Adventures In Medicaid Planning and Asset Protection

While 2017 did not see major changes to the Medicaid law, we did learn some significant lessons this year regarding the overall system for long-term care and government benefits.

1. Timing Is Important. For a number of reasons, a great deal of planning happens about the time a person enters an assisted living facility. However, that means the family will be receiving a bill each month for long-term care while they consider their options, pull documents together and figure things out. If the decision making process stretches out for months, the overall long-term care costs go up and the overall value of the planning go down. The system rewards focus and decisiveness. Indecision, confusion and distractions are penalized.

2. Not All Assisted Living Facilities Accept Medicaid. We have known for years that there are some wonderful assisted living facilities that never accept Medicaid benefits. If you receive care at one of these facilities and your money runs out, you must move to a facility that does accept Medicaid. However, the difficulty of dealing with these facilities runs deeper. A major issue can be that the facility does not make clear that they do not accept Medicaid until after someone is admitted as a resident. By that time the confusion can be hard to reverse. In addition, a Medicaid application involves having a number of different agencies, including the assisted living facility, working together. Facilities that do not accept Medicaid often do not participate in the process, so things do not get done as expected and miscommunications can snowball out of control. It is essential to verify that the facility you work with does accept Medicaid when the financial and other requirements are met.

3. All Residents Must Private Pay for Some Time. Anyone admitted to an assisted living facility must pay the private pay rate for a period of time. Each facility sets its own minimum period of time and communicates this to their residents and families. Planning for Medicaid benefits does not involve sidestepping this private pay obligation or qualifying a resident for Medicaid with zero private pay cost. Planning involves working within the private pay period to maximize benefits and protect assets while the private pay period is in place.

4. Financial Powers of Attorney Matter. Without a good Financial Power of Attorney, a family needs to obtain a guardianship before they can implement a plan for Medicaid benefits. The paperwork and added attorney fees involved are clearly a step backward in the process. Delays for the court process also increase costs. You also need to conform your plan to the guardianship process and what the judge will allow. That can mean more delays and a higher degree of difficulty to get the result the family wants. There is no question that having a good Financial Power of Attorney is much, much better than pursuing a guardianship.