



ESTABLISHED 1924

FARR LAW FIRM

FARR, FARR, EMERICH, HACKETT AND CARR, P.A.

e-law

Newsletter

WWW.FARR.COM

PERSONAL INJURY &
WRONGFUL DEATH

LITIGATION

ESTATE PLANNING

REAL ESTATE & TITLE
INSURANCE

MARITAL & FAMILY

BUSINESS

ELDER LAW

ASSET PROTECTION

ATTORNEYS

GUY S. EMERICH

JACK O. HACKETT II

CHARLES T. BOYLE

DAROL H.M. CARR

DAVID A. HOLMES

GARY A. KAHLE

ROGER H. MILLER III

DOROTHY L. KORSZEN

WILL W. SUNTER

FORREST J. BASS

NATALIE C. LASHWAY

GEORGE T. WILLIAMSON



Medicaid Myths Debunked

By: Natalie C. Lashway
July 2011

According to the Genworth Financial 2011 Cost of Care Survey, the median annual cost for nursing homes in Florida is \$76,778 for a semi-private room and \$83,950 for a private room. Given this extraordinary cost, those in need of nursing home care often turn to Medicaid for assistance. However, many myths regarding Medicaid circulate. The following discusses and clarifies some of the top Medicaid myths.

1. Medicare will cover the nursing home bill.

Medicare is health insurance for short term care and provides only limited coverage for nursing home care. After a patient has spent at least 3 days in the hospital for an illness, Medicare will pay 100% for the first 20 days of nursing home care and will pay 80% of the cost for days 21 through 100. The patient must pay a 20% co-pay for days 21 through 100. After day 100, Medicare coverage ends and a patient will need to privately pay, have long term care insurance or obtain Medicaid coverage.

2. You must be completely impoverished to qualify for Medicaid.

Medicaid allows an individual applying for Medicaid to have only \$2,000 of countable assets. Additionally, the community or well spouse of a person applying for Medicaid may have \$109,560 of countable assets. However, there are a number of assets that are exempt and not countable. There are also certain ways to strategically "spend down" assets over the cap in order to qualify for Medicaid, but still preserve some assets for the applicant or the applicant's family and avoid paying the nursing home out-of-pocket.

Medicaid also limits the income that an applicant can have to \$2,022 per month. Again, there are certain ways to still qualify for Medicaid despite having income in excess of this limit. For instance, a married Medicaid applicant may be able to transfer some of his or her income each month to his or her spouse.

3. You can give away up to \$13,000 per year per recipient without consequence.

There is a federal gift tax exemption which allows a person to gift without a tax penalty. In 2011, a person can gift up to \$13,000 per year per recipient. However, Medicaid does not follow this same rule. For purposes of Medicaid, any gift may cause a penalty period for



ESTABLISHED 1924

FARR LAW FIRM *Newsletter*

FARR, FARR, EMERICH, HACKETT AND CARR, P.A.

WWW.FARR.COM

PERSONAL INJURY &
WRONGFUL DEATH

LITIGATION

ESTATE PLANNING

REAL ESTATE & TITLE
INSURANCE

MARITAL & FAMILY

BUSINESS

TAXATION

ELDER LAW

ASSET PROTECTION

which Medicaid will not pay for the nursing home cost. Florida Medicaid currently disqualifies an applicant one month for every \$1 - \$5,000 gifted. It is critical that anyone considering applying for Medicaid be aware of this transfer penalty, even if the time for Medicaid may be 5 years in the future.

4. I have a Power of Attorney, so my agent will be able to help me when/if I need Medicaid.

A Durable Power of Attorney is a document that allows a person, the principal, to appoint another person, the agent, to act on the principal's behalf with regard to property and finances. A Durable Power of Attorney is one of the most important pre-planning documents for a Medicaid applicant. There are certain requirements that a Durable Power of Attorney must meet for the agent to act on the principal's behalf. For instance, this instrument must be executed while the person has capacity to do so. With regard to Medicaid in particular, a Durable Power of Attorney should specifically give the agent the power to apply for Medicaid, make gifts and create certain types of trusts on the principal's behalf.

5. It is too late or too early to begin Medicaid planning.

Medicaid planning can begin at any time. I have consulted with families whose loved ones do not yet need any out-of-home care regarding long-term planning and general information for future Medicaid needs. I have also consulted with family members whose loved ones are already in a nursing home and are running out of money due to the cost of the nursing home. The later Medicaid planning is discussed with an attorney, the more limited planning options may be. Therefore, it is better to consult with an attorney earlier rather than later.

Note: Medicaid is a joint state and federal program and the rules, therefore, vary by state. The above discussion is based on Florida's Medicaid program. Medicaid rules are constantly changing and this discussion is based on the current rules in 2011. Lastly, there are a variety of Medicaid programs. This discussion is limited to Medicaid's Institutional Care Program for those in need of nursing home care.

To subscribe to our monthly newsletters, please visit our website at www.FARR.com

This newsletter is for general information and education purposes only.

It is not offered as legal advice or legal opinion.

To the extent this message contains tax advice, the U.S. Treasury Department requires us to inform you that any advice in this letter is not intended or written by our firm to be used, and cannot be used by any taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code. Advice from our firm relating to Federal tax matters may not be used in promoting, marketing or recommending any entity, investment plan or arrangement to any taxpayer.

Punta Gorda Office:
99 Nesbit Street
Punta Gorda, FL 33950
Phone: 941.639.1158
Fax: 941.639.0028

Englewood Office:
33 S. Indiana Avenue
Englewood, FL 34223
Phone: 941.460.9334
Fax: 941.460.9443