Westchester County Elder Attorney Anthony J. Enea Sheds Light on Recent Changes in Senior Health Care and Estate Planning

With the new year came several important changes affecting seniors and their health care, elder law, and estate planning needs. Westchester County elder law attorney Anthony J. Enea, member at Enea, Scanlan & Sirignano, LLP in White Plains and Somers, N.Y., offers his insights on the new rules for Medicare Advantage health plans, the federal estate and gift tax exemption increase, and the continued importance of a durable power of attorney.

WESTCHESTER COUNTY, N.Y. (PRWEB) April 29, 2019 -- With the new year came several important changes affecting seniors and their health care, elder law, and estate planning needs. Westchester County elder law attorney Anthony J. Enea, member at Enea, Scanlan & Sirignano, LLP in White Plains and Somers, N.Y., offers his insights on the new rules for Medicare Advantage health plans, the federal estate and gift tax exemption increase, and the continued importance of a durable power of attorney.

Intended to promote innovative treatment options, Medicare Advantage (MA) allows seniors eligible for Medicare to choose their own private health coverage. In 2019, the Trump administration issued new rules affecting the more than 21 million seniors enrolled in MA health plans that now permits the tailoring of available coverage to the specific needs of the patient, especially those with chronic illnesses.

“The old rules were originally created to foster uniformity of the benefits available so as to help ensure all participants would be treated the same by providing the same supplemental benefits at the same cost level,” noted Enea, who has spent the past three decades protecting the rights of seniors, the disabled and their families. “Unfortunately, this undermined innovation in care delivery and discouraged patient-centered care. For example, if a patient needed a grab bar in the shower because of a physical infirmity or chronic illness, under the old rules he or she would not be able to receive said benefit due to the ‘uniformity’ requirement and ‘primarily health related’ standard, which limited the scope of benefits the plan could offer.”

Enea continued, “Under the new rules, a class of persons who all experience a certain disease may be offered a benefit specific to that disease, so long as all other persons in the same class receive the benefit at the same level of cost sharing. Benefits can now be targeted to a patient’s health status or disease state and applied to services that are medically related to each disease.”

Another change that became effective on January 1 is the increase in the federal estate and gift tax exemption from $11.18 million to $11.4 million per person ($22.8 million per couple). The New York estate tax exemption also increased to $5.74 million per person in 2019.

“Since the federal exemption is portable between spouses, on the death of the first spouse the surviving spouse can elect portability and preserve the exemption available to the deceased spouse,” explained Enea. “In New York, however, there is no portability. It is important for married couples with a taxable or potentially taxable estate to have assets in his or her name alone on the date of death so that part or all of their New York exemptions can be utilized on the death of the first spouse – otherwise it will unfortunately be forever lost.”

Also critical to have in place, says Enea, is a general durable power of attorney that gives the agent greater powers, including the power to create and fund a pooled income trust.
“If an individual applies for Medicaid home care, there is the ability to protect and utilize his or her income above $879 per month (the maximum amount that may be kept while remaining eligible for home care Medicaid) by enrolling in a pooled community trust,” Enea shared. “If a power of attorney is being used to enroll the applicant into the pooled community trust, however, Medicaid now requires that it specifically authorize the agent to create and fund the pooled trust. Ensure this language is included now to avoid the need to have a guardian appointed to enroll in and fund the trust later, which is both an expensive and time-consuming proposition.”

A strong leader in Westchester’s legal community, Anthony J. Enea is chair of the New York State Bar Association’s Senior Lawyers Section and president of the Westchester County Bar Foundation. He was named Westchester County’s Leading Elder Care Attorney at the Above the Bar Awards and Best Lawyers’ 2019 Trusts & Estates “Lawyer of the Year” in White Plains. A past chair of the New York State Bar Association’s Elder Law Section, Enea’s practice areas include elder law; Medicaid asset protection trusts; Medicaid applications (home care and nursing home); special needs planning; guardianships (Article 81 and 17-A); and wills, trusts and estates.

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About Enea, Scanlan & Sirignano, LLP
Enea, Scanlan & Sirignano, LLP is an AV preeminent rated elder law firm with offices in White Plains and Somers, N.Y. The practice concentrates on Elder Law; Medicaid Planning; Nursing Home and Home Care Applications; Wills, Trusts and Estates; Guardianships; Estate Litigation; Supplemental Needs Trusts; and Special Needs Planning. Enea, Scanlan & Sirignano, LLP serves Westchester, Rockland, Putnam, the Bronx, Manhattan, Long Island and Queens and is committed to providing the highest quality legal services to seniors, the disabled and their families. Visit the firm online at www.esslawfirm.com.
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