When an elderly loved one needs care in the home, the burden is often more than a friend or family member can provide while still working at a regular job. Many people hire a paid caregiver who can devote time and attention to providing the best services to them when they need help due to age, illness, or a debilitating condition.

Hiring a family member or friend to provide those services may seem like a win-win situation. However, it is important to handle this paid relationship properly to avoid problems with Medicaid and the IRS. If you are in this situation, you need a personal care contract, also referred to as a caregiver agreement, and it is best to have the agreement prepared by a knowledgeable estate planning attorney. Let's look at how these agreements work and what they should cover.

How a Personal Care Contract Works

A caregiver agreement or personal care contract is a formal written document that describes the services provided and the rate paid for those services. It is a good idea to create this type of formal agreement even if the situation involves an adult child or guardian providing care for their own parent or ward. You may simply be doing what you would ordinarily do, but with an agreement in place, you can receive payment without that payment being considered a gift, which can compromise the payor's eligibility for government benefits such as Medicaid.

If a family member or friend accepts payments from the person receiving care and they don't have a valid contract in place, the person receiving care could lose Medicaid benefits or find their eligibility for benefits delayed. In addition, formalizing arrangements with a caregiver agreement also often helps end or prevent disputes among family members about payments or services.

What You Need to Include in Your Agreement

To meet Medicaid and IRS rules, you need to include certain terms in the personal care contract and the terms need to fit legal requirements. The contract should cover the following:

- A list of tasks and services the caregiver will provide. This might include administering medication, cooking and serving meals, cleaning, bathing, and running errands or driving to appointments
- The amount of time spent and the frequency of service. For instance, the agreement might specify a certain number of hours per week.
- Details about compensation including the amount of money to be paid and frequency of payments. It is important that the rate paid be close to the local going rate for these types of services. If a family member or friend is being paid far more than the average caregiver in the area, the government could view it as a gift rather than a fairly compensated service.

In addition to these contractual details, it is a good idea to include instructions for how the caregiver should handle medical emergencies. This can protect the caregiver from liability.

The Nordhaus Firm Can Protect Your Family with the Right Personal Care Contract

If a family member or friend is providing care for another member of the family and receiving any money, gifts, or future consideration, it is a good idea to put the agreement in writing. This can save the family money and headaches in the future.

The Nordhaus Firm can create a personal care contract and help you with other parts of a plan to establish Medicaid eligibility for long-term care benefits. To talk to us about the possibilities, just schedule a consultation.