



Personal Services Agreements as a Tool to Protect Assets

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A Personal Services Agreement (PSA) is a contract between two or more people. The purpose of a PSA is to provide a written contract for services in exchange for payment for those services. The services usually include care of a person (the recipient), such as bathing, feeding, and transportation, and care of a person's property, such as bill paying and managing finances. A PSA can also enable the service-provider (the caregiver) to be reimbursed for out-of-pocket expenses incurred during the course of the caregiving.

A PSA is almost always recommended when a person provides services to a family member in exchange for payment because under Ohio's laws, services to family members are presumed to be gratuitously rendered. Because it is a written contract between the caregiver and the recipient, the PSA provides evidentiary support needed to prove that the payments for the services were not gifts. The payments are taxable income, but that is a small price for the caregiver to pay when qualification for Medicaid or reimbursement by the recipient's estate is at stake.

Whenever possible, the PSA should be signed before the exchange of services for payment.

The PSA must be signed by both the caregiver and the recipient. This forward planning is vital because if a person needs to qualify for Medicaid, the PSA will not be applied retroactively. Any payments made before the PSA is signed will, during the Medicaid application process, be presumed to be gifts. Of course, this forward thinking does not always happen between family members, and money is often exchanged for services between family members without having a contract or a PSA in place. In those circumstances, a PSA should be prepared by an attorney and immediately signed. The treatment of any prior payments made depends strongly upon the circumstances surrounding the payments and should always be determined on a case-by-case basis with the assistance of legal advice.

Roberson Law has many years of experience in preparing PSA's and assisting family members with asset protection planning. Please feel free to call 937.643.2000 to obtain assistance with addressing any of these issues.