KEEN ON
RETIREMENT

How to Preserve and Protect Your Wealth While Honoring Your Final Wishes

Welcome to Keen on Retirement
With Bill Keen and Steve Sanduski

Steve Sanduski: Hello everybody, and welcome back to another episode of Keen On Retirement. I'm your co-host, Steve Sanduski, and joining me, as always, is Bill Keen. Hey, Bill.

Bill Keen: Hey, Steve. How are you doing up there in your neck of the woods, sir? Are you getting some snow?

Steve Sanduski: Well, yes. Yesterday it was 60 degrees and today it's snowing. I guess that's what you get when you live in Wisconsin.

Bill Keen: Yes it is, and you know, Steve, it is baseball season again.

Steve Sanduski: It is.

Bill Keen: I wanted to tell you one thing about us in Kansas City. The Royals won the World Series in 2015.

Steve Sanduski: What have they done since then?

Bill Keen: I said I was telling you one thing today.

Steve Sanduski: That's all we need to know, right?

Bill Keen: Yes. That's right, but we're still faithful fans.

Steve Sanduski: That's right. Yeah. Well, we're still here wrapping up some of the basketball season and the Bucks have had a great year. While this isn't a sports show, it's always fun to chat a little bit about that, but I know today we have a great guest lined up. We have a very important topic that we're gonna be talking about today with one of the top folks in the industry to talk about that.

Bill Keen: Today in the studio, we have Polly Bartle-Blomquist with us, she is an attorney~~.~~ and focuses on estate planning, elder law, and probate fiduciary litigation probate work as well, and really all with an angle of preserving and protecting wealth for seniors. She was kind enough to take some time out of her day today to come over to the studio with us and really hit some high points that she thinks our clients and listeners should be aware of. I might tell you one last thing, Polly just came out of trial, Steve-

Steve Sanduski: Did she win?

Bill Keen: This morning.

Polly Blomquist: I did win.

Steve Sanduski: All right.

Polly Blomquist: Yes, I'm glad I did, or else it would have been an uncomfortable conversation.

Steve Sanduski: That's right. We would have had to edit that out of the podcast.

Bill Keen: Polly, welcome to the studio. Thank you.

Polly Blomquist: Thank you.

Bill Keen: So much.

Polly Blomquist: Thank you. I appreciate being here and the opportunity to speak to everyone.

Bill Keen: Now, if you could, tell us a little bit about your journey in the legal field, because I find your history pretty fascinating and it's impressive. Would you mind giving us just a little background on your journey?

Polly Blomquist: Not a bit. I would be happy to. I graduated law school in 2001 from the University of Missouri-Kansas City here in Kansas City. I knew I wanted to be practicing here, so I went to law school here. Right out of law school, I went to work for Jackson County Family Court. It was quite an eye-opening experience. I was prosecuting child abuse and neglect and some other things at the time, I did that for a good five years. During that time, I tried hundreds of cases and then I left that practice and decided I needed to go into estate planning.

That was after I had kids and I realized the gravity of parenting and what it was that we did as parents and in talking to individuals thinking about, "If something happened to me, what would happen to my family?" Really, families did not know the process by which to ensure that their families were protected, and became passionate about that. Learned everything that I could possibly learn and then went out on my own and started practicing estate planning.

Since then, the senior community as we all know is growing and the problems and the issues that are facing our seniors are like nothing that we've ever had before. We're ... Our bodies are outlasting our minds and just some unique challenges that seniors have. As I grew in my practice, I saw more and more of those issues and became passionate about the elder law area and expanded my practice into that. With that litigation experience that I'd had previously in my career, kind of have a unique perspective of how it is that things need to be preserved and protected for seniors so we don't end up in court because court is not place that you want to be, and if you can stay out of it, I highly recommend it.

Bill Keen: We were kidding earlier. I was trying to intimidate Steve a little bit that we had a trial lawyer on the show with us today. Keep him in his toes, but you really were in trial this morning. Was it a fiduciary litigation? Or a probate?

Polly Blomquist: It was.

Bill Keen: Are you challenging someone's handling of maybe a trust account or something?

Polly Blomquist: This particular case was a situation where a woman was diagnosed with early-onset Alzheimer's. She's in her early 60s.

Bill Keen: Wow.

Polly Blomquist: Came out of nowhere and started engaging in some really dangerous behavior. Her family became very concerned about her. She did not have proper documents in place, which I think we'll be talking about today, and so there was no one who had authority to assure that she was safe and protected. We went to court today. She contested that she needed any help, but we assisted in providing with a safe environment and to establish individuals in her life that can make healthcare and regular choices for her that you and I would make everyday, and also those financial choices.

Bill Keen: Very difficult conversations. Scary for the families.

Polly Blomquist: Very, very difficult. I was telling my clients this morning, I said, "Here I'm telling you all what to do in my sterile environment in the box in my office, but then you all actually have to go out and live it and manage these things on a day-to-day basis." It's extremely hard for families, especially ... I find that with professionals and people whose minds have been for years been on overdrive, have lots of engineers, and people who are extremely intelligent. Just when they get Alzheimer's or dementia, they're brain doesn't stop moving. It continues to move quickly, but it's just taking rabbit trails and not thinking in the way that it had in the past. That can be really dangerous for those individuals.

