The Elderlaw Forum: Avoid signing nursing home agreement!

by Professor_Michael_Myers

Caution! Do not sign a document when admitting a parent, a grandparent, a friend, or even a spouse to a nursing home, unless you are acting under a power of attorney or as a guardian.

A senior legal helpline caller signed as a â€œresponsible partyâ€• only to learn that the term was intended by the nursing home to make her financially responsible for her uncleâ€™s care, if not covered by Medicaid or Medicare. â€œI thought that simply meant that I should be the family member to be contacted in the event of an emergency or other problem.â€•

She had received a billing for transportation costs not covered by Medicare or Medicaid. The invoice demanded that she pay $745. â€œHe is the last surviving member of my motherâ€™s family. I helped him out because he had nobody else. Can I be held responsible for this bill?â€• she asked.

â€œNo, you shouldnâ€™t have to for any of your uncleâ€™s expenses; but you may need a lawyer to escape liability,â€• I advised.

Federal lawâ€”specifically, the Nursing Home Reform Lawâ€”prohibits a nursing home from requiring a third party guarantor as a condition of a residentâ€™s admission or continued stay. The nursing home, however, will likely contend it did not require the caller to sign as a â€œresponsible party,â€• but rather she did it â€œvoluntarily.â€•

She will have to argue in this case that the term â€œresponsible partyâ€• is deceptive; that she signed for the purpose of being the main contact person to assist her uncle in dealing with the nursing home and its medical director. Her uncle is competent, but exhibiting signs of dementia.

Nursing home admission agreements may contain language defining â€œresponsible personâ€• to include people who voluntarily undertake to be responsible for the personal and financial obligations of the nursing home resident. An expensive court challenge may be needed for her to overcome the contract language.

My blanket advice: Do not sign anything. If the nursing home accepts Medicare and Medicaid payments, it may not require a commitment beyond that of the person being admitted as a resident; that includes spouses, even though spouses are generally financially liable for each otherâ€™s necessary expenses.

(Pro bono legal information and advice is available to persons 55 and older through the USD Senior Legal Helpline, 1-800-747-1895; mmyers@usd.edu. Opinion solely those of Professor Myers and not the University of South Dakota).

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