



# The Anchor

Elder Law Practice of Timothy L. Takacs

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## Traveling and Dementia



Traveling with someone who has dementia can sometimes be successful. People with dementia, however, generally do best in well ordered, familiar and stable settings. Traveling can present hazards and challenges.

Watch for the following warning signs:

- Consistent disorientation or agitation in familiar settings.
- Wanting to go home when away from home on short visits.
- Delusional, paranoid or aggressive, uninhibited behavior.
- Contenance management problems.
- Teary, anxious, or withdrawn in crowded, noisy settings.
- Agitated or wandering behavior.

## Deficit Reduction Act Tightens Medicare and Medicaid Spending

On February 8, 2006, President Bush signed The Deficit Reduction Act (DRA) of 2005. The DRA is intended to primarily slow the pace of spending growth on Medicare, Medicaid, and Social Security, which is predicted to account for 60 percent of the Federal budget by 2030.

Following are some of the DRA provisions:

- 1) Together with the Medicare Act of 2003, the DRA requires wealthier seniors to pay higher Medicare premiums.
- 2) It should reduce Federal overpayment for prescription drugs.
- 3) It gives governors more flexibility to design Medicaid benefits that efficiently and affordably meet their states' needs. The DRA makes significant

changes in Medicaid eligibility requirements for long-term care coverage.

Regardless of the effective dates indicated in

the Act, those provisions that create new state options for Medicaid will not become effective until the state has fulfilled the requirements under state law for changes to its Medicaid state plan. Where possible, some states will likely prepare their state plan amendments in advance, so that new options are in effect on the first possible date under federal law.

The Congressional Budget Office estimates that the DRA will reduce federal Medicaid spending by \$11.5 billion over the next five year period and by \$43.2 billion over the next ten years. These reductions

are offset by several provisions to increase spending, including

health care relief related to Hurricane Katrina,

*...gives governors more flexibility to design Medicaid benefits...*

for a net Medicaid reduction of \$4.8 billion over the next five years and \$26.1 billion over the next ten years.

Other provisions of the DRA include new resources for low-income Americans to help pay their heating bills, new funding for low-income disabled children, and improving federal student loan programs and benefits to students.

The Act also includes reauthorizing welfare reform which allows faith-based groups, that provide social services, to receive Federal funding without altering their religious identity or changing the way they hire. ~



## Questions and Answers

**Q** *My 89 year old father has been on Medicaid nursing home benefits since November 2005. Who pays for drugs administered to him by the nursing home?*

**A** Generally speaking, TennCare Medicaid should pay for his drugs for November and December, 2005. Medicare Part D should pay for covered drugs January 1, 2006 forward.

**Q** *Is a "Medicaid friendly" annuity the same as a tax-deferred annuity?*

**A** The type of annuity used in Medicaid planning is an immediate irrevocable annuity. It is not a tax-deferred annuity. A tax-deferred annuity -- the most common type of annuity -- is not irrevocable, although the owner is penalized for withdrawing the money from it before the annuity comes due.

**Q** *Does Medicaid or Medicare help cover assisted living facility costs?*

**A** No. Neither program covers assisted liv-

ing costs. In most cases, it is considered to be a private pay expense although sometimes long term care insurance policies and VA can provide financial assistance.

**Q** *What is long term care insurance?*

**A** Long term care insurance covers a person against the costs of home health care, community-based care (assisted living, etc) and nursing home care. It can work in conjunction with Medicare or private health insurance. ~



"The art of being wise is knowing what to overlook."

- William James

## Beyond the Medicare Part D Deadline

**T**he end of the initial enrollment period for Medicare Prescription Drug Coverage (known as Part D) arrived May 15, 2006. Following are some tips and reminders:

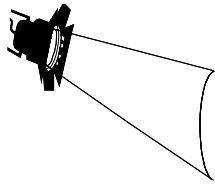
1. The deadline did not apply to those who have "creditable" drug coverage. Such individuals may enroll in a Medicare drug plan within 63 days of losing coverage as long as there is proof of creditable coverage.
2. Application for the Low Income Subsidy (LIS) was

not subject to the May 15th deadline. Beneficiaries who qualify may apply any time throughout the year. For those who are newly qualified for the LIS, a one-time opportunity will be given to enroll in a Medicare drug plan (although a penalty may still apply for the months without drug coverage.)