Bill Keen: Right. I think about my own situation, which is probably nothing like you had to deal with this morning, but my Grandfather, I just loved my Grandfather. I respected him. He was in the ... A member of The Big Red One. He was in the Army. He was in World War II, Korean, Vietnam.

Polly Blomquist: Wow, yeah.

Bill Keen: He was a Master Sergeant. He was a paratrooper. He was a highly-decorated war veteran.

Polly Blomquist: Wow.

Bill Keen: When we finally had to tell him that he couldn't drive, it was difficult. Even just that. Just not being able to drive. He said, "No, the Army's given me a lifetime driver's license." He as trying to tell us, but ... Imagining someone putting themselves in very dangerous situations-

Polly Blomquist: Sure.

Bill Keen: And things like that would be ... Bless you for that work that you're doing.

Polly Blomquist: Thank you. Yeah, I really do enjoy it.

Bill Keen: Yes. The other litigation work that you do we've done other shows on estate planning and we've talked a lot about folks having trustees that handle their affairs, either while they're living or when they're gone. The trustees that are mishandling the assets, is that where you get involved in litigating against those trustees?

Polly Blomquist: Yes. Yes, we do a lot of that work, and unfortunately, I think ... Fortunately, trusts are growing and people are doing more trust documents these days, but it's important about figuring out who is going to be that fiduciary. It's interesting that in one situation you think, "Oh, this child would never do something that they shouldn't do", but if that child ever came to a point where their back was against the wall financially.

Bill Keen: Oh sure.

Polly Blomquist: Would they be tempted to dip their hand in and say, "I'm just gonna borrow this for a few months to get me through"? Then they don't get through and then they think, "Oh, just a little bit more", and then soon that child that we've put in so much confidence and given them so much power has all of a sudden hurt us financially. It can be a child, it can be a friend. I've seen it really in every situation.

There are other options out there, private fiduciaries and things like that, but most people want someone they know, and because they have the same values, they understand who they are and how they would want to spend that money. They're gonna pick one of their kids, but we talk a lot about that in our estate planning meetings. A lot of times people will say, "Oh, I'm just gonna pick my oldest child", because that's the default. They think that generally that's how it should be, but that might not be the best situation or scenario for that family.

Bill Keen: Sure, and in some cases you use, like you said, when you refer to fiduciaries. We always refer to us as a fiduciary 'cause the way we operate our investment advisor here, but in this case you're talking about in a little different context-

Polly Blomquist: Correct.

Bill Keen: As someone who is maybe a corporate trustee, although you name one of your kids or whoever, they're still considered a fiduciary of those assets, aren't they?

Polly Blomquist: They absolutely are and they are held to the highest of standards.

Bill Keen: Absolutely. Yeah. It's funny, a lot of people get estate plans drawn and they don't spend a whole lot of time on that trustee question, so it's kind of ... It's interesting to hear from both sides of it. You draft estate documents to help people decide, and then you also defend people. Where it's not worked out so well.

Polly Blomquist: We ask some of those really tough questions in those initial meetings with clients. We say, "Okay, you've chosen this child. Are you confident that this child is going to be an effective money manager? Are they going to save when they need to save? Are they going to spend when they need to spend? Are they going to be subject to the prudent investor rule where they are going to be wise in their investments and get good counsel?" Sometimes they say, "Maybe not." Maybe this is not the right person to serve in this way.

Bill Keen: Have you seen cases that have been slightly like 10 or 20 degrees off where the trustee is handling things ... This is just ... I'm a pilot, so I'm talking in degrees now ... 10 or 20 degrees off where it needed to be reeled in a little bit? Maybe it wasn't outright fraud, but it needed to be reeled in, and then cases that are just 180 degrees off, where it's blatant fraud.

Polly Blomquist: Oh, absolutely. I mean, the problem is when you're 20 degrees off you're not gonna get to your destination.

Bill Keen: That's true.

Polly Blomquist: 20 degrees of is fraud. Just a little bit, it doesn't matter. It is, and so ... Yes, I've seen where just a little bit of money's gone and then I've seen situations where it's all gone.

Bill Keen: Wow.

Polly Blomquist: Really, in those situations where it's all gone, it's gone gone. There's nowhere to get it from. They've spent it and then you can't get it. You can't squeeze blood from a turnip as they would say, so ... Yeah.

Bill Keen: Well, let's roll into some of the foundational documents. I think that most folks should have ... I'm looking forward to getting down to some of the asset preservation and long-term care issues that I know you specialize in as well, because we get a lot of questions about what happens if one of the spouses gets institutionalized. How do we maintain their dignity but also not bankrupt the non-institutionalized spouse, for lack of a better term here? I look forward to getting to that in our podcast episode today, but I think maybe for starting, let's just talk about foundational documents. Does that work?

Polly Blomquist: Let's do. Let's do. The first two foundational documents that I ... That we recommend, and both are called durable powers of attorney, and there are two types of those. The first that we're gonna discuss is the durable power of attorney for financial purposes, okay? There are two types of those. One, it can be immediate, so when you sign that document, that person right at that moment has the ability to go and make financial choices for you. I tell my clients that's like writing a blank check to your family, okay?

