



GREENBERG
BURZICHELLI
GREENBERG P.C.

3000 Marcus Avenue Ste. 1W7
Lake Success, NY 11042
(516) 570-4343

United Probation Officers Association Legal Service Benefits Program

Estate Planning*

- **Simple & Complex Wills (FREE)**
- **Powers of Attorney (FREE)**
- **Healthcare Proxies (FREE)**
- **Living Wills (FREE)**
- **Revocable and Irrevocable Trusts (FREE)**
- **Medicaid Planning (FREE)**
- **Reduced Rates for Family Members**

***NYS Only**

Estate Administration*

- Uncontested Probate Administration for surviving family of member (FREE)
- Uncontested Probate Administration for surviving family if member is executor/executrix (first 10 hours covered FREE; beyond 10 hours, reduced rate not to exceed \$250 per hour)
- Other Estate Administration (at reduced rate not to exceed \$250 per hour)
- Reduced Rates for Family Members

*NYS Only

Real Estate*

- Purchase, Sale or Refinance of Primary Home (FREE)
- Purchase, Sale or Refinance of Secondary Home (FREE)
- Document Preparation and Review (in connection with covered transaction) (FREE)
- Two (2) Hours of Post-Closing Services (FREE)
- Deed Transfers (FREE)
- Reduced Rates for Family Members

***NYS Only**

How do I use the Plan?

- **Call GBG Law at (516) 570-4343**
- **Monday through Friday, 9 a.m. to 5 p.m.**
- **Two Office Locations**
- **3000 Marcus Avenue, Suite 1W7, Lake Success, NY**
- **225 Broadway, Suite 1515, New York, NY**
- **Pandemic Protocols allow us to continue to serve you – through phone, e-mail, audio/video conference capabilities, and, on limited basis, “in-person”**

BRIEF INTRODUCTION TO MEDICAID PLANNING*

WHY WE NEED TO PLAN AHEAD

*** Disclaimer: This presentation is solely for informational purposes only and does not constitute legal advice!**

What is Medicaid?

- Medicaid is a federal program that provides health coverage to certain people if they are eligible
- The states work with the federal government to implement it
- Medicaid is means tested – you must be eligible with respect to assets and income
- What does this mean for you? Simply put, you must be “broke” and “sick” for you to be eligible for Medicaid

Why would you need Medicaid?

- Medicaid is the only health care coverage program that pays for long term care; you can purchase a stand-alone long-term care (LTC) insurance policy (can get expensive as premiums increase)
- If you have a chronic illness (Alzheimer's) and you need to go to a skilled nursing home, and you don't have Medicaid or LTC policy, your health insurance will not cover the cost.
- Nursing home costs in New York per year: approx. \$100,000.00 - 140,000.00+ according to the New York State Department of Financial Services

Medicare Does Not Pay For Long Term Care!

- **MEDICARE is not MEDICAID**
- **Medicare provides people aged 65 or older with health insurance**
- **When you reach 65 you become eligible to enroll in Medicare if you are a legal resident of the United States for at least five years.**
- **Medicare pays for limited stays in rehab facilities. For example, if you have hip replacement and need inpatient physical therapy for several weeks. However, if you become so sick that you need to stay at an assisted living facility or nursing home more than 100 days, Medicare won't pay.**

What does Medicaid mean to UPOA members?

- What happens if you need nursing home care down the road? Will you be Medicaid eligible? Or will you have to pay out of pocket?
- Do you want your assets to go to your loved ones or to pay for your long-term care if you are chronically ill?
- Medicaid will only help you after most of your assets are spent down
- As of 2020 - Medicaid will let you keep \$15,750.00 of your assets if you are single; \$23,100.00 if both spouses applying; one spouse applying: the applicant spouse keeps \$15,750; and the non-applicant spouse keeps up to \$128,640.00;
- As of 2020 - You also must meet the income qualification: \$875/month for single or one spouse applying; \$1,284/month for both spouses applying

HOW YOU CAN PROTECT YOUR ASSETS AND STILL BE ELIGIBLE FOR MEDICAID

➤ PLAN AHEAD

- Medicaid has a 5-year look back period when they determine eligibility – that means they look back 5 years from the time you apply to see if you gifted or transfer any of your assets and they will count those assets.
- For example, you are single and have less than \$15,750 in assets and you need nursing home care. Three years ago, you gave your child \$50,000.00 as a gift. But for that gift you would have been eligible.

