ELDER LAW GUIDANCE

Medicaid Standards:

Your Guide to Understanding Medicaid Income & Asset Standards for Long-term Care

Protect Your Investments & Assets

WEBINAR
WORKBOOK

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WELCOME

Welcome to the Medicaid Standards: A Guide to Understanding Medicaid Income & Asset Standards for Long-Term Care Webinar Series. We are so glad that you are taking this time to invest in yourself. The information you discover here are some the most important choices that you need to make in life and with this information we are glad you can gain the wisdom and understanding to make solid decisions for your long-term care needs. We are going to empower you so you will have the knowledge you to protect everything you have worked your entire life for and avoid the high costs of healthcare when you are most vulnerable. We want to congratulate you for making a major step in that process and we welcome you and are excited for the ahead helping you and your family be protected.

There are three parts to this webinar that this workbook will guide you through:

Part 1— Medicaid Rules & Preparing for Long-Term Care Needs
Part 2— Income Standards
Part 3— Asset Standards

As we go through this webinar series, You will:

1. Understand what Elder Law and why it is different than other types of law practices.
2. Get the facts on the real cost of long-term care. Know the cost and have the statistics?
3. Understand that it's never too late to get help.
4. Know the difference between what Medicare and Medicaid are and what they pay for.
5. Learning where you are vulnerable and how you can get prepared.
6. Avoid Pitfalls, conflict and crisis in your life and the lives of loved ones.
7. Understand your eligibility for Medicaid.
8. Understanding penalties and how to avoid or overcome them.
9. Gain peace of mind, knowing that you can easily plan for your LTC.
10. Know the truth behind assets and income and what Medicaid will be looking for.
11. Find out what the tools are you can choose to put in place to help protect you and your family so you can get approved.
12. Feel confident knowing you can hire an attorney to help you set up mechanisms for protection now before the 5 year look back is an issue.
13. Provide your family the direction and protection they need for not only your future but theirs as well.

So, CONGRATULATIONS!!!!! You are on your way to true peace of mind. You will soon know what it feels like to have clarity on a very murky system. You are going to be empowered to make the best decision about LTC and your family will thank you for caring about them that much.

Let's Get Started! Thank you for allowing us to help you!!

Contents

WELCOME 1

WHO ARE WE?..3

WHY WE HELP...3

HOW TO USE THIS WORKBOOK AND THIS WEBINAR 4

WHAT IS ELDER LAW? 4

WHAT IS ALL THE FUSS ABOUT?...5

THE MUST HAVE'S FOR PRE-PLANNING OR LONG-TERM CARE PLANNING.................................7

AVOID DIY "ESTATE PLANNING" PITFALLS...7

GOVERNMENT BENEFITS 8

MEDICARE V. MEDICAID..8

HOW MUCH CAN SOMEONE MAKE/OWN AND STILL QUALIFY FOR MEDICAID? 9

WHAT WILL THE COMMUNITY SPOUSE HAVE LEFT TO PAY BILLS? 10

MEDICAID HAS A RULE CALLED THE FIVE-YEAR LOOK BACK PERIOD? 11

TOOLS 12

CONCLUSION 13

WHAT'S NEXT 14

OTHER RESOURCES 14

WHO ARE WE?

Elder Law Guidance is a veteran owned law firm operating out of Richmond, Kentucky dedicated to protecting families from the loss of everything they own to the extreme cost of long-term healthcare. Our team of professionals, ranging from attorneys to customer care specialists, excels at highly competent, highly professional service to you and our clients.

Our firm focuses on the legal issues that emerge as we age, particularly as we near retirement and thereafter. One of the biggest issues we face, and plan for the least, is how to pay for long-term healthcare. We dedicate our expertise toward Medicaid, VA Benefits, Special Needs and Estate Planning, Probate and Guardianship. We help people who need to pre plan or are in crisis and we have been able to save half if not 100% for them because of our expertise.
You could choose any attorney, you really could but you may spend more time and money on them as they are not wholly devoted to this specialized, growing and changing area of law. We understand the need for peace of mind when people face hard decisions, stress and crisis and we walk our clients through the obstacles because we are the experts in this area of law. We are a dedicated team who understand the complexities of Elder Law and we set ourselves apart due to the time and consideration we take with our clients and that is our guarantee.

