Capital District Senior Spotlight â€œLegal Chatâ€•

By Greg T. RinckeyQ.

I will probably need nursing home care in a few years. What steps do I need to take to ensure I can qualify for Medicaid by that time?A.

With the state Partnership for Long-Term Care reporting that nursing home care in Northeastern New York costs an average $102,480 annually, seniors need to be proactive in preventing long-term care expenses from gobbling up their estates.While long-term care insurance can help seniors cover nursing home care expenses, many find it to be too costly. Others may not qualify for coverage due to pre-existing health conditions. That leaves many seniors looking to Medicaid for coverage. According to the state Department of Health, approximately 5 million New Yorkers receive health care under Medicaid, a program designed for low-income adults. For many, eligibility hinges on their income and assets.To qualify for Medicaid in 2012, individuals must have a monthly income below $792 and no more than $14,250 in resources. Meanwhile, the monthly income of couples cannot exceed $1,159 and they can have no more than $20,850 combined in joint resources. Generally, a primary residence and one automobile are deemed exempt assets.Seniors need to be very careful in how they go about transferring assets and spending in the five-year period before they apply for Medicaid. Those activities are subject to a 60-month look-back period and seniors could be penalized for inappropriately transferring assets so their income and assets fall within the eligibility limitations.That does not mean all transfers and spending are prohibited. For example, many seniors place their assets in an irrevocable Medicated trust, where the grantor retains the income and the principal is protected for the beneficiaries. While the ownership of the assets in this type of trust is shifted to a trustee, the assets are not usually counted against the grantor with regard to Medicaid eligibility, so long as the assets were transferred outside of the 60-month look-back period.To fall within Medicaid’s income and asset thresholds, especially during times of crisis, seniors could consider gifting assets or even making loans. In 2012, seniors can make gifts up to $13,000 annually per person and generally without any potential tax liability. With the lending option, seniors in need of last minute planning can make promissory notes to reduce the potential penalty period that might arise and receive the loan payments as a way of paying for their health care.Another option is spending down the Medicaid applicant’s assets. For example, if the applicant has excess assets and needs to become Medicaid eligible, the assets can be used toward such things as home improvements, paying off old bills, or even a new car. Seniors interested in creating a Medicaid trust or who have questions about Medicaid planning should contact an estate planning attorney.Greg T. Rinckey, Esq., is the managing partner at Tully Rinckey PLLC, a full-service law firm located in Albany, N.Y. For more information about the firm’s family and matrimonial law, bankruptcy, estate planning and elder law practices please visit www.1888Law4Life.com. If you would like your legal question or topic answered in the next issue, please contact Greg Rinckey at 518-218-7100 or grinckey@1888law4life.com.