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ESTATE PLANNING FOR LONG TERM CARE

Matthew O'Donnell, Esq. is certified by the State Bar of California Board of Legal Specialization as a Specialist in Estate Planning, Trust and Probate law.

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All of us here at O'Donnell & Associates are committed to giving our clients peace of mind by providing comprehensive estate planning solutions and services.

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We are happy to answer your questions and address your estate concerns. Call us at 650/853-7183

Jack (75) and Peggy (69) Smith have been married more than forty years and have one adult child, Catherine. The Smiths live comfortably on Social Security benefits and their life savings of $150,000. They own a home valued at $500,000 and an automobile worth $5,000. Recently Jack was diagnosed as suffering from Alzheimer's disease, and Peggy has found it increasingly difficult to care for him.

The following questions and answers illustrate possible solutions to the many complex and bewildering legal and estate planning issues confronting the Smith family.

If Jack's condition requires nursing home care, what resources are available to assist the Smiths in selecting a home?
California Advocates for Nursing Home Reform (415-474-5171) maintains information regarding Medi-Cal certification and standing of skilled nursing facilities. The Smiths should also consult with their family physician, social worker and County Ombudsman for recommendations.

What is the cost of a skilled nursing facility?
Average monthly charges can range from $5,000 to $7,500, depending on the services provided.

What benefits are available to help defray the cost of Jack's nursing home care?

A. Private Insurance:

The Smiths should review Jack's medical insurance policies to determine coverage. Medical insurance policies usually pay for physician and hospital care, but seldom cover the cost of long term care unless purchased specifically for that purpose.

B. Medicare:

Medicare is a federal insurance program that provides limited medical care benefits to recipients of Social Security and Railroad Retirement. Medicare insurance may also be purchased by those not receiving Social Security. Although the Smiths may be successful in obtaining limited benefits for Jack's hospital and physician expenses, Medicare often denies coverage for nursing home care, paying for an average of only twenty-two days.

C. Medi-Cal:

Medi-Cal is a Federal and State funded health benefits program that pays the full cost of skilled nursing home care for low income persons who receive either Supplemental Security Income, Aid to Families with Dependent Children benefits, or who are aged, blind, or disabled with limited assets of less than $2,000 for a single person, or $3,000 for a married couple who live together.

In the event that one spouse is institutionalized, the at-home spouse may retain $113,640 in non-exempt assets over the $2,000 allowed the institutionalized spouse.

The following exempt resources are not considered assets: the patient's home, personal effects, automobile, limited life and term insurance, retirement benefits, particular annuities, prepaid burial plans, funds and plots and other real property of minimal value and income.

All other assets are non-exempt and counted in determining eligibility.

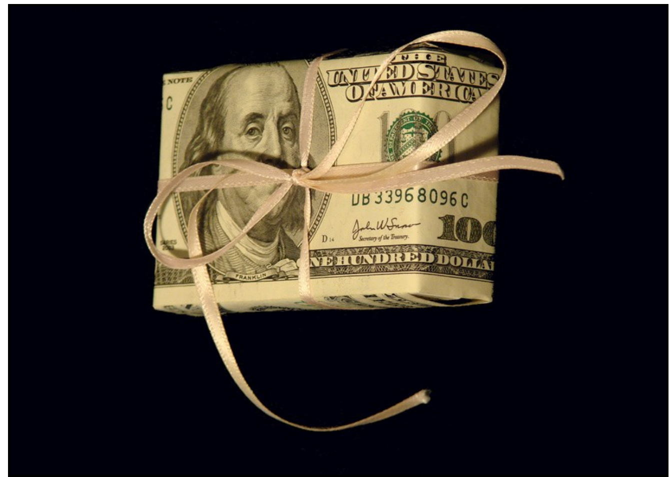
Since the Smith's non-exempt resources ($150,000) exceed the Medi-Cal resource limits, how can Jack eventually qualify for Medi-Cal benefits without exhausting the Smiths' savings on nursing home expenses?

Spend-Down:

The Smiths may reduce their non-exempt assets exceeding a value of $113,640 by paying for medical expenses, paying down any mortgages on their home, making home repairs, or purchasing other exempt assets (personal property, automobile, burial plot or burial plan, life insurance, annuity).

Transfer of Assets

Spouse to spouse transfers and transfers of exempt assets (including the residence) to anyone are permissible. Transfers of non-exempt assets to persons other than a spouse will cause a period of ineligibility. This period of ineligibility can be shortened with proper planning.



Administrative or Court Hearing:

If Peggy's retirement income is below $2,319 per month, she is entitled (by Court or Administrative order) to an increase in the allowable Community Spouse Resource Allowance (CSRA) to an amount above $92,760. For example, if Peggy's monthly Social Security is $1,000, she would be entitled to and expanded CSRA between $800,000-$1,000,000 at the present interest rates.

