

## **Why Engage an Elder Law Attorney to Prepare Your Medicaid Application?**

The Illinois Medical Assistance Program (“Medicaid”) is the health care program for individuals who do not have another form of insurance or whose insurance does not cover what they need, such as nursing home or supportive living care. A significant number of people must look to Medicaid to pay for their nursing home and supportive living care. However, the eligibility rules are complicated for applicants for Medicaid long term care.

### **What can an Elder Law Attorney do?**

- 1. Thorough review of financial records to identify potentially problematic transactions**
  - Illinois Medicaid applications for nursing home or supportive living care are subject to enhanced scrutiny. An attorney will review the 60 month transaction period for issues that may affect the approval of the application and will either advise corrective action or, if it should not affect eligibility, present the transaction in such a way that it will not disqualify the applicant.
    - ▶ *For example, certain cash transactions, reimbursements, payments to caregivers, wedding or graduation gifts, or other seemingly harmless transactions can become problematic unless properly presented.*
  
- 2. Provide planning options**
  - An attorney will be able to properly advise as to how excess assets can be utilized for the benefit of the applicant or his or her family without disqualifying the applicant.
    - ▶ *For example, there are specific rules which can help protect a spouse in the community, certain trusts which can help preserve resources, and certain exceptions for individuals who have disabled children.*

Appointments are available in Arlington Heights, Chicago, Skokie, Westchester, Illinois,  
or via video conferencing or telephone.

### **3. Advocate for you**

- The process of applying for Medicaid can be long and demanding. An attorney can act as your advocate and take some of the stress off of you. In addition, the attorney can serve as the main contact with the Medicaid agency and the applicant's facility.

### **4. Provide correct information regarding the application process and the Medicaid rules**

- Non-attorneys seldom have sufficient knowledge about the eligibility rules and the exceptions and often times provide incorrect information to the detriment of the applicant. Since the Medicaid rules are subject to change, it is important to have the most current information on the process and rules. In addition, it is more cost effective and efficient to have an application properly reviewed prior to being submitted, as opposed to supplementing an application after the fact.

### **5. Attorney fees are allowable as a means of spending down excess resources**

- Excess assets will need to be spent prior to Medicaid eligibility. If the attorney's assistance can accelerate eligibility by even one month that will generally cover the fee. Additionally, payments of attorneys' fees from the assets of the applicant are allowable and in most circumstances those assets will otherwise be paid to the nursing home.

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When you have questions related to elder law, think of the attorneys at Dutton & Casey. We have over 90 years of combined experience in estate planning, probate, and elder law related matters. Our attorneys, Janna Dutton, Kathryn Casey, Helen Mesoloras, Michaela Franco, and Melissa LaPointe are here to assist you, and those you care about.

Partners Janna Dutton and Kathryn Casey are two of only a few certified elder law attorneys in Illinois.

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#### **Resources:**

National Elder Law Foundation - [www.nelf.org](http://www.nelf.org)  
National Academy of Elder Law Attorneys - [www.naela.org](http://www.naela.org)

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