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New Hurdle in Medicaid Eligibility for Nursing Home Care

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Recently, the Department of Human Services (DHS), the agency that determines Medicaid eligibility for nursing home patients, unexpectedly began denying Medicaid applications in cases they would have previously approved.

The area of concern is in cases with married couples where assets had been placed in a so-called "solely for the benefit" trust ("SBO trust"). An SBO trust has been the favored tool of elder law attorneys for many years and it allows the spouse remaining at home to preserve assets in excess of the protected spousal amount.

DHS has routinely approved them in the application process for years but they are now taking the position they misapplied their own policy. Now, any assets transferred to an SBO trust will be considered a countable asset and will likely disqualify thousands of people from receiving Medicaid assistance. Many applications have already been denied and more are expected.

Many experts in the area of Elder Law believe DHS's new application of the existing policy is incorrect but it will take time for the matter to play out in the court system. In the meantime, attorneys are taking varying approaches to avoid denial of pending applications.

While the new treatment of SBO trusts is just the latest hurdle people face in applying for Medicaid, the entire process is something no one should face alone. If you or someone you know needs help in applying for Medicaid benefits, feel free to contact our office. We'd be happy to help.