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:
  • 1st type – traditional insurance for low income individuals (part of “Obamacare”)
  • 2nd 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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