types:
  - Medicaid for nursing home care
  - COPES (Community Options Program Entry System) for assistance with Activities of Daily Living
- Long-term care costs extremely high
- 5 year look-back period – ANY GIFTING WITHIN 5 YEARS PRIOR TO APPLYING CAN RESULT IN INELIGIBILITY
- Must meet medical and financial eligibility requirements
  - 2 components of financial eligibility: Income and Resources

# Medicaid Basics

- Medical eligibility: Need medical care that long-term care facilities, such as nursing homes, provide
- Financial eligibility: Must meet both resource and income requirements
  - No greater than \$2,000 in nonexempt *resources*.
  - Single person: No greater than \$57.28 per month. Excess income must be used to pay for part of the services.
  - Married couple: Well-spouse may keep ~\$119,000 in resources and unlimited income.

# COPES

- Medical eligibility – must need help with 2 or more Activities of Daily Living (ADLs)
- Similar resource and income eligibility requirements, EXCEPT:
  - Single person living at home: No greater than \$990 per month. Excess income must be used to pay for part of the services.
    - Living in a facility: \$62.79 per month
  - Married spouse needing COPES living at home: \$733 per month if your spouse is not also on COPES.
  - Married couple: Well-spouse may keep \$54,726 in resources and unlimited income.

# Medicaid & COPES Exempt Resources

- Resources not counted in \$2,000 resource limit:
  - Home (worth less than \$552,000)
  - Household goods & personal effects
  - Car (one car of unlimited value and used for transportation)
  - Life insurance with cash-surrender value (value if policy is canceled) of less than \$1,500
  - Most burial plots and prepaid burial plans
  - Items used for self-support, especially durable medical equipment

# QUESTIONS?

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