



What About Bessie?

Shanda Lear goes to see Attorney Dan D. Lyons and through tears tells him about her beloved husband of over 50 years. Bill had been declining mentally for several years. Bill had been the primary record keeper, paid the bills and prepared the couple's income tax returns. Now, Shanda has been receiving delinquency notices on the utilities on their home and calls from angry renters that Bill has not come to fix plumbing problems at the rent houses as he promised. Bill keeps forgetting to tend to the cattle they have on their small farm outside of town.

Shanda approached Bill about these matters but he assures her that he has taken care of all the bills and he denies that he talked to the renters. Bill become belligerent that she does not believe him. Bill goes into a fit of rage, curses and threatens her. Shanda is afraid for her safety. Shanda is distraught that her loving husband would treat her this way. Shanda is afraid that Bill will hurt himself or her.

In addition to being afraid, Shanda is stressed out because she is now having to take care of Bill, the record-keeping, manage the rent houses, and take care of the cattle on their small farm. Her favorite cow, Bessie, seems ill and Shanda is very worried about Bessie. Attorney Dan D. Lyons assists Shanda with an emergency order of detention which results in Bill being

hospitalized and receiving psychiatric treatment. Under protest, Bill is discharged to a locked unit of a Nursing Home, where he threatens caregivers and also threatens Shanda and their children when they visit. A guardianship proceeding is started so Shanda can have a court order authorizing her to keep Bill in the Nursing Home. Shanda is appointed as guardian of the person and estate. The doctor tells Shanda that although Bill is mentally in bad shape, he is physically healthy and will probably live several years.

To add to her worries, Shanda realizes that she cannot afford to pay the \$3,000 per month to the Nursing Home, the \$500 in psychiatric meds, and pay her own utilities and living expenses. Bill has about \$1,500 per month of income from Social Security and a company pension. Shanda has about \$300 per month of social security. Their two rent houses, after expenses, net about \$300 per month. Their net farm income averages about \$2,000 per year.

Her \$60,000 in the bank will not last long. Shanda is worried that she is going to have to sell her cattle, Bessie and the farm just to make ends meet. Shanda asks her Attorney if she is going to lose everything paying for the Nursing Home. Not knowing anything about Medicaid, Attorney Dan D. Lyons advises her to go talk with a caseworker at DHS.

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After Shanda spends 15 minutes explaining her plight to a caseworker, the DHS

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caseworker tells Shanda that it will be a few years before Bill can be qualified for Medicaid to pay the Nursing Home. The Caseworker tells Shanda to sell the cattle, the farm and the rent houses. Divide all the money - ½ for Bill and ½ for Shanda. When Bill's share of the money has been spent paying for the Nursing Home and prescriptions, then Bill can be qualified for Medicaid. Shanda doesn't want to sell the farm or Bessie.

Where did Shanda go wrong? First, when Shanda first noticed that Bill was mentally declining she, Bill and their children should have visited with an Elder Law Attorney to find out how advance planning can help avoid or lessen costly and emotional problems.

Second, Caseworkers are administrators. Most want to help and try to help. But they are not lawyers and are not knowledgeable about most Medicaid planning strategies. They know enough to appear helpful but do not have the time or knowledge to be thorough.

Third, Shanda should not rely upon any advice from someone who has not spent hundreds of hours studying Medicaid.

In addition, the lawyer must be furnished documentation of all the facts, verified the facts, and studied all the facts and documents. Then the lawyer applies the facts and client's desires to the

many planning strategies Medicaid allows. Then the lawyer gives advice.

The lawyer may determine that additional facts, not discussed above, allow the farm, the acattle and the rent houses to be exempt for Shanda. With proper planning, most of the assets and the couple's savings can be preserved for Shanda's benefit.

In addition, Shanda gets to keep all of her social security income, the rent income, the farm income, interest and \$1,392 of Bill's social security. Bill pays the nuring home \$68 per month and Medicaid pays the rest of the Nursing Home expense and all of Bill's prescriptions.

Many of the other legal issues cannot be discussed in this brief story.

The above does not constitute legal advice. It is an example and for illustration purposes only.

Humor for the Day: Did you ever notice that when you are driving, anyone driving slower than you is an idiot, and anyone driving faster than you is a maniac?

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