



The Anchor

ELDER LAW PRACTICE OF TIMOTHY L. TAKACS

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Spring 2009

Issue 30

New Law Promises Long-Term Care Reform

Coming Events

May 14, Tim Takacs guest on OpenLine, NewsChannel 5+
(Comcast Cable Channel 50) 7:00 p.m.

May 21, Being an Advocate, part of the Community Spouse Workshop Series for ELP clients every third Thursday at 3:30 p.m. (615) 824-2571

June 8, Tim Takacs guest on Morning-Line, NewsChannel 5+
(Comcast Cable Channel 50) 8:00 a.m.

June 24, Dementia 360, a day-long workshop for professionals and family caregivers. See page 4.

Mental Health Association Education & Events, call (615) 269-5355 for dates, times and locations.

Alzheimer's Family Care Network, call (615) 292-4938, ext. 15 for dates, times and locations closest to you.

Caregiver Support Group at St. Joseph's Church, Madison (615) 860-0128, first Tuesdays 6:30-8:00 p.m.

Governor Bredesen signed into law the Long-Term Care Community Choices Act of 2008, which is designed to correct problems in the Medicaid Long-Term Care (LTC) service delivery system for persons in Tennessee who are elderly or who have physical disabilities. The legislation promises:

- ♥ A single point of contact for information about long-term care options
- ♥ Simple and fast process to apply for services
- ♥ A single entity to coordinate all of the kinds of medical and non-medical care needed
- ♥ More choices about the kinds of care needed, where it will be provided, and by whom

- ♥ More service options in home and community based settings that do not exist today
- ♥ More opportunity to stay in their own home and receive needed service
- ♥ Support for family caregivers who are helping meet the needs of loved ones at home.

Keeping loved ones at home longer is a recurring theme in this legislation. The expansion of home and community based services programs gives the State the ability to offer more kinds of home care options and to serve more people using existing LTC funds.

It also expands options for the way families receive those services, which may include the

ability to select, direct, and even employ staff who will deliver care, with controls in place to ensure accountability for taxpayer funds.

It changes the licensure requirements for

The Long-Term Care Community Choices Act promises more options for care.

Assisted-Care Living Facility Services to allow the benefit to be

more flexible so that people will not be forced to leave their "home" in an Assisted Living Facility in order to receive certain kinds of medical services that could be provided there, just as they could be in the person's private residence.

Implementation will start in Middle Tennessee in July. East Tennessee will go online around January 2010 and West Tennessee around April 2010. Will the new law fix the problems? That remains to be seen. ~

? Questions & Answers

Q How do VA health benefits work with Medicare prescription drug coverage?

A If you decide that VA drug coverage meets your needs, you can choose not to join a Medicare drug plan. VA prescription drug coverage is considered creditable drug coverage, which means it expects to pay, on average, at least as much as Medicare drug coverage. If you decide you want to join a Medicare drug plan after you are first eligible, you won't have to pay a late

enrollment penalty, however, there are certain time frames for enrollment.

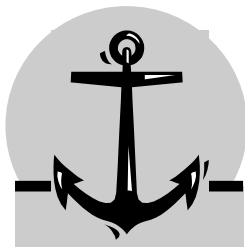
Q What is "countable income" for the VA Death Pension eligibility?

A This includes income received from most sources by the surviving spouse and any eligible children. It includes earnings, disability and retirement payments, interest and dividends, and net income from farming or business. Certain expenses like medical expenses may be excluded

from your annual income to lower the total countable income.

Q What is the "gift tax exclusion?"

A It is the amount of money you can give away without being subject to gift tax. You can give away up to \$13,000 to anyone you want, to as many people as you want, each year. Married couples can give away twice that amount. Medical and tuition payments may also qualify, as long as the payments are made directly to the institution.~



"For after all, the best thing one can do when it's raining..."

When Charities Can't Help...

Millions of senior citizens depend on non-profit charities for everyday amenities, food and more. Charities generally tend to fill the gap between what Medicare covers and what it does not.