3. Generally, Medicare beneficiaries may not switch plans after May 15 (until November 15 through December 31,

- 2006) BUT exceptions do apply in special circumstances such as to beneficiaries who are admitted or discharged from a nursing home and LIS recipients.
4. When filling prescriptions, get in the habit of asking your doctor and pharmacist if the prescribed medicine is on your drug plan's "formulary."
  5. Use Medicare's help line, open 24/7: 1-800-633-4227.~





## Guest Column

### *Home Transitions, Downsizing and Relocation*

A new industry is percolating to assist seniors through a challenging, sometimes wrenching, chapter. The profession is known as *Senior Move Specialists* (SMS).

Across America, many seniors and their families struggle with the difficult decision to move. For some, it is a local move from a life-long, multi-level residence to a smaller, single level unit, to a condo, a retirement or assisted care community.

For some, it is out-of-state, to be nearer to family. While some seniors have the luxury of time and choice, others are frequently caught off guard by a crisis such as a broken bone, the sudden death of a care-giving spouse, or a disabling disease. Making the decision to move can be wrenching. Following are some case examples:

Professor Plum, a recent widower, is moving to a retirement community. His home of



40 years is filled with a lifetime of belongings... indeed treasures. His real estate agent told him to ready the house for market, and that meant he would have to “de-clutter” all of his household effects (or his “stuff”). Beyond that, he would be downsizing from a 5-bedroom home to a 2-bedroom apartment; and then there was the actual move itself. A competent professional in his pre-retirement years, he is now anxious and uncertain about how to go about all of the preparation and organization.

Mrs. White, a healthy 75 year old, needs help in preparing for her move to a retirement community. Her adult children are busy professionals, who juggle career and family and may not even live in town. She hates the idea of encroaching on their limited time or inconveniencing them. She also wants to remain in control and not be “over-Mothered” by any of them through this



phase.

Mr. Green used two weeks of vacation to help his father, when he had a stroke and then made the decision that his father would live with him after discharge. As he juggles work, family, visits to the rehab facility, and setting up a room for him in his house, he soon realizes that he has to do something with his father’s 3-bedroom house. Mentally and physically, he is exhausted.

Senior Move Specialists can help all types of people but principally, seniors, people with disabilities, and their family members, to manage all of the tasks of moving and coping with the emotional aspects of leaving a long held residence.

Although services vary by company, they normally include help with most aspects of moving, such as the following:

- Guidance on area communities
- Referring a Realtor or other needed professional
- Sorting, clearing, packing, routing, and disposition of household effects



“The shortest way to do many things is to do only one thing at a time.”

- Richard Cech

## *Home Transitions, Downsizing and Relocation* (continued)

- Planning, preparing, coordinating and overseeing the movers and the move
- Arranging for appraisals and estate sales
- Developing a floorplan of the new home and mapping out furniture placement
- Continual interface with family
- Unpacking and set-up in the new residence

SMS firms can usually do as much or as little as the family circumstance requires. The cost of the service(s) essentially

comes down to how much time SMS professionals are “on the job.” Free visits and assessments are usually offered.

A number of demographic trends are fueling the growth of this new industry: increased longevity and mobility; aging of the baby boomers; increasing need for support services; geographic dispersion of adult children; two career families; divorce, divided families; and new, independent living options.

The SMS industry, vari-

ously known as *Senior Move Specialists, Personal or Senior Move Managers*, dates back 8-10 years. For more information, refer to [www.nasmm.com](http://www.nasmm.com).

*Steve Mathews is Director of Marketing for Always Home, Inc., an early SMS firm operating locally since 1998. Steve currently serves as President of Senior Services Network and board member of Council on Aging and Senior Citizens Foundation. For assistance, call (615) 477-6401 or e-mail: stevemathews@alwayshome.net. ~*



“Choose a job you love and you will never have to work a day in your life.”

- Confucius

## TennCare and Nursing Home Patients



**N**ursing home residents who have Medicaid are automatically enrolled in TennCare. Medicaid provides coverage for the patient’s nursing home care.

TennCare provides coverage for doctor visits, hospitalization, medical supplies, etc.

Patients who have both Medicare and TennCare (“dual eligibles”) can continue to see their usual doctor. TennCare pays *after* Medicare pays **even if that doctor is not enrolled in the**

**patient’s TennCare insurance plan.**

TennCare materials mailed to new enrollees, who also have Medicare, can be misleading because it directs the patient to seek care from only “network” providers. A catalog of network providers generally accompanies the TennCare materials.