WHY WE HELP

These areas of planning and assistance are very important to us. After generations hard working, skilled and talented, sacrificing we see our own families starting from scratch and fighting to get ahead. Each generation may have done well, but something seems to always go wrong, and all of the progress of the previous generation does not get passed on to the next. We do not want you to have worked your whole life to see it lost at these last stages.

We also believe that the beautiful of life is a life well lived. There is nothing more valuable that the years of accumulated wisdom and experience that someone in the later years possesses. In our throw away world, we are overlooking the most valuable part of our families: Our Parents, Grandparents and elderly. This last stage of our lives should be our riches and most fulfilling. We are committed to the dignity and respect that each life deserves after years of giving to the world around them. It's not "out to pasture", or "out of touch time." Rather, it is front of the line and top of the journey time. And we want to treat you with that level of care and respect you and your loved ones deserve.

We are honored to serve you each day because of your past and for your family's future!

We are here for you!
Scott Collins
859-544-6012

HOW TO USE THIS WORKBOOK AND THIS WEBINAR

Follow along with the video that you have downloaded. If at all possible, print out this workbook so that you can highlight along the way, write notes in the margins, and jot down your questions so that we can help you.

If you follow this approach, when you come to the very end you will have identified your assets and income which will help you see the vulnerabilities and help you determine what the best planning decision is for your future. We'd love to help you, and with this guide you can have notes, questions and information at your fingertips so when you do meet with an attorney, you will be prepared. You will find that even if you are in a crisis situation, it's not too late, we know how to help everyone.
This guide will help you get prepared for LTC needs, understand how you will be prepared for the dreaded "5 year look back", so you avoid penalties and get qualified for care.
We cannot give you a crystal ball to look into the future but we will give you a guide to be most prepared for it.
Take this workbook with you to an attorney and have them discuss this with you. You will be happy that you did. Responsible management of your personal life and peace of mind for your future are a great gift for you to give to your family. Thank you for taking the time to work through these sessions with us.

WHAT IS ELDER LAW?

An Elder Law Attorney is an estate planning attorney on steroids! All of the things that we plan for after our death is the focus of Estate planning (distribution of assets and personal property, as well as real estate). Elder Law focuses on all of that, as well as how to manage and protect it prior to our death. From about the time of retirement, we have special needs that other parts of the population do not have. Specialized retirement planning, tax considerations, development of Wills, Powers of Attorney, making financial preparations for a special needs child who will survive us, taking care of the healthcare needs and financial matters of an aging parent, scams and financial exploitation, long-term care needs (insurance/planning/benefits), Veterans pension planning, Medicare and Medicaid advocacy, Probate, Gun Trusts, Pet Trusts, business succession planning, Trust development and administration, Legacy planning and scholarship development, care giving as well as special support and navigation in coping with Alzheimer's and various dementias.

These are very specialized areas of legal practice that need a law firm that focuses on the intricate problems you are facing.

And, if we can help in any way along the process, email or call us!

Elder Law Guidance
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WHAT IS ALL THE FUSS ABOUT?

There is a lot information and beliefs out there about Medicaid. Sometimes people know just enough to get themselves into trouble when the need for Medicaid arises. For our purposes here, we will focus on the extreme costs of nursing home (usually referred to as "long term care") care and how Medicaid is available to assist individuals with covering these costs. We are here to help you receive the benefits you and/or your spouse have paid into throughout your careers.

Statistics

Around 10,000 people in the U.S. turn 65 each day. Over half of people who turn 65 today will develop a severe disability requiring long term care. For those who reach 75, the percentage of those needing some type of long term care goes to 70%. The likelihood of a person needing long term care increases with age. Therefore, the majority of us will need some type of long term care in our lifetimes. Additionally, the average length of stay in a long term care facility is 3.8 years.

Costs

With those numbers in mind, consider the costs of care:

- Assisted Living Facilities run between $2,500-4,000 per month
- Personal Care Facilities - $3,000-6,000 per month
- Skilled Care, Long Term Care, and Nursing Homes - $6,200-11,000 per month

Using a conservative amount of $7,000 per month for a long term care facility, a family can expect to spend $84,000 per year. If the average length of stay is 3.8 years, the total cost of care for that amount of time would be $319,200.

Who can afford this? That is why it is important to face these problems now. Even if you or your loved one is in such a crisis already, we can discuss options to help reduce this weight on our shoulders.

Other Considerations

Alzheimer's Disease

As with many ailments, the chances of developing Alzheimer's increases with age.

