Sawyer & Sawyer, P.A. Publishes New Guidance on Florida?s Five-Year Medicaid Lookback Rule for Caregivers

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Sawyer & Sawyer, P.A. has published a new caregiver-focused article, ?Florida?s 5-Year Lookback Rule: What Every Caregiver Must Know,? to help Florida families better understand how asset transfers, gifts, and long-term care planning decisions can affect Medicaid eligibility.

The article addresses one of the most common and costly issues families face when a parent or loved one suddenly needs nursing home care: discovering that financial decisions made years earlier may now delay Medicaid benefits. In Florida, the Medicaid lookback rule allows the Department of Children and Families to review asset transfers made during the five years before a Medicaid long-term care application. Gifts, deed changes, account transfers, or other uncompensated transfers may trigger a penalty period that delays eligibility for benefits.

For caregivers, the timing of this information is critical. Many families do not learn about the five-year lookback rule until a parent is already in crisis. By that point, well-intentioned choices, such as adding an adult child to a deed, transferring funds to children, or moving assets into one spouse?s name, may have

created consequences the family did not anticipate.

?Families often make decisions because they believe they are protecting a loved one, but Medicaid planning in Florida has very specific rules,? said Cary Moss, an estate planning, elder law, special needs planning, and probate attorney at Sawyer & Sawyer, P.A. ?The most important step is getting accurate legal guidance before a crisis forces rushed decisions.?

The article explains that Medicaid does not simply review what an applicant owns on the day of application. Instead, the agency reviews the previous five years to determine whether assets were transferred for less than fair market value. If Medicaid identifies an uncompensated transfer, the applicant may face a penalty period during which Medicaid will not pay for long-term care.

The article also outlines how the penalty period is calculated. According to the article, Florida currently uses an average monthly nursing home cost of $10,438 to determine the length of the penalty. If a parent gifted $100,000 during the lookback period, that amount would be divided by the monthly cost figure, resulting in a penalty of approximately 9.5 months. During that time, the family may be responsible for covering nursing home expenses without Medicaid assistance.

Sawyer & Sawyer?s article also addresses several common misunderstandings among caregivers. One misconception is that married couples can protect assets simply by transferring them into the healthier spouse?s name. In many cases, Medicaid reviews the couple?s combined assets regardless of whose name appears on the account. Another common mistake is adding a child?s name to a home deed in an attempt to avoid probate or prepare for future care needs. While the decision may seem practical, it can create Medicaid and tax consequences if not handled correctly.

The article provides guidance on transfers that may not trigger a penalty, including certain transfers involving a spouse, a child under 21, a blind or permanently disabled adult child, or a qualifying sibling with an equity interest in the home. It also explains the caregiver child exception, which may allow a home to be transferred without penalty when an adult child has lived in the home and provided care for at least two years immediately before the parent entered institutional care.

In addition to explaining potential risks, the article discusses legitimate planning strategies that may help families protect assets while following Florida law. These may include paying off valid debts, making necessary home improvements, establishing prepaid funeral or cremation contracts, using certain annuities, creating a properly structured Medicaid Asset Protection Trust, or entering into a documented personal care contract with a family caregiver.

The article also emphasizes the importance of documentation. Medicaid may review bank withdrawals,

annuity purchases, deed changes, account title changes, and transfers over $1,000. Families may need clear records, affidavits, and supporting documents to explain whether a transfer was made for a legitimate reason unrelated to Medicaid eligibility.

Sawyer & Sawyer also warns that families who have already made transfers should not assume the situation is beyond repair. In some cases, funds can be returned if the recipient still has them. In other situations, careful analysis may help determine whether it is better to apply immediately, wait until the five-year period has passed, or pursue other legal planning options.

The article encourages caregivers to take practical steps before a crisis occurs, including consulting a qualified Florida elder law attorney, reviewing legal documents such as durable powers of attorney, and evaluating asset titling and beneficiary designations. These steps can help families preserve options and reduce the risk of avoidable Medicaid delays.

Sawyer & Sawyer, P.A. serves families throughout Orange, Lake, Osceola, and Seminole Counties, including Orlando, Winter Park, Windermere, Winter Garden, Dr. Phillips, and Horizon West. The firm assists clients with elder law, Medicaid planning, estate planning, probate, trust administration, guardianship, and related legal matters.

Families seeking guidance on Florida Medicaid planning, long-term care planning, or estate planning may contact Sawyer & Sawyer, P.A. at 407-909-1900 or visit sawyerandsawyerpa.com to schedule a consultation.

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