

ELDER LAW REVIEW

June 2016 Special Edition

Minnesota Statute Update: Asset Assessments

Change is inevitable. Just when everyone gets used to doing something one way, along comes change and we have to learn something new or, in the case of the most recent change, unlearn something old.

The Minnesota Legislature has passed a change to the statutes that govern Medical Assistance rules. Beginning on June 1, 2016, Minn. Stat. §256B.059 was amended to remove the definition of spousal share as being one half of the total value of the marital assets on the asset assessment date and remove the 30 day institutionalization period for assessing marital assets. The statute now states that assets are reviewed “upon application for medical assistance” in order to determine the community spouse allowance. The statute was further amended to remove the language reflecting a minimum amount of assets and instead implements only a maximum amount of assets (currently \$119,220).

What this means in plain language is that there will no longer be a need to try to determine the first “30 consecutive-day period” of institutionalization or receipt of EW qualified services. We will no longer be required to gather documentation of asset values for that exact date, no matter how far in the past it occurred. **The Asset Assessment is gone.** With the end of the Asset Assessment, the “spend down” for MA eligibility has become easier to determine. Spouses of applicants for MA Long Term Care and MA for Home and Community Based Services may keep up to the maximum amount of assets (\$119,220).

Example: On April 1, 2016, John enters a nursing home. He and Sue have \$100,000 in total countable assets. If John applied for Medical Assistance LTC on May 1, 2016, in order to qualify, assets must have been reduced to \$50,000. If John applies on June 1, 2016, Sue can keep the full \$100,000 in assets because the total is less than the minimum of \$119,220.

The only “fly in the ointment” with this change is that it is also including categories of individuals who were “exempt” from the asset reduction requirements. Individuals applying under the CADI waiver will now be required to meet the new asset requirement. Previously, all assets could be transferred to the community spouse, allowing all assets to be protected. Additional changes have been implemented in an attempt to reduce the hardship that this may cause on families of CADI recipients. Certain retirement and educational plans are considered unavailable as long as certain requirements are met. This is an attempt to alleviate the concerns over penalties for early withdrawal of retirement funds and to allow families to keep college funds for their children. These changes may, in some instances be temporary so please consult with an Elder Law or Medical Assistance attorney to assist with determining how the rules may apply in a specific situation.

*Changes to MA standards and guidelines effective July 1, 2016.

Minimum Monthly Maintenance Needs Allowance: \$2,002.50

Shelter Standard \$602.00

Utility allowance with heat/ac: \$454.00

Remedial Care: \$196.00

Income Standard increases from 75% FPG to 80% FPG for individuals in the eligibility category of Aged/Blind/Disabled.

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