



The Anchor

ELDER LAW PRACTICE OF TIMOTHY L. TAKACS ♦ 201 WALTON FERRY ROAD, HENDERSONVILLE, TN
Serving Middle Tennessee and the Upper Cumberland Region

Fall 2009

Issue 32

Coming Events

October 12

Tim Takacs guest on Morning-Line, NewsChannel 5+

(Comcast Cable Channel 50) 8:00 a.m.

October 23

Doctoberfest

Summer Regional Medical Center, Gallatin (615) 328-5083.

October 28

Senior Caregiver Expo

Hyder-Burks Agricultural Pavilion, Cookeville.

November 19

Tim Takacs guest on OpenLine, NewsChannel 5+

(Comcast Cable Channel 50) 7:00 p.m.

December 7

Tim Takacs guest on Morning-Line, NewsChannel 5+

(Comcast Cable Channel 50) 8:00 a.m.

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.

CMS Guidelines Call for Homelike Environments in Nursing Homes

The Centers for Medicare & Medicaid Services (CMS) have issued new guidance for nursing home surveyors emphasizing the importance of resident quality of life and homelike environments.

The changes, which went into effect on June 17, 2009, are intended to support efforts underway to transform nursing homes into "homey" environments through both environmental changes and resident-centered caregiving. Whereas in the past, these changes were sometimes stymied by fear that regulators would cite organizations for deficiencies, CMS is now making it clear that the regulations should be interpreted to support personal choice in the

full range of daily activities, including waking, bathing, dining, and sleeping. The new guidance also calls for visitors to have 24-hour access to residents, regardless of familial relationship.

The new interpretive guidelines call on nursing homes to begin or to continue de-institutionalizing their physical environments. Suggestions include: reducing noise such as overhead paging and alarm bells, eliminating nursing stations, taking down institutional signage, and refraining from serving meals on institutional trays.

According to the CMS memo: "A 'homelike' or homey environment is not achieved simply through enhancements to the physical environment. It concerns

striving for person-centered care that emphasizes individualization, relationships, and a psychosocial environment that welcomes each resident

and makes her/him comfortable."

De-institutionalized nursing homes provide better quality of life for residents.

The new CMS interpretive guidelines are the outcome of last April's historic symposium hosted by CMS and Pioneer Network. Long-term care innovators, regulators, researchers, architects, advocates and public officials came together in an unprecedented dialogue to discuss regulatory challenges and other issues associated with transforming the physical environments of nursing homes into comfortable, pleasurable places for elders to call home.~



Questions & Answers

Q *Do Medicare Advantage Plans offer different preventive care services than Original Medicare?*

A Possibly. Whether you have Original Medicare or a Medicare Advantage (private health) plan, your benefits will include coverage of a core set of preventive services. However, Medicare Advantage Plans can choose to cover additional benefits. Your costs and rules for getting the core services covered by Medicare may be different if you are in a Medicare private plan.

Q *What is SSI?*

A Supplemental Security Income (SSI) is a Federal income supplement program funded by general tax revenues (not Social Security taxes). It is designed to help aged, blind, and disabled people, who have little or no income and it provides cash to meet basic needs for food, clothing, and shelter.

Q *My mother has been on Medicare for three years. She never enrolled in a Medicare Part D plan because she didn't have*

very many prescriptions. Now, her prescriptions are going to cost \$1,100 per month. What can we do?

A Unless your mother is in a special situation such as, recently losing employer group coverage or recently discharged from a long-term care nursing facility, she will have to wait until the Medicare annual enrollment period (November 15 through December 31) to enroll in a Medicare Part D plan. Once enrolled in a Part D plan, it is likely that she will have a late penalty added to her monthly premium.~



"It is not by muscle, speed, or physical dexterity that great things are achieved, but by reflection, force of character, and judgment..."