The extreme end of long term care costs goes to those suffering with Alzheimer's disease. An individual with Alzheimer's will experience a decline in cognitive function. Their overall health may not be impacted in the least, but being able to live on their own will eventually not be a viable option. An Alzheimer's patient could have a lifespan of 8-10 years with the severe stages lasting up to 3-5 years.

With the need for extended long term care stays, Alzheimer's patients will clearly incur more costs. Even beyond the length of time is that severe Alzheimer's patients will likely require placement in a facility with a Memory Care Unit. These are dramatically more expensive than a typical long term care facility. In our experience, finding an open bed in a Memory Care Unit is not easy, especially for male patients.

Normal Household Expenses

2016 Data from the Bureau of Labor Statistics shows that households run by someone who is 65 or older, "spend an average of $45,756 per year, or roughly $3,800 a month." In the case of a married couple, with one spouse remaining at home, and the other in the nursing home, the expenses for the couple as a whole can easily be $11,000 a month.

WHAT ARE YOUR OPTIONS?

There are a number of options which may be available to pay the costs of long term care:

1. PRIVATE PAY OPTIONS
    a. Fully Self-Pay
        i. Use Savings, Liquidate Assets, Borrow Money, Refinance or Re-Mortgage Your Home.
    b. Long Term Care Insurance
        i. Pros – depending on coverage purchased, LTC Insurance could pay for the full cost of care with no additional out-of-pocket expenses.
        ii. Cons – very high cost and difficult to obtain the older you are.
2. GOVERNMENT ASSITANCE
    a. Medicare
        i. Pros - Will kick in when needed and MAY cover up to 100 days of your stay in long term care, but likely far less than 100 days.
        ii. Cons – The number of days that coverage is available is completely in the hands of a Medicare Doctor. For example, if you go from the Hospital into a facility and are receiving rehabilitation services, Medicare will pay for your stay as long as the rehabilitation is helping improve your medical condition. Once that rehabilitation is no longer showing the needed improve, your days on Medicare will be cut and you will immediately go to Private Pay.
    b. Veterans Benefits
        i. If approval is granted, the VA will pay close to a 1/3 of long term care. There are also facilities dedicated to caring for Veterans, such as Thomson-Hood Veterans Center in Wilmore, Kentucky, where Veterans can seek placement.
    c. Medicaid
        i. Pros - Depending on your income/assets and other considerations, Medicaid could cover the majority of your monthly bill at the long term care facility.
        ii. Cons – strict standards for approval with many pitfalls that could prevent Medicaid coverage from ever being an option for you.

THE MUST HAVE'S FOR PRE-PLANNING OR LONG-TERM CARE PLANNING

- Durable Power of Attorney
- Will with desired specific distributions and Special Needs Provisions
- Living Will
- Pre-Plan Strategy
- Crisis-Plan if we are past being able to Pre-Plan

AVOID DIY "ESTATE PLANNING" PITFALLS

In a do it yourself approach many people often think they can fix or solve a problem alone. Some of the most common approaches people take oftentimes cause a pitfall when it comes to long-term care planning. Some of the typical mistakes include:

- Deeding property to children.
- Just giving it all away: money, assets, etc.
- Relying on no will or a "Simple Will"
- Relying on an insufficient POA

Problems with this type of "planning"

Downloading legal documents or using cheap, quick methods could cost families far more than they ever expected. There are dozens of ways people try "DIY" Estate Planning from things like insufficient POAs or Wills or following a plan based on incorrect advice or beliefs. All of these missteps will not only waste money and time, but will make handling your affairs more difficult for your spouse or children.

Documents

There are potential deficiencies in a "Simple Will". What you find online may not achieve what you had in mind. You may want specific language written into your Will so your plans are carried out as desired. Same goes for a POA. A POA document needs to grant your attorney-in-fact certain powers, if the document does not list these powers, the POA could practically be useless when the time comes for the attorney-in-fact to use it.

Haphazard Estate Planning

Your home is typically the most valuable asset you have. A common theory is to transfer it out of your name so the Nursing Home or the State cannot take it from you or take it through Estate Recovery after you pass away. However, when you give your home away by deeding the property to someone else, this will often cause problems. Please note that even though we used the example of your home, this rule applies to anything given away. It even applies to property you sold for less than its fair market value. (see below for more information on the "5-Year Lookback")

Lastly, giving money away or "spending down" in improper ways will only cause you more stress and you will lose more money because there is a trail and it will be found. Additionally, failure to properly disclose gifts to Medicaid is Fraud.

