Estate planning more than a will

For many, estate planning is a fancy way of preparing a will. However, the two are certainly not one in the same, and the belief that they are is just one of the many common misconceptions about estate planning.

Estate planning is particularly important when anticipating potential long-term care expenses that can deplete the family nest egg at an alarming rate. With proper planning, it may be possible to preserve assets for heirs and provide for disabled children, while taking advantage of available public programs, like Medicaid, for financing long-term care needs.

"Many people don't realize that conventional estate planning and gifting strategies may be acceptable to the IRS, but they could disqualify you or your spouse from eligibility for Medicaid to pay the exorbitant costs of a nursing home. Planning for long-term care costs requires different strategies from traditional estate planning and mistakes can be very costly," says John A. Zucker, Esq. of Rose & Zucker, LLC in Bayonne, New Jersey.

Probate is the legal process wherein a person's will or estate is renewed before title can be transferred from the decedent's name into that of the living beneficiaries. Some people believe a good will can avoid probate and that transfer of assets will occur immediately. In fact, a will often mandates probate, and the process of asset transfer can take anywhere from a few months to several years. For people with property in different states, a probate hearing is often required in each state where property is owned.

It's important to note, however, that probate can be avoided. Each case is individual, yet there are ways around timely and ultimately expensive probate. Discussing the different avenues available to avoid probate is a good start to estate planning.

Stephen S. Rose and John A. Zucker
of Rose & Zucker, LLC

Even jointly shared assets require estate planning. some people feel that jointly shared assets are a way around estate planning. While it's true that jointly shared assets can avoid probate (until the last owner's death, that is), jointly shared assets might be subject to estate or gift taxes. In addition, jointly shared assets are subject to creditors of all owners, which can create problems.

Finally, if a decedent with jointly shared assets did not intend for those assets to be transferred to other owner upon the decedent's death, without an estate plan, the surviving joint owner will have all assets transferred to him.