

SMART PLANNER

Useful Tips for a Better Tomorrow

Fall 2020

How My Dad's Early Discharge From Rehab Taught Me a Lesson

by Brendan Daly

As an elder law attorney, I've been advocating for my senior clients for 20 years, but I recently discovered that my 78-year-old father still has a few things to teach me.

It was a lesson I maybe should have seen coming.

I help many clients navigate the complexities of maintaining their autonomy as they age. The issue usually comes up when I'm working with an estate planning client, and their children disagree with how certain assets or gifts are being allocated. The children can become quite adamant, thinking that they know best simply because they are younger and more active in the world. I often have to gently remind them that their parent is my client, and what they say goes.



My own experience resetting my assumptions about who is actually in charge came after my dad broke his hip. The challenge that ultimately brought us into conflict was common enough—the nursing home where he was staying for rehab was trying to send him home (in my opinion) prematurely. What I didn't foresee was how my advocacy on my dad's behalf might be misplaced.

When Medicare ends before 100 days is up

The situation was one I frequently hear about from clients. After being hospitalized for four nights, my dad was discharged to a nursing home for rehab. As is routine in most such cases, Medicare covered both the hospitalization and his nursing home rehab stay (Medicare pays for up to 100 days) to get him back on his feet. The challenge arose when the nursing home told my dad that his Medicare coverage was ending (well in advance of the allowed 100 days), and that he would be going home.

When I heard the news, I immediately called the nursing home administrator. I knew the drill, and I wanted to ensure that my dad was able to stay at the facility a little longer. What happens in many of these cases is that the nursing homes providing rehab create confusion by conflating the discharge from Medicare with the discharge from the facility. Patients sometimes get the impression that they must leave the facility because the Medicare coverage is ending. In fact, a nursing home resident has the right to remain in the facility even if Medicare coverage discontinues.

Being discharged early

The reasons for this vary, but in many cases nursing homes choose to discharge rehab patients based on their assessment that the patient has plateaued. This motivation is not completely unwarranted, since nursing homes are subject to Medicare audits; and if Medicare finds that the nursing home has been treating patients for longer than is necessary, the nursing home becomes responsible for reimbursing costs to Medicare.

When I'm working with my clients in such a predicament, the approach is pretty straightforward. There are two main things to consider.

- 1 If a nursing home has determined that there is nothing more they can do for a patient and decides to send that patient home, they are obligated to provide a written notice stating that Medicare is ending and giving the patient three days to appeal the decision.

(continued on page 3)

WATCH OUT!

Timing is critical

Thinking of transferring assets to protect them from possible nursing home costs? Remember there's a 5-year look-back period for Medicaid eligibility. If you apply too soon, you'll be penalized and you'll have an exorbitant bill to pay. Don't apply for Medicaid without seeking legal advice.

GOOD TO KNOW

Do not keep older versions of your Will!

It's critical that you destroy all versions but the current one. If an older version is found and no one knows about your latest Will, the older Will may be followed and it's very possible that your wishes will NOT be honored.

Think about it...

If you can't change something, challenge yourself to change



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ESTATE PLANNING FROM HOME: Video Conferencing is Easier Than You Think

You may remember *The Jetsons* cartoon series about a family living their best lives 100 years in the future in the year 2062. We're still years away from being contemporaries of the Jetsons, but many of the technologies the show predicted have already become a reality. George, Jane, Judy, and Elroy Jetson enjoyed many of the modern conveniences we now take for granted, from flat-screen TVs and tablet computers to robot vacuums and smart watches.

One of the technologies predicted by the show has taken center stage during the COVID-19 crisis. First introduced at the 1964 World's Fair in New York, the technology didn't really become ubiquitous until the 2000s with the launch of internet-based video conferencing technologies like Skype.

Today, video conferencing is a staple in our business and personal lives. Companies large and small use it to run their operations while friends and family use it to keep in touch over long distances.

And now, with the restrictions imposed by the need to stay home and social distance, the use of video conferencing has rocketed, becoming a way of life for consumers, businesses, students, and pretty much everyone else in the world.

Benefits of video conferencing

While some people (including our client families) were initially hesitant to venture into this new technological territory, most people are now realizing the major benefits of using video conferencing for a variety of purposes.

- Students who were unable to finish out the spring semester due to the pandemic took their learning online, attending classes via Zoom video calls.
- Patients who need care are taking advantage of Telehealth offerings to avoid the need to visit doctors' offices while maintaining quality care.
- And, of course, businesses of all kinds (including ours!) have transitioned to working remotely both in terms of having employees work from home and seeing clients virtually via video conferencing.

Our Czepiga Daly Pope & Perri team members have adapted well to working from home. And many of our clients are also embracing this new normal. We've made it as easy as possible

because we don't want anyone to think they need to put off their planning. (In uncertain times, it's more important than ever to have everything in order!)

There are actually many benefits to meeting with us virtually.

- There's no need to travel to our offices and no weather to contend with; you only need to go as far as your own computer... and you can even wear your slippers!
- And because we're not meeting in person, there's no need to wear a mask, which is nice because—even though we advocate for wearing masks in person—they can muffle speech and make it difficult to communicate. We also like seeing our clients' entire faces, we feel it's easier to make a connection.
- Most of all, we're glad to be able to offer our clients this option because it helps keep everyone safe and healthy, which is our highest concern.