Let's think about this for a moment why would you not want to keep your hard-earned income and property and use it as you need it or even leave for your family? This type of planning, as you can see, could easily sabotage your best intentions.

The good news is there are tools and mechanisms that can and should be put into place to protect what you have earned.

GOVERNMENT BENEFITS

MEDICARE V. MEDICAID

Those who are still in the workforce share in the cost of Medicare benefits. Medicare does not cover some services such as hearing aids and long-term care. However, Medicaid will cover many of those services not covered under Medicare.

Although the names often get mixed up, Medicare and Medicaid are not the same. Both are administered under the Center for Medicare/Medicaid, these two programs differ in many ways, here are a few of the differences:

Medicare	**Medicaid**
Federally Funded	State Funded
100% for 20 Days (Admitted Hospital Stays)	Each state administers the rules
Age Based	Provides Long-term Care Coverage
20% FOR 80 Days (In a Rehabilitation setting)	Fund Matching
Payroll Deduction	Payroll Deduction

Medicare is a health insurance policy offered to senior-citizens, along with people under 65 who have certain disabilities.

Medicaid is a public assistance program based largely on financial need and is paid for with public funds collected through taxes. You have paid into these both.

Qualifying for Medicaid & Important Medicaid Rules

1. You must first have a level of care assessment showing you require skilled nursing care.
2. You must qualify for the asset rule and possess no more than $2,000 in countable resources.
3. You must qualify for the income rule and have an income of less than $2,349.

The Medicaid rules for qualifying as a single person and as a married couple are different. A couple still has the right to retain the home for the **"Community Spouse"** to have a place to live while the other needs care. The spouse not going into long term care and remaining at home is the Community Spouse. The spouse going into a facility is called the **Care Recipient** or sometimes you will see this spouse referred to as the Institutionalized Spouse. These are discussed below.

HOW MUCH CAN SOMEONE MAKE/OWN AND STILL QUALIFY FOR MEDICAID?

Income

Any income that a Medicaid applicant receives is counted. This includes Social Security, wages, alimony, pension, IRA withdrawals, dividends, and possibly even cash given to you by friends or family. When Medicaid determines eligibility they only count the applicant's income. The Community Spouse's income is not a factor for eligibility of the applicant.

For a single person, if your income is over $2,349 (2020 number) or you have over $2,000 in assets, you do not qualify for Medicaid. But that does not mean you CANNOT become qualified. It means we need to set out a plan to get you there.

For a married couple, the income amount of the Community Spouse is not a determining factor for eligibility.

What About Assets?

As surprising as it may sound, you cannot receive Medicaid benefits if you have more than $2,000 in resources. This means, you could have a whole life insurance policy with a $2,500 cash surrender value that will prevent you from being eligible.

Compared to the Income side of things, Assets are bit more complicated to deal with. Like with income, the Community Spouse, by law, is permitted to keep some assets. Depending on the amount of assets owned by the couple, assets are divided 50/50 and the person applying for Medicaid must not have more than $2,000 in their possession. The Community Spouse may retain up to $128,640 (for 2020). ***NOW those are the rules, BUT***, there are many exceptions to the rules, so that much more of the family's assets can be used or protected.

Note that resources of both spouses will be considered by Medicaid in determining eligibility. It does not matter to Medicaid if these are resources you owned before you were married or inherited from your parents. All resources of both spouses will have to be disclosed and will be counted. This is anything that is a liquid resource or anything that can be converted to cash and includes: Cash, Bank Accounts, CDs, Stocks, investment accounts, cash surrender value of a life insurance policy, and real property. On the other side are excluded resources and include personal belongings, household furnishing, a vehicle for each spouse, pre-arranged funeral plans, burial plots, and your primary residence (if the home equity is under $595,000 (2020 number)).

For a married couple, the Community Spouse can retain half of the couple's joint assets, up to $128,640 (maximum). The term for this is the Community Spouse Resource Allowance (CSRA) which is a range set by statute and is currently a range of $25,728 up to $128,640. That means, if by some random coincidence a couple has $257,280 (that is $128,640 x 2), the Community Spouse will keep $128,640 and the Care Recipient will have $128,640 attributed to them.

