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

Another Benefit of Medicaid Qualification: PA Filial Support Law

Posted on February 11, 2022



The obvious benefit of qualifying for and using Medicaid for long-term care costs in Pennsylvania is to preserve assets for the next generation. Another, lesser known benefit is to protect your children from the financial burden of your nursing home bills.

Pennsylvania Filial Support Law

“Filial Support” refers to the legal obligation of certain adult family members to care for one another (as distinguished from the duties of “spousal support” or “child support”). As used in an elder law context, however, the term is most often used to refer to the obligation of adult children and others to provide support for an indigent parent.

Pennsylvania’s filial support laws are set forth at 23 Pa.C.S.A. §4601, et seq.

Under this statute, the following individuals have a legal obligation to care for and maintain or financially assist an “indigent person”:

- The spouse of the indigent person
- The child of the indigent person
- A parent of the indigent person

Financial assistance can certainly include long-term care costs, which can add up quickly.

Exceptions

The statute includes some exceptions:

- It does not apply to those who do not have the financial resources to pay for their relative’s care.

- It does not apply to children whose indigent parent abandoned them for ten continuous years as minors.

Note that even with these exceptions, it is the **child's** (or other relative's) responsibility to prove that they do not have the financial means to pay for their parent's skilled nursing care or otherwise qualifies for another exception.

Court Cases Applying Filial Support Laws

There are appellate court cases in Pennsylvania in which a nursing home has used the filial support laws to hold an adult child legally responsible for the long-term care costs incurred by the child's indigent parent. In those cases, the parent for one reason or another did not qualify for (or did not apply for) Medicaid, and so the nursing home was not restricted from pursuing legal recourse against the nursing home resident's adult children. ***See more here.***

These cases underscore the fact that qualifying an applicant for Medicaid in timely fashion can be very important not only for the applicant but also for the applicant's family.

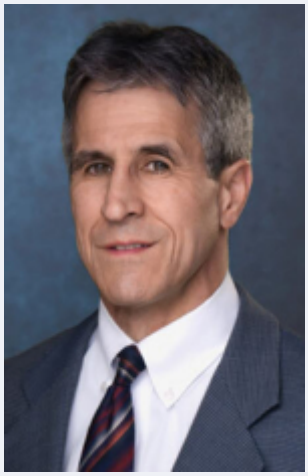
Conclusion

Applying and qualifying for Medicaid can ensure long-term care facilities are paid. However, the filial support law may kick in when bills are unpaid, or when Medicaid is denied, incomplete, or even delayed.

More on Pennsylvania's filial support law can be found in our article: **Demystifying Medicaid Planning**.

We can help you determine your (or your parents') Medicaid eligibility and help with the application process, as needed. We can also answer your other asset protection and estate planning questions.

Contact us at 814-459-2800 to set up an appointment to get your questions answered and set your mind at ease. It is never too late to implement a plan.



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.