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Medicaid Recipients (and their Families) Beware!

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January 2016

By this time most people know that a person in long term care can keep their house and still obtain Medicaid benefits. Most are also aware that while you can keep the house, you cannot keep funds or use income to maintain it. Usually, the children pitch in and pay the utilities, taxes, insurance and upkeep to preserve the house. What many people do not realize is that the State can recover the funds it paid to a person from their probate estate; this is called estate recovery. Basically, what the State lets you keep at the beginning it takes at the end.

Recently, our office had this exact case. The mother received Medicaid and owned her house, worth a little more than $100,000.00, in her name. (A house in a trust is typically not allowed). The children paid the taxes, insurance and utilities expecting that they would get the house when their mother passed. Unfortunately, when the mother passed, her house ended up in probate and the State made a claim for over $200,000.00. Although the children could make a claim against their mother’s probate estate for what they paid, the State’s claim had a higher priority which meant that the children not only did not get the house, they also lost all of the money paid to maintain the house.

This could have been avoided with something called a lady bird deed, in Michigan, known as an enhanced life estate deed. A simple piece of paper could have insured that the children would have received the house upon their mother’s death.

It is important to seek the advice of an attorney familiar with the Medicaid rules. Your friends, neighbors, or even the nursing home, may not know everything. A little planning ahead can result in substantial benefits.