Clearly numbers will never be that clear cut, so allow me to walk you through a few other scenarios. The maximum the Community Spouse may retain is $128,640, but the minimum the Community Spouse may retain is $25,728. This means that if the couple's assets are at or below $25,728, the Community Spouse may retain all of the assets and the Care Recipient would be eligible for Medicaid as no assets remain to be attributed to them.

The other end of the spectrum is when the couple's assets are above the maximum. I realize this may be getting a little confusing, but if the joint assets are $400,000, the Community Spouse will retain $128,640 and the remainder, here that would be $271,360, will be attributed to the Care Recipient.

What this means for you is that if your assets are $30,000, the Community Spouse keeps $25,728 and $4,272 is attributed to the Care Recipient. No matter the scenario, if the amount attributed to Care Recipient is over $2,000, some level of planning must be employed to get their total below $2,000.

WHAT WILL THE COMMUNITY SPOUSE HAVE LEFT TO PAY BILLS?

Medicaid's spousal impoverishment rules allow the Community Spouse to keep enough income to ideally cover expenses and a certain amount of resources to keep for his or her self. We covered the resource side above. The income aspect is very fluid and depends a lot on each of their incomes and their expenses.

Income for the Community Spouse

A single individual receiving long term care Medicaid benefits will pay all of their income besides a $40 personal needs allowance to the nursing home. The rules are different for a married couple. And much more complicated. The Community Spouse will always keep all of his or her own income. The Community Spouse will not have to pay for nursing home care from their income. The Community Spouse Income Allowance (CSIA), sometimes called the Minimum Monthly

Maintenance Needs Allowance (MMMNA), is the amount of income the Community Spouse can keep from their spouse's income. The calculation of this amount will be unique for each applicant and the complexities are beyond what will be covered in this paper.

Simply put, Medicaid will consider household expenses of the Community Spouse along with the income of both the Community Spouse and Care Recipient to determine how much of the Care Recipient's income is to be paid to the nursing home. The remainder is what the Community Spouse will keep from their spouse's income.

MEDICAID HAS A RULE CALLED THE FIVE-YEAR LOOK BACK PERIOD?

Medicaid rules give the State of Kentucky the right to look at all of your financial transactions from the past five years. This includes looking at you and if you are married, your spouse.

When applying for Medicaid, the Agency will consider anything given away within the past five years to determine your eligibility. With a few exceptions, anything given away in the preceding five years creates a penalty. This can be a cash amount given to a family member or a car to a grandchild for a graduation gift. These uncompensated transfers result in a "Penalty," that is a period of ineligibility from Medicaid. This penalty does not begin to run until application is made to the Medicaid program. I have created a video on this specific topic just for you. (Click here to see my video) Vlog on Five-year lookback.

Said another way, a penalty does not mean you are harmed or fined or anything like that. Even though the consequences are similar. A penalty disqualifies you from benefits for a certain amount of time. Meaning your only option for paying for long term care is to pay privately.

It's an overwhelming notion but you can lose everything you have worked your entire life for to the costs of long term care. Medicaid will require you to spend/use all of your assets before they will assist with your long-term care, UNLESS you do proper planning.

THE PRIMARY RESIDENCE

As with the other rules we have covered, the primary residence is considered differently for a single person or if the Care Recipient is married. If married it is easy, the home is excluded if the Community Spouse lives there. It is also excluded if certain requirements are met and a dependent family member lives there.

If the Care Recipient has a minor child, special needs/disabled child or a child has lived with them and met a few requirements, the home may be transferred to the child and not incur a penalty.

For a single, home owning Medicaid Applicant, ownership of a home will obviously put them over the $2,000 resource limit. However, approval can still be granted and may continue if certain requirements are met. The first is that the Care Recipient's home is excluded for six months from the date of entry in the nursing home. The Care Recipient has six months to sell their home. The proceeds of the sale are to pay for the nursing home. Once the assets of the Care Recipient are back below $2,000, they can reapply for Medicaid.

There are a number of exceptions to the rule requiring the home be sold. One of these is the intent to return home. This can be utilized by a Care Recipient who states they intend to return home. The other is if there is a reasonable effort to sale the property. Medicaid has a number of rules on what constitutes a reasonable effort to sale. And if these are met, six month extensions will be granted.