Over the last several months, seniors have been waking up and realizing that their daily meals on wheels are not coming, their transportation has been canceled and their community events are non-existent. Due to the unfortunate economic

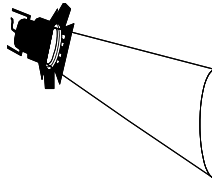
situation, many of the services provided by local or national charities have been forced to downsize the number of services they offer, while others are actually shutting their doors.

Experts don't expect things to change anytime soon. "This is just the tip of the iceberg," said Diana Aviv, President and CEO of the Independent Sector, a trade association for non-profit groups. Aviv says donations have decreased

across the board and loans have become close to impossible to obtain for all non-profit charities.

Seniors are encouraged to have backup plans in place in case the charity cannot provide its services. Seniors should also become less dependent on such charities, if possible. The economic situation is not getting better. Therefore, seniors and their caregivers must be prepared for the worst case scenario and seek out options.~





GUEST COLUMN

The Who, What & Where of Homecare

There's no place like home, especially when it comes to creating a healing and relaxing environment during an illness or after a surgery. Home is the place where family, friends and familiar surroundings make your loved one more comfortable. Most people recover faster and the cost is usually much less than lengthy hospital stays.

WHAT is homecare? Homecare is defined as skilled care delivered on an intermittent basis outside a hospital setting. Examples include nursing services; physical, occupational, or speech therapy; home health aid assistance; and medical social services. In order to be eligible for Medicare reimbursement, homecare must be intermittent and the patient must meet all "homebound" criteria. In addition to Medicare reimbursed services, homecare companies can provide nurses or caregivers that stay from 2 to 24 hours shifts under

private duty.

WHERE is homecare performed? It can be most anywhere you call home—from a single family dwelling, apartment or assisted living facility to a homeless shelter or even under a bridge as long the patient is consistently there for visits from providers.

HOW do you get homecare? It starts with a call to your doctor. Let him or her know that you want homecare service. Your doctor will contact a homecare agency with orders. Keep in mind that you and your loved one have the right to choose the homecare provider. If you choose someone other than the one you were referred to, make your wishes known to your physician.

The homecare provider will then visit the patient and develop a proposed care plan with input from both the patient and caregiver. The physician must be willing to oversee treatment and sign off on the plan of care, which may

be renewed if certain criteria are met.

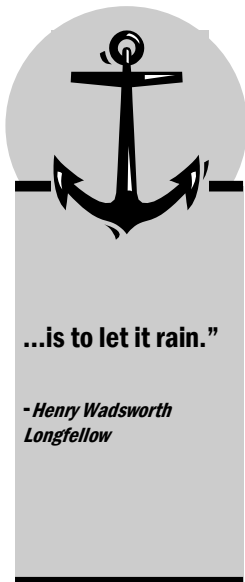
WHO pays for homecare? Homecare expenses can be paid by state and federally funded programs like Medicaid and Medicare, private insurance, HMOs and PPOs, or long-term care insurance. Some patients pay for their own care.

WHEN might homecare be helpful? Homecare may be appropriate after a hospitalization, to manage pain, to teach caregivers about disease, to address gait or balance issues, for medication management, and to manage behaviors and dementia.

Homecare agencies differ widely in their capabilities and skill. Research all your options and choose a homecare provider as carefully as you would choose a surgeon or a hospital.

Carol Keopf, R.N. is Nurse Liaison for Vanderbilt Home Care Services Inc. Contact Carol at (615) 936-0336 or at carol.keopf@vanderbilt.edu

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HCBS Waiver Program to Expand

Governor Bredesen and the Tennessee General Assembly have approved plans to expand enrollment in the existing Home and Community-Based Services (HCBS Waiver) program. Intended for people who qualify for Medicaid and who would qualify for nursing home care but want to receive more cost-effective care at home instead, the HCBS Waiver offers 13 different kinds of home care services based on the needs of each person as determined by a doctor's care plan.

Personal Care Services such as bathing, dressing, eating and toileting.

Personal Care Attendant to help with activities of daily living.

Homemaker Services for household tasks.

Home Delivered Meals including one meal a day.

Adult Day Care so the elder can spend time with others.