➤ PLAN AHEAD!

The Big Picture

In elder law (specializes on issues of aging population), we typically deal with 2 types of trusts:

Revocable and Irrevocable

Revocable Trust:

Any asset can go in, any asset can come out, you have complete control- chest is never locked
You own outright – can do whatever you want
If you can get to it, Medicaid can get to it.



Why We use Revocable Trust as an Estate Planning Tool

- Remember, this chest is never locked
- Easy to manage if you become disabled because you will designate someone to take over the management of the trust.
- No probate - you avoid the time and expense of probate
- Privacy- because there is no probate – your trust remains private unlike a Will which is public record

Irrevocable Trust:

Certain assets can go in, but only certain individuals can remove them (never the grantor)

Lock assets up so they don't count against grantor for Medicaid purposes



Why We Use Irrevocable Trusts in Medicaid Planning

- To protect our assets so they will not be counted for Medicaid purposes
- Once you put everything you want in your chest, the lid is closed and locked, and the key is given to someone you trust (Trustee).
- You can't open the chest only the Trust has the key
- If you can't get to the assets in the locked chest neither can Medicaid
- Remember: you are the creator of your Irrevocable Trust –you leave instructions for your Trustee to follow.
- Should you need funds from this trust,

Available Counted Asset Description:

- ▶ Checking accounts
- ▶ Savings accounts
- ▶ Brokerage accounts
- ▶ Certificates of deposit
- ▶ Stocks and bonds
- ▶ Savings bonds
- ▶ Primary residence if applicant does NOT intend to return home (note that if equity is greater than \$893,000.00, then applicant does not qualify for Medicaid)
- ▶ Real property, other than primary residence (with certain exceptions)
- ▶ Limited partnerships
- ▶ Cash value of life insurance if the total face value of all such policies is greater than \$1,500.00
- ▶ Vehicles other than the one excluded vehicle
- ▶ Boats, unless it is your primary residence
- ▶ Recreational vehicles, unless it is your primary residence or your only vehicle
- ▶ Loans payable to applicant
- ▶ Deferred annuities and some immediate annuities, depending on how they are structured, and the date purchased
- ▶ Retirement funds that are not making regular periodic automatic distributions

Excluded Asset Description:

- ▶ Primary residence if equity is less than or equal to \$893,000.00 and applicant intends to return home
- ▶ Primary residence, regardless of equity, if spouse, child under age 21, or blind or disabled child of any age lives there
- ▶ One vehicle
- ▶ Life insurance with no cash value
- ▶ Life insurance with cash value if the total face value of all such policies is less than or equal to \$1,500.00
- ▶ Irrevocable burial contracts
- ▶ \$1,500.00 designated for burial expenses (revocable burial contracts, burial savings accounts, or life insurance policies)
- ▶ One burial plot per family member
- ▶ Retirement funds of the applicant, if in payout status

TAKE AWAY

Proactive vs. Crisis Planning

- Proactive planning is planning ahead
- Crisis planning is doing nothing until something happens. You are likely to pay penalty before you become Medicaid eligible
- Plan Ahead – Do not wait until there is a Crisis!
- If you have access to your assets so does Medicaid!
- Your assets should go to your loved ones rather than paying for nursing home care

Addendum:

Helpful Links:

- https://www.health.ny.gov/health_care/medicaid/
- <https://www.medicaid.gov/medicaid/eligibility/index.html>
- <https://www.aarp.org/ppi/info-2018/breaking-through-the-noise-the-facts-about-the-medicaid-program.html>
- <https://www.medicare.gov/plan-compare/>

Eldercare and Medicaid Planning:

- **GREENBERG | BURZICHELLI | GREENBERG P.C.**
- <http://gbglawoffice.com>
- Phone: (516) 570-4343
- Address:
3000 Marcus Avenue Suite 1W7
Lake Success, New York 11042