Briefs

October is National Crime Prevention Month
In 2008, more than 485,000 Social Security and Supplemental Security Income (SSI) checks were reported lost or stolen and had to be reissued while an estimated \$64 million in checks issued by the U.S. Department of the Treasury were fraudulently endorsed. October—National Crime Prevention Month—is a good time to eliminate the risk of lost or stolen public benefit checks by switching from paper checks to direct deposit.~

E-Fax Streamlines Medicaid Process
The Elder Law Practice is now using e-Fax to expedite processing. A client's representative faxes application information to (615) 827-0161 where the information arrives via e-mail as a PDF. Staff members then transfer the information from the PDF directly into the programs used to prepare the client's case, which eliminates manual data entry, improves accuracy, cuts costs and saves time.~

Med Students Live in Nursing Homes
Med students at the University of New England College of Osteopathic Medicine get a taste of what it's like to lose independence and rely on a nursing home staff to take care of basic needs in the school's *Learning by Living* program. Students live at nursing homes for 10 days, keep daily journals and meet with staff afterwards to talk about the experience. The program goal is to train doctors who can relate to the needs of older patients.~

GUEST COLUMN



Protecting Your Life Insurance Policy from Medicaid Spend-Down

John is in a tight spot. He is 68 years old and has Parkinson's disease. He keeps putting off long-term care, because he doesn't have the money to pay for more than three years of care. But as his care needs increase, he must now turn to Medicaid for support.

Medicaid is a needs-based health program that assists people who are over age 65, disabled or blind. While John doesn't have much, he still needs to spend down some of his assets to meet the \$2,000 income and asset limit required for Medicaid eligibility.

Imagine John's surprise when he learns that Medicaid considers the cash value of a life insurance policy to be a liquid asset. That \$10,000 life insurance policy he bought years ago to cover

funeral expenses now has a cash value of \$9,500. The maximum cash value Medicaid allows in a life insurance policy is \$1,500, so it looks like he has no choice but to lose the remaining \$8,000 in the policy in order to qualify for Medicaid.

Actually, there is a way to keep all \$9,500 in John's estate – and still qualify him for Medicaid. Here's how:

Medicaid allows for a 1035 exchange, which is a direct transfer of up to \$12,500 to an irrevocable contract, such as a trust, without penalty or tax. Because the trust is irrevocable, John can't spend the money but it can pass to his estate and benefit his beneficiaries.

Upon John's death, money in the trust can be used to pay for funeral expenses,

including the burial plot, flowers, casket, etc. While a life insurance policy requires an original death certificate to release funds, this trust only requires a receipt of the expense. Best of all, the estate does not have to spend it all to get the funds. A \$75 receipt for flowers would be sufficient to release all of the money.

John's situation is very common. Without all the facts, seniors often forfeit significant assets without knowing there is any other way. That is why the help of a retirement specialist or elder law attorney can save you thousands.

Kerry Morris is co-founder of the Estate and Elder Planning Center in Franklin, Tennessee. Contact Kerry at (800) 475-0325, support@eepconline.com or visit assurancefinancialpartners.com. ~



Elder Law Practice Opens Virtual Office

The Elder Law Practice of Timothy L. Takacs has closed its Cookeville location and is now serving clients in the Upper Cumberland region from a virtual

office in the Cookeville area. Patsy Gentry, R.N., the firm's Cookeville-based Elder Care Coordinator, will work from a home-based office while Takacs and his staff of

care coordinators and public benefits specialists will continue to provide support from the firm's Hendersonville location. Contact Patsy at (931) 268-5761.~

Medicaid Basics—Part 2

Facts about the \$2,000 Rule and Dual Eligibility

EDITOR'S NOTE: This article is the second of a three-part series on Medicaid by Bryson Eubanks, Elder Law Practice Public Benefits Specialist.

This issue looks at two of the most common questions families ask after a loved one's Medicaid claim is approved.

How much can a nursing home resident have in the bank after being approved for Medicaid?

Once approved for Medicaid, the nursing home resident can never have more than \$2,000 dollars in their name at the end of any month. This applies to single persons and spousal cases.

The \$2,000 rule is often misunderstood. It applies to all accounts in the nursing home resident's name at the end of any month, not just the ones disclosed in the Medicaid application process.

In most cases, nursing home residents have just one account in their

name when the application process is complete. In other cases, family members will keep several accounts open, such as a checking and a savings account.

The combined balance of all accounts—checking, savings and others—must be less than \$2,000 combined, not \$2000 each. If the resources of a nursing home resident exceed \$2,000 at the end of any month, Medicaid benefits can be stopped. Therefore, it is very important for the responsible party to keep a close watch on this matter to make sure balances do not rise above the limit.