The Great News

An Elder Law Attorney like our firm are well versed in the rules, penalties and expectations for Medicaid and Long-term Planning to set people up for success. We Can Always Save Half & Often 100%. There is a way to not only see the light of day and breath again but plan for what is to come and have your incomes and assets protected for when the day comes. How do we do this? Let's look a few of the tools in our toolbox.

TOOLS

There are several tools that can be used to help individuals and married couples qualify for Medicaid. Let's look at just a few and how they work.

Estate Planning Done Right: Estate planning tools are a critical part of LTC planning and protection this is why it is crucial to have your WILL, Power of Attorney, Living Will and Trust all in place as quickly as possible.
There are many more tools that an Elder Law Attorney can put into place so let's review just a few and how they work. (Recommendation: Register and see the Estate Planning Webinar or discuss protective Estate planning documents with an expert Elder Law Attorney, like us. They will prepare and protect your income and assets so the tool will be in place at the right time.

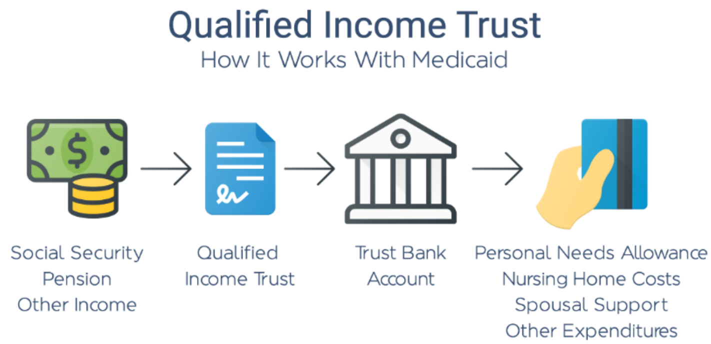
Exceptions: There are 8 exceptions to the Rules to protect your home.

1. Spouse- A CS living in the home is an exception to the rule.
2. Sibling caregiver
3. Intent to return home
4. Attempt to Sell
5. Child Caregiver
6. Your Child under age 21 (natural, adopted or step)
7. Special Needs Child
8. Co-ownership

QIT:

A qualified income trust (QIT), also known as a Miller Trust, is an irrevocable trust specially designed to legally divert an individual or married couple's income into a trust resulting in the income being excluded for purposes of determining eligibility for long-term care.

For example if your income is $2,849, you are over the limit by $500. You don't qualify correct? Federal Law says you do if you use a Quality Income trust.



You're Approved!

CONCLUSION

Congratulations! You have put in the necessary time to learn quite a bit about Medicaid Standards for Long-term Care. This is a major step in preparing for your future and for your family's future. These choices, once you have them formalized with an attorney will deliver peace of mind, prevent the circus that many families go through. We want to make sure all our clients or potential clients have the confidence in our firm to know that we will walk you through the process of planning and even if you are facing a crisis today we will come along side you and work with you every step of the way. We save our clients half to 100% of everything they have worked their entire lives for because we know the devasting toll it takes on families when they lose everything to the extreme cost of healthcare and it is our guarantee that you will be welcomed with open arms and support through the journey because when you are experiencing major life decisions, you want a team that deeply cares about you and your individual needs. Whatever you decide going forward, please know you have done yourself a big favor by investing time learning about **Medicaid Standards Medicaid Income & Asset Standard for Long-term Care.**

We are so happy you have come this far. So use this momentum and finish the process. Get you plan complete today. Call you and schedule a meeting to complete you Estate Plan.

WHAT'S NEXT

1. Contact us with any questions that came up for you as we went through the webinar.

2. Call us and arrange a free consultation to get your pre planning in place now. We will need to collect some personal information to do this that will include names, addresses and ages of family members, or any other person that may need to be involved. We will guide you through the process.

3. Complete a legal service agreement to hire our firm to complete the process for you.

4. Schedule a meeting to sign your documents. We have several convenient ways to do this that range from video conference meetings to mobile drive through signing, and of course the face to face in office meeting for clarity and more comprehensive service is a great option.

5. Get your completed documents returned to you for safe keeping.

6. Make plans to attend another webinar that addresses your more advanced needs such as Estate Planning or VA Benefits and share with a friend so they too can register and protect their loved ones.

OTHER RESOURCES

(Available on our website – www.elderlawuidance.com)

How to organize your most important documents and records
How to Talk to Family About End of Life Matters
Caregivers: What to Look for and How to Find it
Elder Law Guidance online learning and Monthly Newsletter

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