I say imagine them putting on a pair of goggles and they have to see through those goggles and everything they do has to be in your best interest, but at the same time, there really isn't anybody supervising them, especially not if you're incapacitated, so that durability of that document, what that means is that it does not become ineffective when you become incapacitated. That means the only way that that document can be canceled, for lack of a better term, is if you die, one. It does not work after death, or if you change it or revoke it. Those are the situations that that document goes away.

The other type of financial durable power of attorney is called a springing durable power of attorney. In that situation, two doctors would have to certify that you are incapacitated before that document would spring into action for you. At that point you become incapacitated, your family would need to establish that you are incapacitated, two doctors' statements, and then at that point they could utilize those documents.

Bill Keen: Great. Do you lean one way or the other? I'll tell you, the springing one sounds like safer. It really does.

Polly Blomquist: It sounds safer, but it can be extremely inconvenient.

Bill Keen: Yeah, I understand. Yep.

Polly Blomquist: Our banks are really reluctant to utilize these documents. They're afraid of them because there's so much liability and I know that they have gotten caught up in situations where people have been bankrupted by their fiduciaries or what they're called is attorneys in fact under those durable powers of attorney. The people we choose to act for us are attorneys in fact. They've created situations where banks are then stuck in the middle, so banks can often be reluctant to utilize those documents. Imagine a crisis situation. Mom or Dad is in the hospital in ICU, trying to get two doctors to come in and agree and sit down and sign a letter of incapacity is a little challenging.

Bill Keen: They have liability, too.

Polly Blomquist: They absolutely do, and just trying to get a doctor in on rounds is difficult sometimes, so if you've ever been sitting in a hospital room with your parent, you understand what I'm talking about. Yes, while the springing seems safer, it's often especially as we get older wise to have one that's immediate, and it's important for clients to understand that those durable powers of attorney does not mean that you are signing away your rights. It's just saying that somebody gets to come along beside you as a helper to be able to assist you in making financial choices. That doesn't mean they push you aside and substitute their judgment for you unless and until you become incapacitated.

Bill Keen: And that makes sense.

Polly Blomquist: Yeah, and they cannot make you do something you don't want to do and they can't keep you from doing something you do want to do. It's important to understand that as well when you're signing those documents.

Bill Keen: Okay. Perfect.

Polly Blomquist: The other type is the durable power of attorney for healthcare, and alongside that you've also heard of I'm sure of a living will. We all also call that an advanced healthcare directive, and what those documents are, the durable power of attorney for healthcare, that document gives someone the option ... The ability to make healthcare choices for you. Now, those are always springing. They ... Doctors have to declare you incapacitated before those documents step in, and the reason that is because doctors are gonna want to communicate with you until they absolutely cannot, and then at that point, that's when your family comes in and steps in.

Now, the living will part of that or the advanced healthcare directive part of that gives your family a roadmap for what it is that you would want for end-of-life care decisions. You're in a persistent vegetative state, you are ... Have had a traumatic brain injury and there's no reasonable likelihood of recovery, what would you want the dying process to look like? Each person might feel differently about that. One person might feel as though they want all options taken to save their life or preserve their life. I had a client like that recently.

Great, that's what they would want. Or, they would say, "No, I would rather you just let me die naturally at that point while keeping me comfortable."

Those are the two ... Those two documents, every 18-year-old and up needs those. Imagine your child going off to college and they had some major health incident and you walked into that doctor's office, they're not gonna talk to you 'cause they're 18 years old and unless they've signed some sort of document to say that they can talk to you, they're not going to and you can't make choices and decisions for them. There is no law, especially ... We're here in Missouri and Kansas ... There is no law here in Missouri or Kansas that automatically designates somebody to make those decisions for you without those documents in place.

Bill Keen: So important for folks that might be listening to our show here that are in their 60s, 70s, 50s, but also important to make sure that your kids are covered as well.

Polly Blomquist: Correct. Yes.

Bill Keen: Very good. We talk a lot about and we maybe won't get into the details of this 'cause it could be probably not only a whole episode but a series of episodes, whether someone actually needs a will or a trust or a directive, but they need one or two or both or some of the above, right?

Polly Blomquist: Right.

Bill Keen: In addition to these other documents.

Polly Blomquist: As far as ... We've talked ... What I call about estate planning for life and estate planning for death, so you don't ... When you think of estate, you think of someone dying. Well, we also have estates during our lifetime, and so those two documents ... We talked about probate earlier. There's probate during your life, and probate during your life like the situation I talked about this morning where that individual needed a guardian and conservator over here. Well, she's still alive, right?

Bill Keen: Yes.

Polly Blomquist: When they ... She didn't have any of those foundational documents for life in place. We had to go to court for that. There are ways also to avoid probate in death where we keep our assets from having to go through the court process for retitling, 'cause as they say, "You can't take it with you", and if you have it in your name only, ownership of a piece of property or something in your name only, that whatever it is, property, asset, money, whatever it might be is gonna have to go through the probate court unless you don't have some effective estate planning for your death.

Bill Keen: Yes, and the one thing I like about you that I've appreciated is every one we send to you, you don't just say, "Cookie cutter trust, trust, trust, trust." There are times where it's not ... It can be simpler and it can be wills and beneficiaries and TODs or PODs and that kind of thing.

Polly Blomquist: Absolutely.

