



Elder Law Advisor

Summer 2016

My mom has an individual whole life insurance policy with a death benefit of \$50,000 and no cash value. When she passes away, will the state be able to take the proceeds from the life insurance that would be paid out to her beneficiaries?

By: Attorney Mark Munson, CELA

If the insurance policy was created on or after August 1, 2014, it is subject to Estate Recovery by the State of Wisconsin. Because it is unknown the amount of services your mom may receive, she should still name the beneficiaries she wants on her policy. 

My father owns several rental properties that provide income, but not enough to pay for nursing home care. Other than the rental properties, my father has no other assets and only has income from the properties and social security. Can my father keep the properties and still qualify for Medicaid?

By: Attorney Mark Munson, CELA

Yes. The rental properties would be exempt assets, as they are considered income producing business assets. This would allow your father to qualify for Medicaid. Keep in mind that although your father may qualify for Medicaid, the State of Wisconsin, through the Estate Recovery Program, may be able to place a lien on the properties as a way to seek reimbursement for its payments for your father's care. 

Hospital notification of outpatient status

By: Attorney Aric Burch

For Medicare to cover nursing home rehabilitation costs, you must have a qualifying inpatient hospital stay for at least three consecutive days. Surprisingly, you may stay overnight at a hospital and your stay will not count as a qualifying stay. How is it possible to stay in a hospital, but the stay is not a qualified stay?

For your stay to be a qualified stay, you must be admitted to the hospital. Contrary to logic, you can stay in a hospital as an outpatient, even for multiple days. This happens when you are classified as an outpatient under observational status. As an outpatient, you are not officially admitted to the hospital, so none of the days you are in the hospital count towards a qualifying hospital stay. Therefore, Medicare will not cover the rehabilitation services you later receive at a nursing home. You may be personally responsible to pay for those rehabilitation services.

On August 6, 2016, a new law went into effect to make sure you know if you are classified as an inpatient or outpatient. Hospitals must now notify you when you are receiving hospital care as an outpatient under observational status. This notice can be given verbally after 24 hours of receiving care under observational status. You must, however, receive notice of your status in writing within 36 hours of beginning to receive that care. The notice informs you whether or not the days you are in the hospital will count towards a qualifying hospital stay under Medicare, helping avoid the shock of finding out the hospital classified your nights in the hospital as outpatient services. 

Save the Date: 2016 Elder Law Seminars

Protect Your Assets
Medical Assistance & Long-Term Care Planning

Presentations by Attorney Mark Munson, CELA and Attorney Aric Burch

Monday, October 3 @ Holiday Inn & Suites, Rothschild, WI

Wednesday, October 5 @ Holiday Inn 94 South,
Eau Claire, WI

Visit www.ruderware.com for details.



Around the State and Nation

On January 21-22, **Mark Munson** presented, “Estate Recovery Avoidance Planning” at The 18th Annual Elder Law Workshop in Wis. Dells, WI.

On January 27-30 **Mark Munson** presented, “Sophisticated Elder Law, Tax and Estate Planning from Start to Finish Part 2” at the 2016 NAELA Summit Conference in Newport Beach, CA.

Attorney **Mark Munson** participated in a Webinar titled, “Medicare and Medicaid: Protecting your Client’s Interest in Injury Claims” on February 18.

On April 6-9, **Aric Burch** and **Mark Munson** attended the 2016 Essential Practicum & 2016 Annual Conference (NAELA) in Denver, CO. Mark presented, “Using Microsoft Excel for IRA Planning” and “Distributable Net Income and Charitable Deductions for Fiduciary Income Taxation.” National Academy of Elder Law Attorneys was the sponsor.

On May 12, **Aric Burch** participated in the Webcast “Medicaid and Long-Term Care Planning” sponsored by the National Business Institute.

On June 1, Attorney Mark Munson was nominated to join the board of the National Association of Elder Law Attorneys.

Attorneys **Aric Burch** and **Mark Munson** attended the WI NAELA Unprogram from June 16 - 17 in Door County, WI.

Elder Law Services offered by Ruder Ware include:

- Nursing home and long-term care planning
- Asset protection
- Gifting and divestment planning
- Medicare and Medicaid benefits
- Social Security benefits
- Insurance analysis (including long-term care insurance)
- Residential housing and other living options
- Planning for individuals with special needs
- Tax planning
- Durable powers of attorney for property and finances
- Health care powers of attorney
- Wills
- Trusts
- Marital property agreements
- Real estate
- Guardianship
- Conservatorship
- Veterans’ benefits

Attorney Aric Burch



Planning for how you or a loved one will pay for nursing home care can be a daunting task. As an elder law attorney, Aric works with seniors and their loved ones to prepare for possible long-term care needs. His goal is to alleviate stress by helping clients develop a plan to provide for their long-term care needs, while preserving their assets to supplement their quality of life and pass to future generations. His motivation is to find solutions for clients who are preparing for future life transition and care needs or are in need of immediate qualification for medical assistance benefits.

Attorney Mark Munson, CELA



Licensed to practice law in Wisconsin, Illinois and South Dakota, Mark Munson principally advises clients in the areas of elder law, public benefits (including special needs trusts), estate and trust planning, and taxation. Mark regularly advises clients in the areas of asset protection and medical assistance eligibility. Mark also assists clients with probate and estate administration, trust administration and guardianship.

Mark is a Certified Elder Law Attorney (CELA) by the National Elder Law Foundation, the only organization accredited by the American Bar Association for the certification of elder law attorneys in the United States. In order to become a CELA, Mark was required to have sufficient experience in various practice areas with the field of elder law, pass an all-day comprehensive examination that tests various issues and disciplines within elder law, and receive the recommendation of other elder law attorneys in Wisconsin and the United States.

Elder Law Team

Aric Burch
Mark Munson, CELA

Angela Gonzalez
Paulette Oas
Mary Streich
Dana Tesch

About the Authors

© 2016 Ruder Ware, L.L.S.C. Accurate reproduction with acknowledgment granted. All rights reserved.

This document provides information of a general nature regarding legislative or other legal developments. None of the information contained herein is intended as legal advice or opinion relative to specific matters, facts, situations, or issues, and additional facts and information or future developments may affect the subjects addressed.

