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IN RE: Asset Protection Planning

Dear Client:

I am board certified by the Florida Bar as a specialist in the area of Elder Law. I am also accredited by the Department of Veterans Affairs for the preparation and presentation of claims for Veterans Benefits. Both of these designations signify my expertise in the area of asset protection planning for Medicaid and Veterans Benefits eligibility. Because my practice focuses in this single area of the law, I maintain the most up-to-date knowledge on Veterans Benefits and Medicaid laws, including the extensive changes resulting from the Deficit Reduction Act of 2005, which was implemented in Florida November 1, 2007.

You should be seeking Medicaid benefits if you or your loved suffers from a chronic illness or injury requiring long term health care. Paying the health care costs for such illnesses or injuries out of personal funds alone will quickly deplete all assets. Medicare coverage for skilled nursing facilities is very limited and so is the coverage under most private insurance plans. A Medicaid Diversion or Waiver program may exist as an option to pay for some Assisted Living Costs or in home care. In addition, Veteran Pension Benefits can often assist in covering the cost of an Assisted Living Facility or care at home. Veteran's Pension is a benefit available to Veterans who have a non-service connected disability and have limited assets and income. You should conduct planning for Medicaid and/or Veteran's Benefits as quickly as possible in order to preserve assets and also to avoid unintentionally incurring a disqualification period from Medicaid by transferring assets in the wrong way.

I have discussed some aspects of qualifying for Medicaid below. I have also enclosed an Asset Protection Planning Information Sheet for you to complete to the best of your ability if you wish for me to perform an evaluation of your or your family member's affairs. Completing the information sheet will assist me in determining the countable assets, how to make the countable assets exempt for eligibility purposes, if the applicant meets the income requirement, the actions necessary to qualify for Medicaid and/or Veteran's Benefits and what estate planning documents need to be prepared or revised.

MEDICAID ELIGIBILITY REQUIREMENTS To qualify, a Medicaid applicant must meet the following qualifications: the countable assets of the applicant must be less than \$2000 at least one day of each month, the applicant's monthly gross income must not exceed \$2,022, and finally an individual must be determined to be medically needy by the Department of Children and Family Services and be residing in a Medicaid qualifying healthcare facility. If the applicant has a spouse who is not applying for Medicaid, the spouse's countable assets must not exceed \$109,560.00. These asset and income amounts are the present figures for the year 2011 and are subject to change each year.

VETERANS NON-SERVICE CONNECTED PENSION ELIGIBILITY

REQUIREMENTS- To qualify, a claimant must meet a service requirement, a disability requirement, an asset requirement and an income requirement. A claimant's countable assets must not exceed \$80,000; however, the asset limit is not set in stone as in Medicaid and will certainly be less for a single claimant. The income limit is the maximum pension rate, which varies depending on marital status and required level of care; however, unreimbursed medical expenses are deducted from income.

ELIGIBILITY TECHNIQUES Certain assets, such as the applicant's home, are exempt assets. One asset protection planning approach is to convert nonexempt assets into exempt assets. Although greatly limited by the Deficit Reduction Act of 2005, annuities or asset transfers or asset divestiture is sometimes an option. Converting countable assets into income sources, such as the purchase of rental property, is another approach. A special Medicaid trust exists as an option for applicants who have income exceeding the maximum monthly amount. Additional planning is available if the applicant has a spouse.

PERFORMING THE EVALUATION My charge to perform an initial Asset Protection planning evaluation and provide you with different planning options will vary depending upon the complexity of the applicant's affairs and the information you provide on the information sheet. Accordingly, it is important that you provide me with complete and accurate information on your or your family member's assets. Upon receipt of the Information Sheet, I will contact you and inform you of the charge to develop an asset protection plan for you or your family member and schedule an appointment for an office conference, or telephone conference if necessary.

STEPS TO TAKE IMMEDIATELY If you or your family member has not already done so, I would strongly recommend that you arrange for you or your family member to sign a durable power of attorney so that someone may assist with the handling of your or your family member's affairs. If a durable power of attorney has previously been signed, a new document, which would include special Medicaid provisions, might need to be signed. A Living Trust exists as a more comprehensive solution to handling an incapacitated person's affairs. Health Care Advance Directives should also be reviewed. Please contact our office if you would like further information on Durable Powers of Attorney, Living Trusts or Health Care Advance Directives.

If you have any questions regarding obtaining financial assistance for healthcare costs or relating to your or your family member's circumstances in particular, please feel free to contact me.

Very truly yours,

Rebecca C. Bell
Florida Bar Board Certified
Elder Law Attorney