

## TULLY LAW GROUP, PC

ELDER CARE LAW

HONOR &amp; PROTECT



## A man who does not plan long ahead will find trouble at his door.

**-Confucius**

BY BRIAN ANDREW TULLY, JD, CELA

There are times when my wife will look at me and say "why are you even thinking about that? It's a year away". I reply the same way each time: "you know what I do for a living, right?" I then, like most husbands, will get "the look" and then we both smile. I am a planner and I help people plan for what's around the corner and yes, I'm often reminded that this trait even carries over to my home life.

I've seen different types of people in my office and in my life and I think we've all met similar types. I'm sure you can think of that friend or relative that is "Last Minute Larry" and he lives his life always 10 minutes late at least and he's always catching up. The idea of planning long ahead for himself or his family doesn't really cross his mind and he lives his life on the edge of a crisis - he is unprepared and I know that most of us don't want to live our lives in such a haphazard way.

Then on the opposite side of the spectrum is another, one that is over-prepared and we all know this person too. Her name is "Strict Sally" and she's so prepared that life isn't to be enjoyed but rather worried about. Trouble won't find her door because she won't go near it. We don't want this extreme and fragile way of life either.

Now, finally, as Goldilocks would say, there is a

way to live and plan that is "just right". We don't want our plan to be "too soft" like Last Minute Larry and we don't want it to be "too hard" or rigid like "Strict Sally" - we want our lives, our outlook and our plan to be "just right". I'm not going to give this person a name because I want it to be you.

Every day of the week we help folks plan and address their concerns about the legal, financial and care issues they are currently facing or will probably face in the future. We look at the numerous risks of aging so we can avoid that unwanted trouble at their door. We lay out a reasonable and comfortable plan to help you navigate and overcome those risks with confidence and peace of mind. I have said to hundreds of clients that we want to stay ahead of the curve, that we don't ever want a crisis and to visualize it for a moment, we don't ever want to

be Indiana Jones running three feet ahead of the huge boulder chasing him. I don't want trouble at my own door and I don't want trouble at your door.

This ideal plan for the future is achievable. We do it every day for people just like you. Our three levels of planning are the Estate Plan, the Elder Care Protection Plan and our signature Life Care Plan and they can provide you and your loved ones with a team of experienced elder care attorneys and care advocates that will always help you to stay ahead of the curve and away from that potential boulder.

*-Brian*



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## caregiver's corner

### The Benefits of Senior Advocacy and Care Coordination

As adults we advocate for ourselves without necessarily being aware we are doing it. Yet, when our ability to advocate for ourselves is lacking, we run the risk of undesirable outcomes. For seniors, these results may become crucial to their health and safety. Senior advocates can provide the support, education and coordination needed to ensure one's quality of life, should these issues arise. An advocate can provide valuable assistance by clarifying options, helping their client or loved one make their own choice based on their own values, communicating that choice, and doing what is necessary to implement the choice. Older adults traditionally depend on loved ones to take the role as their advocate. However, an advocate can be anyone who will stand with, support choices, and make sure needs are expressed and received appropriately. When choosing an advocate, whether family member, loved one, or professional such as a social worker it is important to make sure they offer the qualities and skills necessary to meet personal needs. Someone who is competent, organized, and thorough may be a desirable candidate. It may also be helpful to choose someone who is knowledgeable in the environment in which he or she is advocating in. Senior advocates work together with various interdisciplinary teams to facilitate specific health care services suited to meet individual needs. This type of communication and coordination can optimize one's health care outcomes and provide the ability to focus solely on the care intervention. Paying attention to and preserving human dignity includes maintaining the patient's autonomy, respect, and privacy. Advocates must abide by patients' wishes regarding healthcare choices, and advocates must also remind

patients that they have control over their bodies and their care.

