

Elder Law, Trust & Estate Planning, Probate

Becker helps clients retain or qualify for public benefits, Medicaid benefits and veterans' benefits to help pay for the extraordinary cost of long-term care.

[Elder Law Department](#)

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Elder Law

Becker helps elderly individuals, wartime veterans, and their surviving spouses retain or qualify for public benefits, Medicaid benefits and veterans' benefits to help pay for the extraordinary cost of long-term care. Our planning includes helping families to avoid probate and guardianship issues, whenever possible.

A. MEDICAID

1. Medicaid Planning Strategies

Many families find themselves in this predicament: Not knowing where to turn for assistance to help pay for the extraordinary cost of long-term care. There is help, and it is in the form of Medicaid.

Currently, Florida provides two different programs for individuals who are 65 years or older and meet the additional qualifications that can significantly defray the cost of long-term care either at home, in an assisted-living facility or even in a skilled-nursing facility (nursing home). Those programs are called the Home and Community Based Waiver Program and the Institutional Care Program (ICP). While each program has the same eligibility requirements, the programs offer different benefits. The Home and Community Based Waiver Program provides benefits to individuals who are either at home or in assisted living facilities. The ICP program pays for almost all nursing homes including the finest of facilities.

Using legal and government approved planning strategies, many families find that despite their belief or what they have been told they can actually qualify and receive the benefits that Medicaid offers, without creating a five-year look-back period. This allows savings and other assets to be used to better their loved one's care.

In the words of one court, "No agency of the government has any right to complain about the fact that middle-class people confronted with desperate circumstances choose [to do Medicaid asset protection planning] when it is the government itself which has established the rule that poverty is a prerequisite to the receipt of government assistance in the defraying of the costs of ruinously expensive, but absolutely essential medical treatment.

2. Medicaid Program Planning and Process

If you want to learn more about these programs, we can help you. With our experience, we can guide your family through the Medicaid planning and processes to make a significant difference in the lives of you or your loved ones. Call us for an initial consultation to learn if our planning and strategies can work for you.

B. VETERANS' BENEFITS

1. Veterans' Benefits Programs

There is help through the Veteran's Administration.

There is a little-known program through the VA that is offered to wartime

veterans, veteran's spouses and/or a veteran's surviving spouse that provides a monthly, tax-free benefit to assist with the cost of long-term care. This program is called the Aid and Attendance Enhanced Pension Benefit. The veteran does not have to have service-related disabilities to qualify. Veterans or surviving spouses are eligible if they require the aid of another person to perform everyday actions, such as bathing, feeding, dressing, or going to the bathroom. This includes individuals who are bedridden, blind, or residing in a nursing home.

So, if you or your spouse served at least one day during one of the following wartimes, had 90 days of continuous military service, and were discharged from a branch of the Armed Forces under conditions that were not dishonorable, you may be eligible for this additional pension.

Wartime Periods

- World War I: April 6, 1917 — November 11, 1918
- World War II: December 7, 1941 — December 31, 1946
- Korean War: June 27, 1950 — January 31, 1955
- Vietnam War: August 5, 1964 — through May 7, 1975
- (February 28, 1961 for veterans who served "in country" before August 5, 1964)
- Persian Gulf War: August 2, 1990 through date to be set by the Presidential Proclamation or Law.

The additional pension that you may be entitled to receive is as follows:

- Single Veteran: \$1,788 per month or \$21,466 a year
- Veteran with Spouse: \$2,120 per month or \$25,448 a year
- Surviving Spouse: \$1,149 per month or \$13,794 a year

Although there are financial requirements to qualify for this additional benefit, many elderly veterans and surviving spouses who believe they cannot qualify actually can with the assistance of an experienced elder law attorney. However, the Aid and Attendance benefit is almost never enough to fully pay the long-term care bill, therefore Medicaid is also a necessity. Transferring assets to reduce the net worth below the VA limit can result in being ineligible for Medicaid benefits for months or even years.

2. Experienced VA Benefits Law Firm

It is therefore extremely important that an attorney who is experienced in both Medicaid and VA Benefits law be consulted before any assets are purchased or property is transferred to become eligible for VA Benefits. Becker is experienced in both obtaining VA benefits and preserving the right to also qualify for Medicaid benefits, which will provide thousands of dollars each year to help pay for the significant cost of long-term care.

C. INCAPACITY PLANNING

Becker helps our clients and their families prepare for and progress through the hardships and turmoil of the third stage of life by providing incapacity planning. Because we know the emotional and physical difficulties of aging, our firm is dedicated to bringing this much-needed service to all elderly individuals and their families.