What does it mean to be Dual Eligible once approved for Medicaid?

Being dual eligible means that a nursing home resident is eligible for both Medicare and Medicaid.

Once a nursing home resident becomes dual eligible, health care providers need to be notified immediately in order to make sure that the resident is billed correctly for medical, medicinal, and other

services.

Submitting bills in the right order is very important when a nursing home resident is dual eligible.

- ♥ Medicare is billed first
- ♥ Supplemental insurance or prescription drug policy (if applicable) is billed second
- ♥ Medicaid is billed last.

If the health care provider is unaware of the nursing home resident's dual eligibility, the billing process may happen in the wrong order and the responsible party for the nursing home resident may receive a bill.

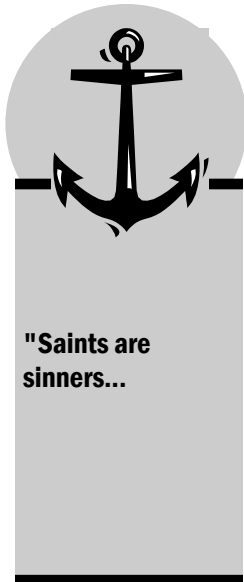
A single phone call to the provider will eliminate the need to spend time untangling complicated billing issues.~

IN THE NEXT ISSUE

What to expect during the Medicaid recertification process

On Hiatus

The *Community Spouse Workshop Series* will resume in January. Call (615) 824-2571 for schedule details.~



Takacs Tidbits

Did you know that you can *friend* Tim Takacs on Facebook or *follow* ttakacs on Twitter?

If you know what it means to *friend* or *follow*, why not connect to Tim on these popular social networking sites?

However, if the thought of the word “friend” being used as a verb makes you cringe or you believe that “following” is something only stalkers do, keep reading. Social networking websites like Facebook and Twitter are changing

the way people stay in touch.

facebook

Facebook is a social utility that connects people with people who work, study and live around them. Users can add *friends* and send them messages, and update their personal profiles to notify friends about themselves.

twitter

Twitter is a micro-blogging service that enables its users to send and read messages known as *tweets*.

Tweets are text-based posts of up to 140 characters displayed on the author's profile page and delivered to the author's subscribers who are known as *followers*.

Social networks can open up new opportunities for caregivers to connect with like-minded people. The ability to access Facebook and Twitter from mobile phones can make the long-term care journey less isolating for caregivers and those they love.~

Plan Ahead for Eldercare Weather Emergencies

Winter weather emergencies and storms can knock out electricity and access to services. Anyone caring for an aging relative should check in with them more often to make sure that they're prepared. Stay organized, and keep records of essential medical information such as:

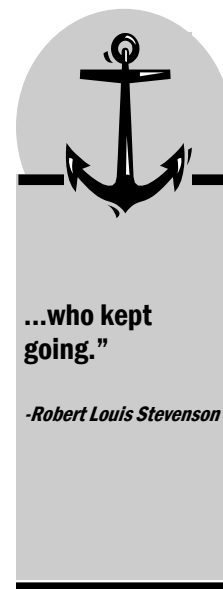
- ♥ The names and contact information for each of their doctors and service providers
- ♥ A list of medications and the contact information for their pharmacy

- ♥ Notes of their past appointments with physicians, treatment recommendations, and follow up
- ♥ A schedule of future appointments
- ♥ An emergency contact list of family telephone numbers
- ♥ Copies of eyeglass prescriptions, and prescriptions for other assistive devices such as walkers and diabetes monitoring devices

A loved one's home emergency-preparedness kit should include the usual

first-aid supplies and also instant cold packs, flashlights - including a model that can be used as a lantern - batteries, a radio, plus water and nonperishable food. Power outages can knock out cell-phone service, so a landline phone (with cord) is more reliable.

If evacuation is necessary, take their health notes along with their medications, eyeglasses, hearing aid batteries, and other assistive devices. Also important: figure out in advance how to arrange for a prescription refill if needed.~



...who kept going.”

-Robert Louis Stevenson

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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