In-Home Respite so caregivers can get some rest.

Inpatient Respite at a nursing home or assisted care living facility.

Assistive Technology such as grabbers or big-handled eating utensils.

Home Modifications to make it easier and safer for the elder in the home.

Personal Response System for help in an emergency.

Extermination Services to spray for household pests.

Assisted Living services.

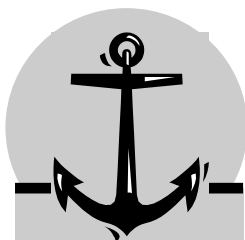
Case Management to insure care meets needs.

The program allows for compensation of family members in some circumstances. The State will identify "gaps" in care

where family and other uncompensated caregivers are not able to meet the person's needs. Services will then be provided to fill those gaps and to help support unpaid family and other caregivers.

The goal is to help sustain caregivers, thus delaying the need for more expensive institutional care.

Participants have the choice of deciding whether they wish such services to be provided by an agency or by other non-traditional caregivers, which may include family members, friends, and neighbors.~



"The art of being wise..."

FAMILY EDUCATION

Dementia 360

A Light in the Dark for Caregivers

Wednesday, June 24, 2009

8:00 a.m.—3:30 p.m.

Gordon Jewish Community Center, Nashville, TN

Elder Law Practice of Timothy L. Takacs, Alzheimer's Association Mid South Chapter and Jewish Family Service are sponsoring an educational conference for health care providers and family caregivers. Learn about the latest dementia research, treatment and coping strategies from dementia care specialist, Teepa Snow, MS, OTR/L, FAOTA. Enjoy breakfast, lunch and additional information furnished by exhibitors. Cost is \$20 for family caregivers, \$35 for professionals. For more information, call (615) 824-2571 or visit www.tn-elderlaw.com. Registration closes June 5. ~

Takacs Tidbits

Did you know that Timothy L. Takacs changed the way elder law is practiced in the U.S.?

In the early 1990s, Tim saw that clients needed care-related services that were outside the scope of his traditional asset-focused elder law practice.

Deeply concerned about his clients' well-being, he assembled an interdisciplinary team of professionals to identify present and potential future care needs, locate appropriate care, coordinate private and

public resources to pay for care, and ensure high-quality care.

Tim called his approach *Life Care Planning* and created a business model to deliver these services in a single, integrated law practice, the first of its kind in the U.S.

As Tim promoted the new practice model at National Association of Elder Law Attorneys (NAELA) meetings, interest grew. Eventually, he began teaching elder law

attorneys how to implement the *Life Care Planning* practice model. Today, more than 200

elder law attorneys nationwide practice *Life Care Planning*, supported by the Life Care Planning Law



Firms Association, a professional association that Tim founded. For more information about *Life Care Planning*, visit www.tn-elderlaw.com or www.lcplfa.org.

Report Details Elder Financial Abuse

A new study claims that elder financial abuse costs senior citizens more than \$2.6 billion per year and most often is perpetrated by family members and caregivers. The report, called "Broken Trust: Elders, Family and Finances," was produced by the MetLife Mature Market Institute in partnership with the National Committee for the Prevention of Elder Abuse and Virginia Polytechnic Institute and State University.

Elder financial abuse occurs when seniors are

exploited by those managing their money. Abuse may include fraud, repair and contract scams, false advice from loan officers or other financial officers, abuse of power of attorney privileges, identity theft and Medicare and Medicaid fraud.

Up to 1 million elderly Americans may be targeted each year, the study found, with related costs such as health care, social services, investigations, legal fees and lost income reaching tens of millions of dollars annually. For every instance of elder abuse that

is reported, the report estimates there are an additional four cases that go unreported. Some seniors do not report such abuse for various reasons, including fear of government involvement, parents protecting their children, embarrassment and self-blame. Visit www.maturemarketinstitute.com to request a free copy of the report.

Do You Qualify...

...for the \$250 economic stimulus payment for retired and disabled people? Call (615) 824-2571 for eligibility info.

...is knowing what to overlook."

-Williams James

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 legal planning.
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