

Medicaid Protects Holocaust Victims Receiving Reparation Payments

By Wesley E. Wright and Molly Dear Abshire, as published in the Houston Chronicle Senior Living Section on November 14, 2007.

Over the years, an elder law attorney has the opportunity of meeting many interesting and wonderful people-clients, of course, who have had good as well as bad experiences in their lives. From time to time, we encounter clients who are amongst those who survived the German Holocaust. Although, we both have represented victims of these atrocities before, it was not until recently that we came face to face with the harsh reality of the past in an especially meaningful way. It occurred on an out-of-office estate planning signing at the home of an elderly couple. While sitting at the dining room table, it was noticed that both of the elderly clients, having worn short sleeve shirts that day, bore large tattoos consisting of a string of numbers on their forearms. Immediately suspecting what it might mean, a polite inquiry was made. They said, yes, this is what we were known as then, by these numbers, not by our names. The woman had entered the camp when she was fourteen years old and had lost both of her parents at the hands of the Nazis. After a few minutes, the woman could no longer discuss it without breaking down so we ended the conversation. The man has had his story recorded and stored at the Holocaust Museum, but his wife said she was emotionally unable to do so.

Many Holocaust survivors, like the two discussed above, are paid stipends from various sources, including the German government, owing to their status as victims of Nazi persecution. These stipends are paid periodically, usually each month. While there can never be an absolution for the unspeakable crimes committed by the Nazis against humanity, such reparation payments are a small gesture toward helping those who suffered so terribly during this dark period in history and serve as a token of recognition and acceptance of responsibility for these horrors.

The United States government also recognizes the importance of helping Holocaust survivors. The Medicaid program has special laws requiring that reparation payments be ignored as income in determining eligibility for this means-tested program. These reparation payments may be received from the German, Austrian, or Dutch governments. Indeed, the law requires that reparation payments received from any source because of one's status as a victim of Nazi persecution are exempt income for Medicaid purposes. Also, restitution payments made by the United States government to Japanese-Americans (or to their survivors) who were interned during World War II are exempt for Medicaid purposes.

The result of the above laws is that persons who receive such reparation payments, and who need Medicaid to help with nursing home costs, may receive full benefits without having to worry about such payments resulting in Medicaid disqualification. These reparation payments are also disregarded in determining the individual's co-payment toward the costs of nursing home care (i.e., the co-payment over and above what Medicaid pays).

The above brings to mind an important point. Many people often assume that they have too much money, property, or income to qualify for Medicaid, when in fact they do not. This is but one reason why

people considering Medicaid should always consult an elder law attorney with many years of experience in this specialized area. Those who receive Holocaust reparation payments should disclose this fact and ask the attorney to assert his or right to continue receiving and enjoying such benefits without having them interfere with Medicaid.