1. Legal Documents Every Adult Should Have

- Durable Power of Attorney
 - A power of attorney is a grant of authority to act for another person. A power of attorney is usually given to handle health care, financial and/or legal matters. The person giving the power is called the "principal" and the person receiving is the "agent" or "attorney-in-fact." A power of attorney imposes a duty of ethical representation of the principal by the agent.
- Living Will and Health Care Surrogate
 - These are two different forms, but they serve similar purposes. A living will expresses your preferences about treatments should you be terminal and unable to communicate with your family and doctors. Whether it is your wish to not be kept alive by extraordinary means or if you want your life prolonged by any means available, for as long as possible, no matter what your condition, you can make your decision clear. A healthcare surrogate gives someone else the power to make healthcare decisions for you if you become incapacitated, however not terminal. While these are difficult issues to think about and discuss, these documents help simplify any tough decisions your family and friends may have to make if something happens to you.

- Designation of Pre-Need Guardian
 - A pre-need guardian becomes necessary if you are determined to be incapacitated and the court insists that you have a guardian. This could happen if you become mentally or physically disabled and are no longer able to manage your financial affairs, your property or your health. With this document, you choose who would be appointed as your guardian, as opposed to allowing a court to do it.
- Living Will & Testament
 - This is your Will, which distributes your possessions after you are gone. If you should die without one, the court will decide who gets what. This document should also be written by a lawyer if you want to be sure your instructions will be implemented.
- Revocable Living Trust
 - The Revocable Living Trust designates who will receive your assets after your death, or after the death of your spouse. The Revocable Living Trust can be used to minimize the necessity for Probate Administration and also to support your spouse and/or kids during your lifetime or after your death. The Revocable Living Trust is always revocable (or can be changed) during your lifetime and becomes irrevocable at your death to ensure that your wishes are followed.

D. SPECIAL NEEDS

1. Special Needs Benefits, Estate and Asset Planning

Our attorneys know firsthand the emotional struggles and economic decisions that need to be made to ensure that children and adults with special needs receive all they require and deserve. Individuals with Special Needs are eligible for certain government benefits, such as SSI, SSDI, Medicaid and Medicare to assist them with housing costs, food costs, and health insurance.

Probate

Our attorneys have experience in all aspects of probate including disputes among beneficiaries, will contests, challenges to personal representatives, challenges to rights of beneficiaries, construction of wills and other testamentary documents, fee disputes, estate tax litigation, fraud and undue influence claims, incompetency claims and all other matters that may arise relating to probate or trust administration.

Are you a personal representative or a beneficiary of an estate?

Whether or not the decedent had a will, the primary way to transfer assets from the name of the deceased to the beneficiaries is to go through the probate process. Probate, the court's oversight of the distribution of the estate's assets, is generally needed to gain access to bank accounts or to re-title real property. This process may seem simple, but it can often touch on sensitive family issues and become difficult to manage. In general, this process should never be attempted without an attorney's assistance.

Becker works with clients as well as with out-of-state heirs and personal representatives to ensure that all aspects of estate administration come to resolution as quickly as possible. We understand the need to handle these matters delicately and promptly, and we offer the proper guidance to our clients throughout this complicated yet necessary process. We are typically called upon to handle:

- Full, Summary and Ancillary proceedings
- Identification and collection of the decedent's assets
- Preparation of Federal Estate Tax Returns
- Trust administration

Trust & Estate Planning

Becker's Trust & Estate Planning attorneys have strong credentials and deep experience in this highly specialized area of the law. The firm serves clients' needs in the following areas:

- Structuring estate, gift, income and generation-skipping plans through wills,

trusts, family-limited partnerships, qualified personal residence trusts, grantor-retained annuity trusts, charitable lead and annuity trusts, charitable remainder trusts, and private foundations and gift-giving programs intended to reduce estate taxes.

- Creating disability plans through the use of revocable trusts and powers of attorney for asset management and medical directives for health care management.
- Planning for special circumstances including second or later marriages, same-sex couples, multi-generational wealth transfer, charitable giving and trusts for beneficiaries with special needs.
- Offshore estate planning for U.S. and foreign individuals.
- Advising the owners of closely held businesses, including the preparation of shareholders' and partnership agreements, reorganization, dissolution and transferring ownership to children and other family members.
- Working with personal representatives and successor trustees. regarding all aspects of probate and trust administration.
- Representing beneficiaries of estates and trusts.
- Providing guidance to U.S. taxpayers on the U.S. federal income tax and the non-U.S. tax consequences of doing business or making investments abroad.