Bill Keen: Throw a complicated trust at everybody is my point, and you do it when it's necessary and makes sense.

Polly Blomquist: Absolutely-

Bill Keen: But-

Polly Blomquist: Well, and the goal is to really have a conversation with the client and say, "Okay, what are your goals? What do you want to do?" If you want things as easy as possible, sometimes you don't need a trust. Sometimes there are even situations, surprisingly, that you don't need a will, believe it or not. In Missouri, especially, we have a very generous transfer on death law that allows everything down to the clothes in your closet to be transferred outside of probate. No, a trust is not for everybody. It is for some clients, definitely, but that's something that you need to discuss with your attorney and really drill down on what your goals are to determine whether or not you need that type of planning.

Bill Keen: Let's dive into this preserving and protecting wealth-

Polly Blomquist: Right, okay.

Bill Keen: Because we deal with folks, you would imagine, that are ... Even someone listening to this podcast, there are people out trying to better themselves. They're typically planners by nature, people that have been prudent, lived within their means. They've built up some resources to even be able to think about the word "retirement", so they've got some assets built up, and in some cases seven figures or multi-seven figures and you think, "Well, what would this Medicaid topic ... How would that apply to them?" Do they have the money to go ahead and just pay for long-term care out of their own pocket? Yes, maybe, but ... Or maybe not, and maybe their parents might be in a position to take advantage of some of these things we're talking about today. I guess we don't just put it in a box of who this applies to, do we?

Polly Blomquist: No.

Bill Keen: Based on how much wealth someone has?

Polly Blomquist: True, and really, a lot depends on what are wealth looks like. Those of us who have family farms who don't have a lot of liquid assets definitely need to be thinking about this because if you have a family farm that's been in your family for hundreds of years, you don't want to have to sell that, especially if your family is depending on the income from that throughout the generations and the generations to come and you want to preserve that. Then that would be devastating for a family to have to liquidate that farm in order to pay for long-term care.

Bill Keen: How would you start the discussion around what happens? I mentioned it a little earlier on the outset of the show. One spouse goes into a facility and we get shocked by the numbers, don't we?

Polly Blomquist: Right.

Bill Keen: Especially memory care units. I had one here locally that was 7500 a month, but I've seen them as high as 10,000 a month.

Polly Blomquist: Yeah.

Bill Keen: Self-pay those expensive.

Polly Blomquist: Throughout the country it's gonna be different.

Bill Keen: Okay, sure.

Polly Blomquist: Typically, if you're looking at memory care, in a nice memory care facility you're gonna look at about $10,000 a month. That adds up.

Bill Keen: Well, it's 24/7 care, isn't it?

Polly Blomquist: It's 24/7 care. It's intense care. It's all your meals. It's everything. Now, in addition to that, you'll also have all of the other ancillary services that you don't necessarily think about. Sometimes extra prescriptions that are not covered or other services that they need that potentially are not covered. That's in addition to just the memory care. Like we talked about earlier. Our bodies are outlasting our minds, and so I think that the statistic that says ... We have a two in three chance that we will become physically or cognitively impaired in our lifetime, and that's a huge statistic.

Bill Keen: It is.

Polly Blomquist: That's a lot of us. I mean, it's definitely more than half, right? In looking towards that, so maybe it might not apply to every single listener that you have, but perhaps they have somebody that they know that's going through this, with their parents, that they have one parent or one individual or one spouse needing to go into a nursing home while you have another spouse that's well and needs to remain in the community. The spouse that goes into the nursing home, we refer to them as the institutionalized spouse, and the reason we do that is because that's what Medicaid calls it. It's not a very pleasant term, but that's just ... For how we refer to it, that's we call them, and then we say ... We talk about the spouse that remains in the community as the community spouse.

If you have a married couple coming in ... A married couple comes into my office, let's say, and they say, "Dad needs to go into the nursing home. He has severe Alzheimer's and dementia, but he is otherwise relatively healthy." Otherwise healthy individual with Alzheimer's or dementia can live another 10 years. That's a long time to be paying for memory care, and we're worried about Mom. Mom depends on the income from Dad and when Dad goes into that nursing home, all of that income that has Dad's name on it, his name is on the check, that income goes to the nursing home. That can be a very daunting and very upsetting idea for the spouse that has remained in the community.

There are ways that we have under the rules, under the Medicaid rules, that allow us to preserve and protect assets for the spouse that is remaining in the community. That husband or wife who is facing the emotion of seeing their marriage of 50-plus years ... That individual, that spouse having to go into the nursing home, where none of us want to go into the nursing home.

Bill Keen: That's right.

Polly Blomquist: Not on of us has started off our retirement thinking, "Gee, I hope I end up in the nursing home." Unfortunately, we don't always get to have a choice, and so you have ... You know that that individual doesn't want to go to the nursing home. You're having to put them there while you're also terrified that you're gonna become bankrupt. You don't have to be. There are several strategies that you can utilize.

Now, a lot of people purchase long-term care insurance, and some of the older policies that I have seen are fabulous. They cover so much, but the newer policies we are seeing are not covering as much.

