

WHY USE AN ELDER LAW ATTORNEY?

*Judith D. Grimaldi, CSW, JD**

Elder law is a specialty in the field of law which focuses on the needs of the elderly client and their family as they approach the lifestyle and health changes of the later years. The elder law attorney works in a holistic way addressing multiple client needs while applying law from interrelated fields. In advising elderly clients facing health care decisions for themselves or a family member, for example, the elder law attorney must be aware of social, medical, emotional, financial as well as legal impact of these decisions. The attorney must be sensitive to the client in providing legal guidance, often performing as the social worker of the law profession. When facing complex family situations, this service orientation can be a primary reason to select an elder law attorney who works on a personal level as counselor, advocate and financial advisor.

An attorney practicing in the field of elder law, considers multiple aspects of the law simultaneously. In preparing an estate or retirement plan, the elder law attorney integrates the legal considerations of estate planning, income tax, capital gains and losses, estate taxes, health law, long term care health planning including Medicare coverage and Medicaid eligibility. The attorney considers the impact on the present life and after death outcomes.

A primary area in which elder law attorneys work, is protection of a clients assets. They have developed expertise in maximizing Medicare and Medicaid benefits for long term care by fully researching and understanding the complex Medicare and Medicaid regulations. They are aware of the different eligibility criteria for such coverage as hospital, care, doctors bills, nursing home coverage, home care and medical supplies and prescriptions. The elder law attorney can advise the client as to the Medicaid's federal and state transfer of asset rules which impact on nursing home coverage, or explain how a spouse of an applicant for Medicaid may benefit from the spousal impoverishment rules. These rules allow a community spouse to maintain limited assets while the Medicaid recipient receives necessary services.

Elder law attorneys will also handle cases involving estate planning, trust and asset management, incompetency and guardianship proceedings, long term care insurance advisement, retirement planning ;and health care advocacy for the elderly and disabled. In general, elder law is responsive to the growing population of elder persons who have specialized financial and health planning needs because of their present catastrophic health care costs or their intention to prevent future impoverishment resulting from health needs. As these kinds of issues and questions multiply in our society as the elder population grows, so does the need for an elder law attorney to meet the needs of the elderly client and to safeguard their rights.

**JUDITH DEL REY GRIMALDI, admitted to bar, 1993, New York and New Jersey. Education: Marymount College (B.A., summa cum laude, 1980); Hunter College School of Social Work (M.S.W., with honors, 1982); Brooklyn Law School (J.D., 1993). Adjunct Instructor, Marymount College, Gerontology Department. Member: The Association of the Bar of the City of New York State (Member, Legal Problems of the Elderly Committee, 1995, Trainer in Article 81 Guardianship Training, 1994-1995); New York State Bar Association (Member, Elder Law Section 1993 -), Trust and Estates Section, 1993-); Brooklyn Bar Association, Bay Ridge Lawyers Association. NASW (Gerontological Social Worker Committee).*