

Elder Law: Two Common Medicaid Misconceptions Regarding the Titling of Accounts

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MISCONCEPTION: I added my child's name to my accounts so the accounts are protected for Medicaid eligibilityright?

REALITY: This is probably the most common question that I encounter by seniors and their families facing long term care costs with the hopes of accessing Medicaid or Medical Assistance in Pennsylvania. The most typical scenario is a couple or a single individual who now requires care in a skilled nursing facility on a long term basis and who faces a bill of approximately \$8,000 a month. According to their calculations, funds will be depleted in a few months or maybe a few years based upon this expense. The unfortunate assumption is made that they can protect a portion of their life savings by adding their child's name to their bank accounts and then applying for Medicaid. The problem with this line of thought is that without seeking the advice of an expert in this field, it has been incorrectly assumed that The Department of Public Welfare ("DPW") which is the government body that administers Medicaid in Pennsylvania will only count the value of the percentage of the account owned by the applicant as an available resource. That assumption could not be further from the truth. The reality is that DPW will count the entire value of the account owned by the applicant and / or the applicant's spouse even if a child's name is listed on it as a joint owner. The assumption on the part of DPW is that all of the funds in the account are owned by the applicant or the applicant's spouse. DPW will only discount the value of the percentage of the account owned by the child if the child can prove, through written verification, that he or she contributed monetarily to the account.

MISCONCEPTION: A couple moves resources to the sole name of the healthy spouse, thus, those resources are protected.

REALITY: This belief is also false. Upon application for Medicaid, DPW will count resources in the ill spouse's sole name, the healthy spouse's sole name and resources jointly owned by both spouses when determining the ill spouse's eligibility. The exception to this rule is that it will not count certain things such as the value of the personal residence, one car and the healthy spouse's retirement accounts. The exemption of a healthy spouse's retirement accounts when determining eligibility is a rule that is specific to Pennsylvania. As a result, if the couple has transferred all, or a majority of the resources, into the sole name of the healthy spouse and then applies for Medicaid, they may be in for a big surprise when the application is denied for excess resources. Unless the resource in the healthy spouse's name is considered an exempt resource such as the house or a retirement account, it is considered a "countable" resource against the ill spouse's Medicaid eligibility.

Please note that up until this point, this article has been referring to how the titling of accounts is treated by DPW for Medicaid purposes. The Veterans Administration (“VA”) views the titling of accounts slightly differently when a Veteran or a surviving spouse of a Veteran applies for a non-service connected Aid & Attendance benefit through the VA. Under the VA’s current rules and regulations, adding a child or another third party to an account (who does not also live with the Veteran or the surviving spouse of the Veteran), decreases the value that the VA will place on the account by the percentage of the account in the child’s name, when determining eligibility. However, similar to Medicaid eligibility, in the case of a married couple, the VA will include the value of all of the resources that are solely or jointly owned by the Veteran or the Veteran’s spouse with certain exceptions including the personal residence and one car. Be aware that for VA eligibility purposes, unlike Medicaid eligibility in Pennsylvania, the retirement accounts of both the Veteran and the spouse of the Veteran are included when determining eligibility for the Aid & Attendance benefit.

Government benefits eligibility can be difficult to navigate. Although the process may seem simple, in reality it is not. One must know the idiosyncrasies of the rules and regulations in order to make the most informed and intelligent decisions. With that in mind, it is advisable for an individual or couple seeking access to Medicaid or VA benefits to seek proper legal counsel, not only to ensure the correct choices are being made, but also for peace of mind.