Knox McLaughlin Gornall & Sennett, P.C.
Erie • Pittsburgh • Jamestown, NY
814-459-2800 • www.kmgslaw.com

Is It Too Late?

Posted on August 11, 2022



This is a question we get often from clients: “My father [or mother] is already in a nursing home. Is it too late to protect and preserve assets?”

The simple answer is “no.” Many of the clients we serve are in this situation, or about to be. We can help determine the best course of action based on your family’s specific situation – below are a few examples of how assets can be preserved – anytime.

Community Spouse Resource Allowance

The federal government passed the Spousal Impoverishment Act in 1988 that allows the spouse of the person in the nursing home (or the ‘community spouse’) to retain assets – also known as the Community Spouse Resource Allowance (CSRA). The CSRA is one-half of the spouses’ total assets, subject to a minimum amount and a maximum amount, which are indexed for inflation. For 2022, the maximum amount is $137,400.

The community spouse can also retain some excluded assets, such as the principal residence and a vehicle. See also: *What Assets are Exempt for Medicaid Eligibility?*

Medicaid Compliant Annuities

Additionally, the federal government has provided other programs that allows families to use Medicaid Compliant Annuities to preserve assets.

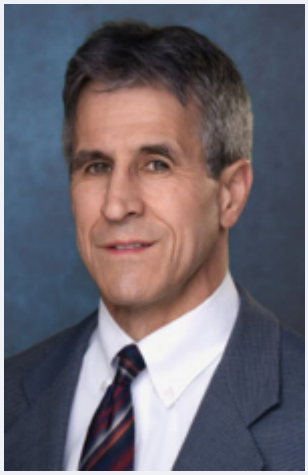
In this case, the otherwise countable resources (for Medicaid eligibility) would be used to purchase a particular type of annuity policy known as a **DRA-Compliant Annuity**. The annuity payments from the DRA-Compliant Annuity to the community spouse are treated as income (rather than as resources) received by the community spouse and they are therefore not considered in determining whether the institutionalized spouse qualifies for Medicaid.

This can expedite the institutionalized spouse's qualification for Medicaid and help to preserve a better standard of living for the community spouse during the time that his/her spouse is institutionalized.

See more on DRA-Compliance Annuities toward the end of this article: **Demystifying Medicaid Planning**

Conclusion

In most cases, it is never too late to preserve assets. Each individual situation will be unique: our team of attorneys and paralegals will work with you and your family to navigate the regulations, develop a plan, and most importantly, offer compassion. **Contact us today** at 814-459-2800 to learn more.



Jeffrey D. Scibetta

Jeffrey D. Scibetta focuses his practice on elder law planning, complex estate planning and administration, business & tax planning, and real estate. He has spoken to a variety of groups and professionals about all of these matters.

jscibetta@kmgslaw.com • 814-459-2800

Legal Advice Disclaimer: *The content of this website is provided for general information purposes only. It should not be used as a substitute for consulting an attorney for legal advice regarding the reader's own affairs. Knox McLaughlin Gornall & Sennett, P.C. is not responsible for the content provided on any third-party website which may be accessed via links provided by this site.*

Copyright © Knox McLaughlin Gornall & Sennett, P.C.
Not to be reproduced without permission.