While most TennCare recipients are restricted to using a primary care physician and network providers, dual eligibles are

not subject to the same restrictions.

When seeking health care services, the nursing home patient’s identification cards for both Medicare and TennCare should be presented to the provider. A claim will be filed to Medicare first. Once Medicare has completed the claim, the claim data should be automatically transferred for secondary payment by TennCare/Medicaid. There is usually no patient liability for covered services. ~

## Takacs Tidbits

The elder-centered approach used by the Elder Law Practice in planning for long-term care is growing in popularity.

Nationwide, more and more elder law attorneys express interest in learning about this unique approach, also referred to as *life care planning*. Tim describes it as

“our discovering the client-elder’s place on the elder care continuum and then figuring out what we need to do to identify, access, and pay for good care for the client, both now and in the future.”

Due to the interest shown, the Elder Law Practice has conducted several weekend programs for other

attorneys. In fact, the program is often hosted by other attorneys across the U.S.

Tim Takacs and David McGuffey have also been invited to present the topic at the Pennsylvania Bar Institute and the Texas Chapter of the National Elder Law Attorneys.~

## Educate Yourself on Annuities

Over the past five years, there has been a significant increase in annuity sales to senior citizens. The annuity business has long been criticized by regulators and consumer advocates for misrepresenting its products and preying on senior citizens.

The National Association of Insurance Commissioners has published some helpful tips for people who are considering purchasing an annuity.

### *What is an Annuity?*

An annuity is a contract in which an insurance company makes a series of income payments at regular intervals in return for a premium or premiums paid. Annuities are often bought for future retirement income.

### *Is an Annuity Right for You?*

You should think about what your goals are for the money you may put into the annuity and how much risk you are willing to take.

### *Ask yourself the following questions:*

\$ How much retirement income will you need in addition to what you will get from Social Security and pension?

\$ Will you need that additional income only for yourself or for yourself and others?

\$ How long can you leave money in the annuity and does the annuity let you take out money when you need it?

\$ Is this a single premium or multiple premium

contract?

\$ For a fixed annuity, what is the initial interest rate and how long is it guaranteed?

\$ Can partial withdrawal be made without paying surrender or other charges and is there a death benefit?

Find out the differences between the different types of annuities:

- Single Premium Annuity
- Multiple Premium Annuity
- Immediate Annuity
- Deferred Annuity
- Fixed Annuity
- Variable Annuity
- Equity-Indexed Annuity

As with any insurance product, always review the contract and be sure you understand the terms and conditions. ~



“Faith is taking the first step even when you don’t see the whole staircase.”

- Martin Luther King, Jr.

*The Anchor* is a quarterly newsletter designed to enhance the service we provide to our clients. We hope you enjoy the publication and welcome your feedback.

Elder Law is a unique specialty of law intended to serve the needs of the elderly, disabled, and their families. The costs of utilizing such services are usually offset by the financial benefits gained as well as peace of mind.

Some clients who seek our services might feel like they are being tossed in a storm. Forces beyond one's control can catch a family off guard and easily drift them into a crisis situation. With professional assistance, including careful analysis and strategic planning, costly mistakes can be avoided while enhancing the quality of life for those involved.

While the Elder Law Practice of Timothy L. Takacs cannot stop the storm, we can provide the necessary anchor to help steady families during their season of turmoil.~

Information contained herein may contain general explanations of laws. It should not be considered as legal advice. Please seek counsel from an attorney regarding specific legal planning.  
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June 15-18 Tennessee Disability Megaconference Cool Springs Marriott, 800-835-7077  
June 20, Elder Law Education David McGuffey, White County Senior Citizens Center, Sparta 931-836-3663  
June 27, Tim Takacs guest on Open Line, NewChannel 5+ (Comcast Cable Channel 50) 7pm  
Alzheimer's Family Care Network, 353-1990, ext. 231, 2nd Tuesdays 6:30 pm  
Alzheimer's Family Care Network, call (615) 292-4938 for dates, times and locations closest to you  
Mental Health Association Education & Events, call 269-5355 for dates, times and locations  
Caregiver Support Group at St. Josephs Church (615) 860-0128, first Tuesdays 6:30-8:00 pm  
Stroke Support Group, Skyline Medical Center, Rehab Center (615) 769-7300, 2nd Tuesdays 12:00 pm  
For more coming events, contact Area Agency on Aging & Disability (615) 862-8828, www.gnrcaad.org

*Coming Events*

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