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Elder Law Practice in Tennessee

Publication 60977 Release 14 April 2017

HIGHLIGHTS

TennCare CHOICES

- Discussion of conditional assistance added.

Conservatorship

- Explanation of “supported decision making” adds discussion of ABA’s *PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making*.

2017 Benefit Rates

- Tables, charts, and examples have been updated throughout to reflect current rates.

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Chapter 5, TennCare CHOICES in Long-Term Services and Supports. Discussion of exempt or excluded assets has been expanded to include unavailable or inaccessible property, jointly owned property, retirement accounts, PASS accounts, and certain other types of resources. *See*

§ 5.05[c][4].

New § 5.05[c][5] explores the availability of conditional assistance to an otherwise-eligible CHOICES applicant who has excess non-liquid resources. The contractual agreement permits Medicaid eligibility based on the individual’s agreement to make reasonable efforts to sell excess non-liquid resources at current market value, and requires the applicant to reimburse TennCare for costs during the conditional assistance period from proceeds of the sale of those assets.

Chapter 7, Medicaid Transfer Strategies. Expanded discussion added of recommended elements to include in a personal care agreement. *See* § 7.04[b].

Chapter 8, Medicaid Planning for the Married Client. Discussion added of treatment of retirement plans by both Tennessee Rules and HCFA Eligibility Policy. *See* § 8.05[c].

Chapter 10, Conservatorship. Explanation of “supported decision making” has been expanded to include discussion of the ABA’s *PRACTICAL Tool for Lawyers: Steps in Supporting Decision-Making*. It

identifies the nine steps lawyers can use in case analysis to identify legal and practical approaches to heighten self-determination before moving ahead with guardianship. *See* § 10.02 [b][1].

Discussion added of a conservator's ability to make health care and end-of-life decisions for the disabled person, as well as other personal decisions. *See* new § 10.02[j][4].

Chapter 11, Health Care Decision Making. Discussion added of "shared decision making," explaining the process to be used when decisions require a choice among reasonable alternatives. *See* § 11.06[b].

Appendix 2, Public Benefits Figures. Appendix has been updated to reflect 2017 figures.

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