Sometimes trying to get those policies to kick into action is challenging as well, so filing that claim, they're gonna try to deny you as much as they possibly can, so we have resources that we send people to to assist them with that, but it's important to know what those plans say. Some of them will have a time that they won't pay and then after a certain time they will, and then a lot of times they only pay a certain amount per day. You have to look at, what is the cost per day? What am I gonna have to pay out of pocket and can I afford it? Also, how long is it going to pay?

A lot of times when we're looking at Medicaid planning, long-term care insurance is a really excellent vehicle to be a bridge for during the time that we would self-pay. Otherwise, we're looking at other options.

Bill Keen: We think about this and a lot of folks think that Medicare will pay for theses services and Medicare does not pay for these services.

Polly Blomquist: That's correct. If you think of the term "Medicare", that is for healthcare, and when you're looking at long-term care and it's residential, so they're paying for where you're living, what you're eating. That is not care any longer. That's aid, so when we're ... That's the difference between the two. People think, "Oh, well, Medicare will pick up the tab", that's not true. All of us receive Medicare at a certain age, but that is not the case with Medicaid. With Medicaid, you have to qualify.

Bill Keen: Okay, so how would you qualify?

Polly Blomquist: Yeah, that's a great question. The ... There are two different standards that they're gonna look at or two different qualifications, let's say. They need it, one, physically. They can't care for themselves at home anymore. Then the next would be they need it financially. They cannot afford to pay for it. We have to get to those points to qualify for Medicaid. Physically we need it, and financially we need it.

Bill Keen: Okay, so when it comes to the financially, it's pretty daunting what you have to be down to to qualify. I've talked a lot on my shows and in my blogs about my Great Aunt Nina who was born in 1901 and died in 2001 at a hundred.

Polly Blomquist: Wow, wow.

Bill Keen: She was a personnel director at Emery, Bird, Thayer, department store here in Kansas City.

Polly Blomquist: Really?

Bill Keen: Which was an iconic department store that closed in 1968. They had a restaurant out here called EBT in the old Missouri Bank Building. That was kind of an honorarium of that restaurant. She made it all the way up to 97 years old self-pay and I was helping her with everything and I had to go through the process of filing for her Medicaid when she ran ... Finally ran out of self-pay money. They didn't even question her documents, though. I think they figured since she was 97, she made it that far self-paid, they just put it right through.

Polly Blomquist: I can only imagine if they've seen self-pay for that long they would figure that they would be out of money at some point.

Bill Keen: No one was trying to work the system or whatever, so ... What was neat about that, too, was we actually found a facility that we were private paid and she was allowed to stay in the same facility. That was one thing I wanted to ask you earlier was, do you see folks going into Medicaid facilities? A lot of our clients would think, "I'm never gonna have one of my relatives in a Medicaid facility", but it doesn't have to be quite as bad maybe as it used to be at one point or as folks think. Is that gonna be accurate?

Polly Blomquist: That's absolutely true. You think of Medicaid facilities as being the worst of the worst, and something that you would never want to place your family members in, and honestly, Bill, I have been in facilities like that. There are many that do accept Medicaid that I think I wouldn't put my worst enemy here, but then there are also nice ones as well. Those ... Some of them have private-pay beds and some of them have Medicaid beds, so they take both. Some of those beds are approved for Medicaid and the rest are for private pay.

Yeah, I mean, my parents, for instance, and they know that I talk about them on a regular basis, so when I'm talking to clients I use them as an example regularly, but we've done planning for them that would preserve and protect their assets if one of them needed to go into a nursing home. In that situation, I know that the other of my parent would be taking care of financially, but knowing that, I also know that the only other option would be for the other parent to go into a facility that does take Medicaid, and there are facilities that I would feel comfortable placing my own family in if need be.

Bill Keen: Okay, and that's valuable information. When talking about qualifying, can you explain a little bit about how much assets the community spouse, I'm getting the terminology right-

Polly Blomquist: Correct.

Bill Keen: How many assets have to be spent down before they qualify for Medicaid?

Polly Blomquist: This is true not only for married couples but for single individuals, because there are options to preserve and protection assets for single individuals as well. No matter in what state in the country you're in, the level is $3,000 per person. You have to have assets, and when I'm talking assets I'm talking real property, except for your home, your actual personal residence. That's exempt, and we'll talk a little bit more about exempt property here in a little while. As far as your assets, all of your retirement, depending on what state you're in, the spouse's retirement and all of your cash investments, anything like that have to be spent down to $3,000 per person. $6,000 for a married couple, 3,000 for an individual.

Bill Keen: It doesn't leave a whole lot, does it?

Polly Blomquist: It doesn't leave a whole lot, so especially for those of us who have worked very hard to live within our means like you described your ... The individuals listening to this podcast who are ... Who have worked hard to preserve and protect wealth. No matter where you are, if that's $500,000, if that's 2 million, I mean, a $120,000 a year, that's whole lot of money to be paying out for long-term care. In order to qualify to spend all of that down to $3,000 is quite upsetting and unnecessary.

The reason that Medicaid allows us to do the planning that we do under the rules is because the thought is if we spend all of that money and that other ... The community spouse let's say needs assisted living because Medicaid doesn't pay for assisted living, and we could keep Mom in the community for longer, that's ultimately gonna save Medicaid money in the future, because otherwise, if Mom has no money but can't quite live at home and we don't have money for assisted living, guess where Mom's gonna go? She's gonna end up being in the nursing home, and guess who's gonna be paying for it? Medicaid. If we can preserve and protect assets for that well spouse, that community spouse for as long as possible, then everybody benefits.

