

## **The Law and You Reverse Mortgages and Medicaid Don't Mix**

I have written several columns about Medicaid. The most recent was last year when Medicaid was modified by Congress.

Understanding the rules about Medicaid eligibility can help married couples where one spouse may have to go into a long term care facility.

I have also written about the benefits of reverse mortgages.

However, taking out a reverse mortgage in an attempt to qualify for Medicaid is a very bad idea. In fact, the two don't mix.

The theme for this column arose from an actual case. Without disclosing the identities of those involved, I believe it is instructive to relate the pertinent details of this sad story.

My client came to me about the problems he was having getting his wife qualified for Medicaid. He and his wife owned their home free and clear. They had limited savings of about \$25,000.

His wife had to be moved to a long term care facility. Concerned about the costs of caring for his wife, he sought expert advice. Eventually, he was referred to a small firm in Sandy that offers free consultations.

The firm's brochure states that the firm consists of "a team including CSA's (Certified Senior Advisors), lawyers specializing in senior and family law, estate and financial planners all working together to provide comprehensive planning and strategies to seniors." The firm also states as one of its "planning goals" is to "plan for long-term

care."

Although the firm's consultations were to be without charge or obligation, my client was requested to pay the firm \$600 for its services.

Remember, my client's purpose in going to this firm was to qualify his wife for Medicaid, the only governmental program that provides for long term care assistance.

This "expert firm," however, was primarily a seller of financial instruments like insurance, annuities, and, through one of its agents, reverse mortgages.

So the firm recommended that my client take out a reverse mortgage and use the proceeds to purchase an annuity. But in qualifying for Medicaid, my client's home is considered to be an exempt asset. That is, it doesn't count in determining his wife's eligibility for Medicaid assistance.

Since my client had only about \$25,000 in liquid assets and his home, his wife would qualify almost instantly without any action on his part. He would receive about the first \$20,000, and his wife could have \$2,000. Therefore, all that was at issue was \$3,000 in "spend down." That is easily accomplished with minor repairs to the home or purchasing a funeral plan.

Instead of doing almost nothing, this firm, which advises seniors about protecting their assets, recommended to my client that he should take out a reverse mortgage in the amount of about \$143,000. After fees and closing costs in excess of \$11,000, the firm

used the net proceeds of about \$132,000 to purchase an annuity.

At this point, the exempt equity in the home became a non-exempt asset for Medicaid purposes, and Medicaid denied my client's application. If no reverse mortgage had been taken out, Medicaid would have easily and quickly approved my client's application.

Moreover, my client's home will now go to the mortgage company on his death. If he had not listened to this expert firm who advertises that it "knows the Rule Book that no one else tells you about," he would still have his home without any encumbrance.

Also, the reverse mortgage accrues interest at 6.4%, while the annuity purchased with the net proceeds from the reverse mortgage pays no interest at all!

Now, why would this expert firm recommend a reverse mortgage when it was unnecessary? The answer is fees. The firm earned fees from the reverse mortgage, and it earned fees from selling my client the annuity. It was all about fees. The reverse mortgage didn't help my client; it economically harmed him.

The moral to this story? Be leery of anyone who suggests a reverse mortgage for the purpose of qualifying for Medicaid or to purchase an annuity.

A Postscript to the story: I have filed on behalf of my client, a lawsuit against the "expert firm" and its officers. Hopefully, others won't fall prey to their tactics.

If you need help and guidance with Medicaid eligibility, you should contact an Elder Law Attorney. To locate an Elder Law Attorney, check with the National Academy of Elder Law Attorneys at (520) 881-4005, or your local Yellow Pages.

**YOUR QUESTIONS:** Do you have a particular question that you would like answered? To better serve the regular readers of this Elder Law Column, please direct your questions in writing to Michael A. Jensen, Elder Law Attorney, PO Box 571708, Salt Lake City, Utah 84157. From time to time, I will attempt to answer some of those questions. Also, you may send your questions to:

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