



Undue Hardship Waiver Yields Big Results Fast via Collaboration with DSS

Cona Elder Law PLLC

Facts: The Skilled Nursing Facility (SNF) resident transferred her home to her son and when she filed for Medicaid, her application was denied for uncompensated transfers in excess of \$175,000. The Resident filed a civil action seeking the return of the property to her. Nevertheless, DSS denied the Medicaid application and imposed a significant penalty period against her earliest possible Medicaid eligibility date.

Upon the referral of this matter to Cona Elder Law, we immediately analyzed the matter to see if we could make a claim for undue hardship. We reviewed all submissions to DSS to confirm that the elements of undue hardship were satisfied via the timely submission of adequate proof to the agency. Having confirmed that the Resident was otherwise eligible for Medicaid, that the request for undue hardship was submitted in writing to DSS and that the “Letter of Intent to Discharge” contained the necessary language and was properly served upon the Resident, Cona Elder Law then reviewed the entire Court file in the civil action seeking the return of the Resident’s property.

Cona Elder Law next reached out to the assigned caseworker at DSS. When the caseworker admitted that her county rarely encountered undue hardship waivers, Cona Elder Law’s adversarial stance immediately shifted to one of collaboration and education. Providing the caseworker with the relevant sections of the ADM, GIS and

18 NYCRR, as well as numerous favorable on point Fair Hearing decisions in which Cona Elder Law successfully represented the appellant and which clearly spelled out exactly how to satisfy the elements of undue hardship, the caseworker and her supervisor reversed their prior adverse decision and, within a few short days, issued a revised Notice granting the undue hardship waiver and eliminating the entirety of the previously imposed transfer penalty.

Results: Over \$100,000 in Medicaid reimbursement received and the balance due fully satisfied.

Cona Elder Law Attorney: This case was successfully handled by Diana Choy-Shan, Esq., Partner

Cona Elder Law is an award-winning health care law firm with a superior reputation representing health care systems, health care facilities, Assisted Living Facilities and Continuing Care Retirement Communities in New York, New Jersey and Pennsylvania.

As an Elder Law firm, Cona Elder Law offers expertise in government benefits, Medicaid, Medicare, Fair Hearings, Article 78 proceedings and Guardianships, in addition to collections and litigation. We keep open all possible sources of payment, whether private payment through litigation or by securing Medicaid benefits on behalf of a resident. With our unsurpassed success rate, Cona Elder Law is more efficient and more effective than other law firms. Contact us at [631.390.5000](tel:631.390.5000) or visit www.conaelderlaw.com.