Marshall Law Publishes Elder Law Guidance on the Five-Year Medicaid Look-Back Period

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Marshall Law, an estate planning attorney in Wildwood, Florida, has published a new elder law article examining how the five-year Medicaid look-back period affects families preparing for long-term care. The firm focuses on estate planning, probate, trust administration, guardianship, elder law, and Medicaid planning for clients in Sumter County, Lake County, and Marion County. The article, The 5-Year Medicaid Look-Back: What It Really Means, summarizes an episode of the firm?s podcast, Trust Me, It?s Complicated, hosted by founder John Thomas Marshall, Esq.

Elder law and Medicaid planning represent a substantial share of the estate planning work handled from the Wildwood office. According to the U.S. Census Bureau, the Wildwood-The Villages metropolitan area recorded the highest median age of any metropolitan area in the country in 2024, at 68.1 years, with 57 percent of residents aged 65 and older. Sumter County demand for elder law representation reflects that profile.

Under federal Medicaid law, states review asset transfers made during the 60 months preceding an application for long-term care benefits. Applicants for Florida Medicaid must produce five full years of

statements for every financial account held during that period, including accounts that have since been closed. The review identifies assets given away or transferred for less than fair market value in a manner that reduced countable resources. Routine small gifts are not the focus; the concern is a pattern of larger transfers made without repayment.

A disqualifying transfer produces not an outright denial but a penalty period, during which an applicant who otherwise satisfies the eligibility rules cannot receive benefits. Its length is calculated by dividing the value of the transferred assets by a statewide transfer penalty divisor published by the state. Timing is the element that families across Lake County and Marion County most frequently misunderstand. The penalty period does not run from the date of the transfer and does not expire while an applicant waits. It begins only once the applicant is otherwise eligible for and receiving covered care, so an application filed shortly before the five-year window closes can produce a longer period of ineligibility than waiting for the window to close.

A transfer can sometimes be reversed by returning the asset, although that depends on the recipient still holding the property and agreeing to return it. The article describes a situation in which an applicant who needed skilled nursing care had transferred real property to a family member without payment. Had the property been retained, it would have qualified as exempt homestead property under Florida Medicaid rules and would not have counted against eligibility. The recipient declined to return the deed, and no further remedy was available. A retained life estate, the article notes, would have directed the property to the same recipient without creating a penalty.

The article also outlines tools that move assets without triggering a penalty. Among them is the formal caregiver agreement, under which a family member who provides genuine services such as bill payment, transportation to medical appointments, and coordination with providers is compensated at a legitimate market rate. Compensation is calculated against hours worked, the market rate for those services, and actuarial life expectancy, and is treated as payment rather than as a gift. Such agreements must be drafted in advance, must be actuarially sound, and must be supported by services actually rendered.

?Medicaid planning is not something a family does while filling out the application,? said John Thomas Marshall, Esq., Owner and Founder of Marshall Law. ?The rules interact in ways that are not obvious, the penalties are long-lasting, and the mistakes are difficult to correct. Families who begin the conversation five or ten years before care is needed have options that are no longer available once care is already required.?

Marshall has practiced law for more than 20 years and holds a Juris Doctor and a Master of Taxation from the University of Akron. He is admitted to The Florida Bar, the United States Tax Court, and the bar of Ohio, and is a member of WealthCounsel, ElderCounsel, and the Elder Law Section of The Florida Bar. He writes and presents continuing education courses on Florida probate and guardianship law, and founded Marshall Law in 2018.

Marshall Law is located at 1305 Cleveland Ave Ste D, Wildwood, FL 34785, and serves clients throughout Sumter, Lake, and Marion Counties. The Wildwood office handles estate planning, probate, guardianship, and elder law matters, and consultations are available by appointment at (352) 432-8859.

Marshall Law provides estate planning, probate, trust administration, guardianship, and elder law representation from its office in Wildwood, Florida, and publishes Medicaid planning information for families in Sumter, Lake, and Marion Counties through the firm blog and podcast. Additional information is available at marshalllawpa.com or through the Marshall Law Google Business Profile.

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Marshall Law

Marshall Law is your premier estate planning attorney serving all of Central Florida. Our firm is distinguished for bespoke legal solutions tailored to each client's unique estate planning, probate, and guardianship needs.

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