Bill Keen: What are some of the strategies that you're able to put in place for folks?

Polly Blomquist: Before we get there if I might-

Bill Keen: Please.

Polly Blomquist: I want to talk about exempt assets. People think, "Well, when I'm looking at doing Medicaid, I'm gonna have to get rid of all of my property", and there are certain things that are exempt assets that are not counted in that $3,000.

Bill Keen: Oh, good. Okay.

Polly Blomquist: We have one vehicle, so that can be any type of vehicle you want. If you have it ... Your 2010 Honda Accord or you can go buy a new Mercedes. It doesn't matter, it's one vehicle, okay? The primary residence up to a certain point. It's a little over $500,000, close to $600,000 interest in a house that you can keep, so your primary residence for the most part is protected.

Now, that has a little asterisk by it, which we may or may not have time to talk about, but during your lifetime your home is safe. Other ... Also household goods and personal effects, irrevocable funeral plans, and pre-paid cemetery plots. In some states, Missouri is not one of them, Kansas is, the community spouse's IRA, so retirement accounts, they are not accountable resource. If my husband needed to go into a nursing home and I had an IRA, my IRA would not be an accountable asset that I would have to spend down to that 3,000-dollar level. Now, if I was in Missouri, it would. Okay? Also, in some states income-producing property. You have rental property that produces income, then some states allow that income-producing property to be exempt. Not in Missouri, in Kansas, yes.

When you're looking at qualifying for Medicaid, Medicaid is also going to look back five years. We talked about financially qualifying, Medicaid wants to make sure that you have not given all of your property away before you applied for Medicaid to ensure that you're gonna qualify. They're gonna look back five years and they're gonna say, "Have you done any gifting of anything in the last five years?" If you have, then that has to be reported to Medicaid and then you are disqualified from receiving Medicaid for a certain amount of time. That is ... What they do is they add up the sum total of all of those gifts, and each state has its own penalty divisor, that's what they call it, where they take that number, they divide it by that state's penalty divisor, and then they get the amount of months or days that you are disqualified from receiving Medicaid before those Medicaid benefits would kick in.

You imagine people think, "Oh, well, I'm just gonna deed my farm over to my kids." Well, that farm can be $2 million, so guess what? You're not gonna qualify for Medicaid in those five years. That's something that has to be considered, and so don't ... If you're concerned about long-term care, don't go doing a bunch of gifting without talking to an attorney first.

Bill Keen: Oh, for sure, and do banks do audits of ... Or, I'm sorry. Does Medicaid actually do formal audits of bank statements and other things, tax returns, things like that? I'm sure they do, don't they?

Polly Blomquist: Absolutely. You ... We assist people in getting qualified for Medicaid on a regular basis at our firm. My partner Aaron Love is the expert at it, and he has to gather all of that evidence over the five years and provide all of that to Medicaid to back up the statements that have been made by the clients in those applications.

Bill Keen: Sure. Okay.

Polly Blomquist: Yeah. As far as advanced planning, so if you're thinking about Medicaid, like I talked about a moment ago, Bill, they look back five years. If we are looking at advanced planning, we need to start planning five years before a serious medical event. Well, when is that? Right? None of us know necessarily, but as you're progressing in age and you know you're healthy now, but time marches on and we're not all guaranteed health for a long-term period of time.

If you're looking in your 70s, then it would be wise to sit down with an elder law attorney and say, "What are my options for advanced planning to preserve and protect my wealth?" One, for my community spouse, and ultimately for your kids? If you want to ensure that that legacy moves on to the next generation, then there are ways to preserve and protect that wealth. A lot of it is done through certain types of trusts and gifting.

Bill Keen: Okay, and that could probably be a serious of episodes as well, would you say here on the program today?

Polly Blomquist: It could absolutely be a series of episodes, but what I want people to understand today is there are options. If you're looking at Mom needs to go into nursing home tomorrow, there are options for you, too. It's extremely important if Mom needs to go into the nursing tomorrow that you call an elder law attorney, let them know what is going on, and see how they can help because even if we haven't done five-year planning, there is crisis planning that can be done and in those crisis plans, we can preserve for a married couple around 75% of the assets. That's a lot and-

Bill Keen: Wow. Okay, I didn't know that there was that much that could be done at that point.

Polly Blomquist: There is. Also for a single person, like your grandmother ... If you go into the nursing home, meet with that elder law attorney, 50% of the assets can be preserved. Around there, depending on the structure of the assets, and that can be a whole 'nother episode as well about how those assets are structured and how that can affect long-term planning to protect assets for seniors.

Bill Keen: In the five-year example when you're getting out in front of things, you are giving your assets away, so is that correct?

Polly Blomquist: That's correct.

Bill Keen: You are giving them away, it's in a trust. There's people that you trust that we talked about when we opened the show, trustees, that are then ... Are they able to care for you at all out of those funds? Or is it technically not supposed to come back to you? Anything, dividends, interest, or anything like that ever again?

Polly Blomquist: What we call those is Medicaid asset protection trusts.

Bill Keen: Those are a hundred percent legal. Like you said, this isn't -

Polly Blomquist: Absolutely.