Oftentimes, it is difficult for seniors to fully understand what the doctor is conveying about their health or even how to respond appropriately. When you meet with a doctor, you generally have limited time in the room before they need to move onto other patients. With years of specialized education in complex medical conditions, sometimes it can feel like the doctor is speaking a different language as well. Patient advocates can help with all that. Seniors are not necessarily comfortable asking questions, do not like to speak openly about their symptoms and concerns, or are unwilling to discuss treatment plans. Advocates work with both the provider and patient to make sure the patient understands their health concerns and what is available to them to enhance their quality of life.

A healthcare advocate can bring both sides together through mutual understanding and effective lines of communication. A senior advocate's main goal is to ensure their client is well taken care of, satisfied with the level of care they are receiving, and make them aware of all services that are available to them.

An advocate is the link that connects both the client and their healthcare team, while, at the same time, relieving day to day stressors they, or their family may have. Having this level of coordination will accomplish several things, including maintaining good health and quality of life.

If you or someone you know is seeking the expertise of a professional advocate, please feel free to reach out to Tully Law Group, P.C. to find out how we can help maintain the highest level of care possible.



Protect  
your assets.  
Protect your loved  
ones. Get the care  
you need.

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CONSULTATION**

## Home Care Medicaid Changes

### There's No Place Like Home... Until They Change The Medicaid Law

BY AMY N. LATUGA, ESQ

2020 was a difficult year for all of us. Many of our clients have since told us that "there's no way I'm ever stepping foot in a nursing home". That's understandable and while a nursing home certainly serves a very important role in our communities, all would agree that you stay at home for as long as you can. But since home care is very expensive, how do we pay for that care so we can remain there safely? Gratefully, New York has a robust home care program called Community Medicaid which can provide the needed services to remain safely in your own home. There are eligibility rules based on our assets, income and care needs. Historically, a client could protect nearly everything and then apply for this program the next month however all of this is changing soon. New York State has decided to change the eligibility rules for home care and if you want to protect your assets and apply before the changes, you must act now.



Here are the current eligibility numbers and the new rules for Community Based Medicaid Home Care Services:

The income limit for 2021 is \$904.00 per month and the asset maximum is \$15,900.00. This may seem low but we have, for years, helped clients with income and assets above these amounts to qualify for Community Medicaid without having to spend all of their life savings.

The eligibility rules are undergoing some significant changes that were initially set to start on October 1, 2020 but were delayed due to Covid-19. The changes are currently set to start April 1, 2021 and are subject to further delays.

Once the changes in the Medicaid rules start, there will be a 30-month (2.5 year) lookback period for Community Medicaid that will be phased in. Initially, Medicaid will only be looking for transfers made from October 1, 2020 forward and as of April 2023, there will be a full 30-month (2.5 year) lookback, with Medicaid looking for any transfers of assets made during

the 30 months prior to the application. If the applicant or the spouse transferred assets out of their name during this lookback period, then Medicaid will impose a penalty during which they will not pay for the cost of in-home care.

The 5 year (60 month) lookback for Medicaid in a nursing home is not changing.

Finally, there are also changes coming to the care aspect. A client will need to demonstrate physical assistance with at least three (3) Activities of Daily Living (ADL's) in order to qualify but gratefully if there's a diagnosis of Dementia or Alzheimer's Disease, then he or she must only show a need for supervision with at least two (2) ADL's in order to qualify. ADL's are the routine activities people do every day and include tasks such as bathing, personal hygiene, dressing, walking, toilet use, transferring on or off a toilet, bed mobility, and eating.

With these changes happening, it will be important to plan and protect your assets in advance of needing in-home care to avoid the imposition of a penalty. So, if you or a loved one may require in-home care in the future, please reach out to us to discuss planning and protection options to qualify for Medicaid so you can stay at home for as long as possible.

~Amy N. Latuga, Esq.

*Amy is a Senior Associate Attorney and Director of Planning at Tully Law Group, PC. She specializes in helping clients in the areas of estate planning, asset protection, Medicaid planning and applications, and Life Care Planning.*

If you or a loved one need help in the home, you **MUST ACT NOW** to protect any assets. File for Community Medicaid **BEFORE** the law changes.



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## New York Elder Care Law & Estate Planning

**CLIENT ALERT!**

### Medicaid Changes Are Coming!

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