

Facts: Husband (81) and wife (69) have been married approximately 37 years and have no Pre-Nuptial Agreement. Husband is retired and wife is still working. They are both US citizens. Husband has 3 pre-marital children who are not involved with him. Wife has no children. Wife is Agent for husband under a Power of Attorney and Health Care Surrogate. Husband is presently residing at home, with some adult day care while wife is at work.

Health: Wife is in general good health. She has hyper-tension. Husband has cognitive impairment, and Type II diabetes. He ambulates without assistance, however, he is a fall risk. Husband has hyper-tension.

Military: No military service.

Insurance: No Long-Term Care insurance. Husband United Health Care. Wife Humana for health insurance:

Gifting: No gifting in the past 5 years

Income: wife \$1,500 SS and \$1,500 employment. Husband SS and pension approximately 2\$,800.

Assets: Homestead home worth 3336 k, subject to a mortgage (unknown approx. 160k?); 2 1998 vehicle; 3k Chase Bank; 1k 3

stocks in wife's name. Wife 8k term life insurance, and 401k 10k for wife.

#### Treatment of Assets by Medicaid:

1. Homestead is an exempt asset
2. vehicle are exempt assets
3. wife is permitted to have 120k of countable assets, therefore, her 401k, bank account and stock do not count
4. Term life insurance does not count
5. contents of home do not count: don't ask, don't tell

#### Treatment of Income:

1. Husband's income exceeds Medicaid's gross monthly income cap. Therefore, we need a Qualified Income Only Trust.
2. Wife income is unlimited.
3. We will utilize an Action for Separate Maintenance and Support to have 75% of husband's gross income paid to wife.

#### Issues:

1. Placement of husband in nursing home.
2. We need Separate Maintenance and husband may not be able to sign.

3. Wife want to downsize home and buy new car. She will do this once husband is approved for Medicaid as Medicaid no longer examines wife's finances after husband is on Medicaid.

To Do:

1. Create new Power of Attorney for wife.
2. Create new Health Care Surrogate and Living Will for Wife
3. Create Revocable Living Trust and Pour Over Last Will and Testament for Wife
4. Create Income Only Trust for husband:
  - a. create trust
  - b. obtain tax id number for trust
  - c. open bank account at Chase for Trust
  - d. establish automatic funding for trust as trust must be funded EVERY month to maintain Medicaid eligibility.
5. Do an Action for Separate Maintenance and Support:
  - a. Petition
  - b. Agreement

- c. Answer
  - d. Final Judgment
  - e. potential 10 minute hearing for wife only
6. Personal Service Contract and Promissory Note for wife so that she can transfer assets out of her name without 5 year look-back period for gifting if she needs Long-Term Care in the future. We are concerned this technique will go away, and so we want to lock it in.
  7. Deed from husband and wife of house to wife's Trust
  8. Re-establish homestead at Property Appraiser's
  9. Change beneficiary from husband to someone else on wife's 401k and life insurance
  10. Open new bank account for wife's Trust at Chase
  11. Re-route wife's paycheck and Ss to her new bank account
  12. Get the old joint bank account at Chase balance down to \$1,000; you can transfer any extra to wife's new account
  13. Arrange automatic funding between all accounts at Bank. A member of attorney's staff will go to Chase with client.

14. Look for a Long-Home as close as possible to wife that will accept husband "Medicaid Pending" or if husband has a medical event to go to hospital for 3 days, utilize this event to get husband into the nursing home.

15. either liquidate wife's stock or change owner to her Trust.

16. Gather the following documents:

a. photo id

b. birth certificates

c. 1 year of bank statements from all accounts

d. face value, cash value and death benefit of wife's life insurance

e. proof of gross Ss for its source

f. proof of wife's average gross monthly income from employment

g. proof of husband's gross pension

h. wife's new Trust

i. husband's Power of Attorney

j. Income Only Trust

k. Proof of funding Income Only Trust

- l. Proof of value of stock
  - m. Medicare card
  - n. SS card
  - o. proof of any health insurance premium
  - p. old and new deeds to home
  - q. title or registration to vehicles
  - r. Final Judgment of Separate Maintenance and Support
17. Copy, organize and audit the documents to determine what is missing
  18. Locate the nursing home
  19. Apply for Medicaid benefits
  20. Notify the nursing home we have applied for Medicaid
  21. Make sure doctor fills out 3008 and PSAAR2 level of care forms
  22. Supply the Medicaid Office with anything they need to complete the application
  23. Wait for Medicaid approval
  24. After at least 60 days in the nursing home AND Medicaid approval, Husband can either stay in the nursing home OR, if

medically capable, go home with 15 hours a week help (no night care and includes extra adult day care) or go to an Assisted Living Facility that accepts Medicaid as a form of payment.

25. if transitioning down, you must find out which Medicaid Providers the facility has contracts with. Develop a Plan of Care. Notify the CARES team husband is transition down.

26. Transition husband back up in level of care as needed.

27. Comply with annual re-certification of Medicaid benefits.

Of course, the Long-Term Care Plan will vary as the facts, law and circumstances dictate.

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