Pre-October, 1989 Institutionalization:

Through proper estate planning, most spouses who entered a nursing home prior to October 1989 will qualify for Medi-Cal benefits regardless of their resources.

Does the Medi-Cal Program require co-payments?

If Peggy's retirement income exceeds $2,319 per month, she is entitled to keep all of her retirement income while paying all of Jack's retirement income to the nursing home as a share of cost.

If Peggy's retirement income is below the Minimum Monthly Maintenance Needs Allowance of $2,319, she will be permitted to keep the couple's joint income up to the MMMNA of $2,319 per month.

What if Jack and Peggy's assets grow after Jack's qualification for Medi-Cal?

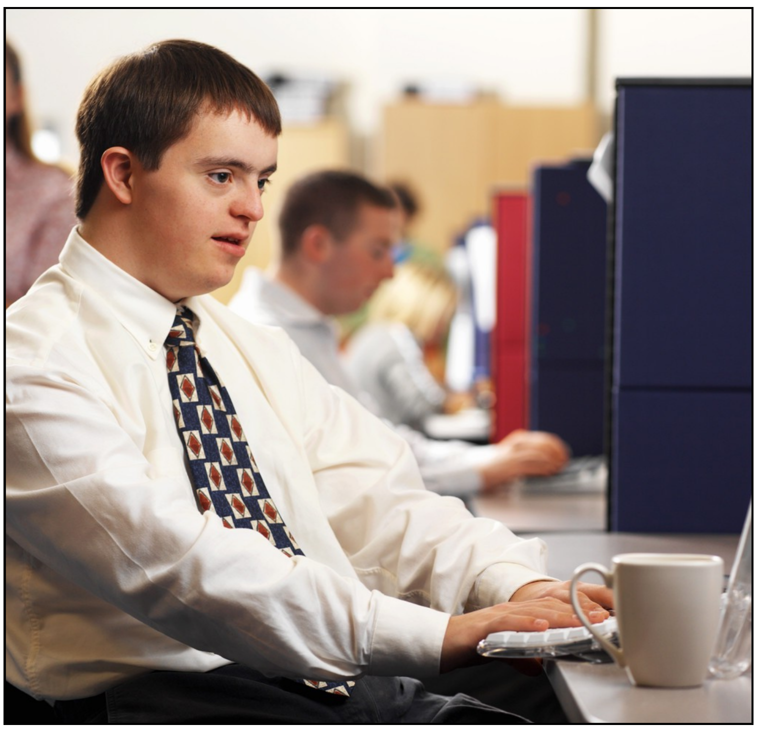
Exempt assets may be acquired or may grow without disqualifying Jack from future Medi-cal benefits. Although Jack may possess no more than $2,000 in non-exempt assets while on Medi-Cal, non-exempt assets may grow or be acquired in Peggy's name without disqualifying Jack from benefits.

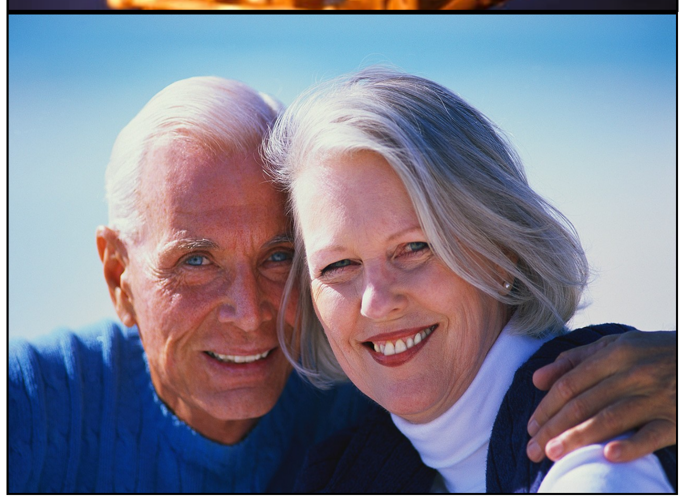
Consider Special Needs Trusts...

Lifelong Trusts can also include a Special Needs Trust option for inheritance given to a disabled child.

A Special Needs Trust will prevent the inheritance from causing the disabled child to become ineligible for government assistance such as SSI or Medi-Cal benefits.

A comprehensive Special Needs Trust document usually includes detailed provisions for a Care Manager to personally supervise the care of the disabled child.





CONCLUSION: If you are considering setting up an Estate Plan that includes Long Term care, we can help with all phases of the planning and implementation. Call our office at 650/853-7183 or check our website at www.estateandtrustplanning.com. We are here to help you!