



ELDER LAW AND ESTATE PLANNING

Joseph Karp

Florida Medicaid eligibility potentially impacted by home rental

Question: My mother's Florida Medicaid eligibility was approved last month. She is in a nursing home and her home is unoccupied. She is a widow. We are considering renting it to pay for maintenance, taxes, etc. Will renting it terminate her benefits?

Also, will the state take the home once she passes on? I'm really confused about the rules and don't want to endanger her benefits.

Answer: I envision some problems that could arise from renting. It is possible that you could overcome those problems and she could retain her Florida Medicaid benefits, but I would have to thoroughly review your mother's situation and her legal documents to figure out what could be done. Here is some general information that should be helpful.

First, your mother's Medicaid benefits are predicated on the assumption that she intends to return home. How realistic an intention that is, is immaterial in the eyes of Florida law. If you rent the home, especially if it is a long-term rental, Medicaid may take that as a signal that she won't be returning home, thus jeopardizing her benefits. But generally speaking, a home that becomes rental income property will be deemed an unavailable asset and won't threaten Medicaid. You must also consider whether the net rental proceeds would put your mother's income

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over the current \$2,250 monthly income cap. If it does, that problem could be solved by having an elder law attorney draw up a Qualified Income Trust to receive the excess income.

The house will be shielded from Medicaid recovery so long as it is still her homestead property when she passes away and it passes to a constitutional heir at law. The same cannot be said if it is rental property and it is probated. Then Medicaid would have a lien on the property.

As you can see, these are complex and inter-related issues. Please consult a Florida Bar certified elder law attorney to fully discuss the specific circumstances.

Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.