Bill Keen: Working the system or anything like that. This is all very almost expected and being prudent with your resources.

Polly Blomquist: Absolutely, and there's a whole department within Medicaid that all they do all day long is review these trusts.

Bill Keen: Review and approve?

Polly Blomquist: Review and approve or deny. One of the two, so if they're not done correctly, then everything that you've put in that trust is considered a countable asset. They have to be done right. It's not something that I would pull a form off the internet. This is a big deal. Imagine the level of responsibility from the fiduciaries that we talked about before. Multiply that by a hundred and that's what you are requiring of these fiduciaries under these trusts. You mentioned about dividends and interests and whether or not those can be taken out and given back to the individual setting up the trust. The answer is yes, but if those dividends and interests are coming out to the individuals who set up the trust, or what we call grantors of the trust, the ... If they need to go into a nursing home, that income and dividend still has to be paid out to that grantor and then will go to the nursing home.

Bill Keen: I see.

Polly Blomquist: If you ... If that trust does not allow the distributions of the income, then those ... The income can stay within that trust.

Bill Keen: I see. Okay. Good.

Polly Blomquist: Other tax issues there potentially, but we work all of that out with the financial advisors and the accountants and we try to get everybody on the same team in planning for these things.

Bill Keen: For sure.

Polly Blomquist: Yes, there is a way to get that money out to be able to assist Mom and Dad. That's something that you would need to sit down and talk to your attorney about. It's all legal and above board or else we wouldn't be recommending it, but it is definitely a complex procedure and it is not for the faint of heart. The individuals that are setting these up must have individuals that they trust completely.

Bill Keen: We talked a little bit before the show, pre-show there, and about some of our clients might say, "Well, we don't want our relatives", or someone they ... Loved ones in a Medicaid facility. We talked a little bit about how they're not all as bad it might sound on the surface, and then we discussed, and I'd like to share with the listeners, that maybe someone is in a Medicaid facility, but since you've preserved the wealth through these strategies, you now have additional capital to be able to add money monthly to get that person maybe a private room as opposed to a shared room, or a nice room, or extra amenities because you've preserved your base of wealth.

Polly Blomquist: Right, yeah.

Bill Keen: Those are things I don't think folks have thought about 'cause frankly I hadn't thought about it.

Polly Blomquist: Yeah, I'm glad you brought that up because, yes, so you imagine Mom needing to be in the nursing home and Medicaid beds are not private rooms. They're semi-private rooms, so that means they're gonna have a roommate, and not all of our seniors would be comfortable with something like that. If we have that money set aside and protected, then we can utilize that money to make the situation better for Mom. Get her a private room at ... Get her more space.

Have things in that room that she would be comfortable having and making her feel more adjusted there. Whether it's a television or a nice chair or different bedding or whatever it might be, we can utilize that money to make sure Mom gets whatever it is that she needs. Also, if Mom likes to go to the Royals game, then they can utilize that money to pay for Mom to go to the Royals game. If Mom likes to travel, those types of things, the money can be utilized for ... To accomplish whatever goals that the family sets out.

The other thing that is extremely important for the listeners to understand is families need to be on the same page, and it can be a rare situation where everybody will agree, but especially at our firm, we require the family to be involved in the process so that everybody is completely clear about what the goals are because somebody on the outside who's not kept informed, they're gonna think something fishy's going on, when really there isn't. The goal is to be helping Mom and Dad, and so it's really important for your listeners to be having those conversations with their kids or their family members or the decision-makers that they might have and explain to them why it is they're doing what they're doing and take those kids to the lawyer's office with you so the lawyer can sit down and have that conversation with them so that they understand what's going on.

Bill Keen: That's a great point, and we just put out a blog on this blog and podcast that we do that talked about our progress as a key wealth for family meetings-

Polly Blomquist: Wonderful.

Bill Keen: And exactly kind of the agenda and what we go through and bringing the family together, 'cause we ... In working with folks, I have clients that have been with me 25, 27 years. You get to know people. You get to live intimately.

Polly Blomquist: Absolutely.

Bill Keen: Bringing those second, even third generations into those conversations where it makes sense is super important, and including the other professionals as well.

Polly Blomquist: Oh, absolutely, and getting the accountants onboard and the financial advisors onboard, especially because a lot of this planning does have tax implications and I am not an accountant. I cannot tell you what this is going to do to your taxes, and I tell accountants and financial advisors all the time, the goal for this many years has been to grow wealth, grow wealth, grow wealth, and now we're in the ... We're shifting that idea a bit to saying, "How can we preserve wealth?" That doesn't mean that wealth can't still grow, but there has to be an event that shifts just a little bit. That can look a little bit crazy if you're looking at it from the other way.

Bill Keen: For sure. For sure. Steve, have we just ... You've just ... You've been quiet this entire episode. I hope you're awake over there.

Steve Sanduski: I am spellbound, and I mean that in the best possible way. I mean, this information is so important, and if I can, I would love to ask a question here. We've got a situation on this end where we have parents who are wealthy and one is in a nursing home, and the other spouse is relatively healthy and can live independently. Now, they have shared very little with the children in terms of their situation, and so we don't have a good sense for what planning has or has not been done. They indicate that they have done some planning, but what do you suggest in situations where the elderly couple is not very forthcoming with the children? The children want to help but the parents are not really open to the help?