When you're ready to get your planning started and enjoy the convenience, ease, and efficiency of conducting your affairs via video conferencing, we invite you to reach out and schedule an appointment with our team.

Whether you prefer to confer with us by phone or video, we'll make it as easy as possible. Although the process is actually quite simple, we understand that you may not be familiar or comfortable with technology. That's why we have a technology concierge on staff who will be happy to walk you through everything step by step and answer any questions you may have.

Even though we are preparing to move toward in-person meetings soon, we expect that virtual will be the way to go for some time to come. Together we can make it easy and even enjoyable. We look forward to "seeing" you soon, even if it's only over the digital airwaves! ■

A Happy Client

"Everyone that I have spoken with at your firm is first class. All are knowledgeable, good communicators, polite and compassionate."

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5 Tips for Coping with Life in the Time of COVID

#1 Know that you're not in this alone

While the widespread loss caused by the pandemic does little to reduce anxiety, it is somehow comforting to know that we're all in this together.

It's important to remember, however, that we may all be in the same storm, but we're in different boats. While some people were able to transition to working remotely, others had to continue putting themselves at risk in essential jobs. While some had savings to ride out economic hardships with only minor inconvenience, others have lost their homes. When talking with others about your experience, be aware that theirs may be very different from yours.

#2 Cut yourself some slack

Some people found new passions and tapped into creative reserves during the initial COVID lockdowns. Others could do little more than curl up on the sofa. Both of these options are completely valid! There is no wrong way to cope with a pandemic. Everyone has good days and bad days. Judging others or yourself won't help anyone get by any easier.

Managing expectations is a critical skill to hone right now. If you are measuring your mood or productivity against a pre-pandemic benchmark, you're



probably never going to measure up. Similarly, try to resist the temptation to compare what you're doing with what anyone else is doing.

#3 Be a "helper"

In any moment of crisis, whole generations of people turn to the comforting words of Mr. Fred Rogers, "When I was a boy and I would see scary things in the news, my mother would say to me, 'Look for the helpers. You will always find people who are helping.'" While this is excellent advice for small children, it is only good for adults up to a point. We are all inspired by watching the good works of others, but—as adults—we need to do more than watch. We need to step up and lend a hand.

There are countless ways to help. Tune into what's happening in your community to see where you can offer support

or resources. You'll feel better for having helped.

#4 Reduce your news intake, and look for small bits of happiness

Instead of automatically tuning into a daily news broadcast or scanning the headlines of every publication that comes across your radar, make some intentional choices about which news you'll consume and how often. Steer clear of those new sources that use sensationalism and fear-driven headlines to garner more eyeballs. Choose wisely, and then limit your exposure. And then spend the time you save doing something that brings you joy.

#5 Take care of yourself

Stress and anxiety are not only harmful on their own, they can greatly exacerbate other physical and emotional issues. Do your best to stay healthy by eating as well as you can, getting enough sleep, and finding ways to move every day. Get outside as often as possible; fresh air and sunlight can do wonders. It can also help to come up with some routines that make you happy and provide some structure to your day. Do what works for you. Self-care is a very personal thing.

Don't worry. We'll get there. Until then, be kind. ■

Dad's Early Discharge From Rehab

(continued from page 1)

Appealing is a fairly simple matter that involves calling the number on the notice. Decisions are typically made within 72 hours, and while the appeal is pending, Medicare continues to cover rehab costs.

- ② Even if Medicare determines that the patient no longer qualifies for coverage, the patient still has a right to the bed in the rehab facility. Involuntary discharge from a nursing home almost never happens, so no senior should ever feel like they lack options if they want to remain where they are. They can pay privately or potentially arrange for Medicaid.

In my dad's case, the nursing home administrator quickly changed her position on discharging my dad once I noted that he wasn't given a Medicare discontinuation notice and that he has long-term care insurance. I was pleased with this outcome because neither my sisters nor I felt that Dad was ready to go home.

Here's where I learned my lesson...

Imagine my surprise when I realized Dad had different ideas.

He desperately wanted to get home, and was completely on board with the discharge plan the nursing home had originally proposed. While this is a situation I've helped many of my clients manage, when I was in it with my own family, I just didn't see what was actually happening.

Once my sisters and I realized what our dad wanted, we backed off and changed course to arrange for home care.

Medicare does have a home-care benefit. It's limited, and often needs to be supplemented by private payment for a home care aid from an agency; but it's still worth pursuing. We got my dad home per his wishes, and were able to coordinate the additional support he needed to ensure that his transition back to independence was a smooth one.

It can be challenging to respect an aging parent's autonomy, especially when you think you know best. But to be a good advocate, it's critical to really listen to your loved one. You have to be able to put your own assumptions and concerns aside, and really hear what they are trying to tell you about what they want. That will always lead to the best outcomes for everyone involved. ■



Wills, trusts, probate, Medicaid... there's so much to know!

Since we can't yet gather in a room together, we are hosting webinars on these topics and more. If you're not receiving our announcements— send a note to jill@ctseniorlaw.com and Jill will be sure to include you in our next ones!



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