Polly Blomquist: That is a great question, Steve, and with the generations before us and especially those World War II generation, they have that culture of, "We don't talk about money. We don't talk about these big decisions 'cause it's really none of your business."

Steve Sanduski: That's right.

Polly Blomquist: I think if you sit Mom and Dad down and make it very clear that we don't care about money for us. This is not ... We know that this is not our money, we know that this is your money, and we don't want to get into your business to be invasive. We want to make sure that you are protected and that ... Make clear the goals that you have for them and make sure that their goals ... Let them know that you want to help them accomplish their goals and that there are strategies out there.

The problem is is that most people don't know that these options are available. The nursing home is definitely not gonna tell you, and Medicaid isn't gonna advertise it, either, so it's important that our seniors receive this information, and once they hear it, they're definitely more interested in having those conversations. Hopefully if we equip them ... You equip them with information and let them know that your desire is for them to be as independent as possible and to let them know that you are on that same path with them and want to help them accomplish those goals and have those conversations with them.

Kids a lot of times don't want to approach their parents about this because they're afraid their parents are gonna think, "My kid is being greedy and trying to take over my life." Well, if you approach it in a way that is non-threatening and encouraging to that parent and understanding of their independence, I believe they're gonna be a little bit more willing to talk about it.

Steve Sanduski: Yeah, well, that's great advice, and of course, we've all seen situations like this that have just gone really negative. I've got another situation, another relationship where the child ended up with a power of attorney and was actually withholding some payments for the child's mother for some healthcare because he did not want to spend his inheritance of taking care of his Mom. An attorney had to get involved for the mother to pull back that power of attorney and it was just ... It was a mess, so if people are not forthcoming, if they're not approaching this with a sense of love and genuineness and we all want to do what's best here, it can get ugly.

Polly Blomquist: It absolutely can, and it's important for people to know that there are options. If there is a power of attorney out there that is being abused or you fear is being abused, and I know the law in Missouri better than I know elsewhere, but there is something that you can do called a petition for accounting, and you can require that individual who has that power to account for what it is that they have been doing. An interested party in every state is gonna have ... Their law is gonna be a little bit different, and the definition of who that interested party is, if it's just a caring and concerned friend or if it's a family member, they can have the court request that the court set ... Put eyes on what it is that that individual has been doing over the years.

Steve Sanduski: Yeah, and that particular case ended up having a reasonably happy ending and the mother in the situation here lived to reach her 100th birthday.

Polly Blomquist: Wonderful.

Steve Sanduski: I was able to be there for the celebration. It was a wonderful celebration at the nursing home and she ended up having another family member who took wonderful care for her in her remaining time and made sure that she was in a very nice surroundings, because she did have money and she could afford it. Her final days I think were as good as could be expected in that situation.

Polly Blomquist: Wonderful. I'm glad to hear that.

Bill Keen: One last question. In Steve's first example, what happens, Polly, if you have the two elderly parents in this case who never want to talk about it? They stay very closed, and then they start failing. Their mental capacity is now failing and ... What ultimately happens where it's clear that they're now failing? They're either being taken advantage of, there's elder abuse, there's fraud, there's all those things that happen. Is a child able to step in legally then and take over? Is that a whole process then, too?

Polly Blomquist: It is, and it's similar to the hearing that I had this morning.

Bill Keen: Okay, sure.

Polly Blomquist: In that situation, you have to hire an attorney and petition the court for guardianship and conservatorship, and at that point they have to be legally declared incapacitated and disabled for that individual to be appointed as the fiduciary in their life or guardian and conservator to take over. That's another reason why those foundational documents are so important because if those are in place, those durable powers of attorney kick in and you can avoid that guardianship and conservatorship that is so very invasive because the court can deny your ability to drive, to vote, to marry. I mean, are ... Those things that we have foundationally relied on. Those rights that have been given to us in our country can be stripped away at the pounding of a gavel.

Getting those documents in place is so very important, and when you're having those discussions with your parents about having those durable powers of attorney, letting them know when you sign at the bottom of this document, that's not saying that you don't get a say anymore. That's just allowing me to be your helper. That just allows me to come alongside you and accomplish the goals that you have.

Bill Keen: That's a big distinction, isn't it?

Polly Blomquist: Mm-hmm (affirmative).

Steve Sanduski: Well, Bill, Polly, we're gonna go ahead and wrap up here and I just want to thank both of you for bringing light to this extremely important topic. It's something that many of us are either facing right now, or we will have to face at some point down the road. I am very appreciate that this episode that we've done here I think is gonna be able to help a lot of people and I think everyone can understand now that there are a variety of strategies that you can engage in when you work with professionals like Bill, like Polly, who understand what they're doing. There are ways that you can protect your assets. There are ways that you can ensure that your loved ones end up in as good of a healthcare environment as possible given their situation without draining the financial account.

Again, just a tremendous episode and I want to thank both of you for bringing light to this very, very important topic.

Polly Blomquist: Thank you for having me, Steve.

Bill Keen: Thanks, Steve, and Polly, thank you again so much for taking time out of your busy day to join us in the studio. It's much appreciated.

Polly Blomquist: I enjoyed it. Thank you for having me.

Bill Keen: You're welcome.