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the CONTINUUM

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TennCare Changes: What You Need to Know

Funding Pooled Trusts is no longer an option for disabled adults over 65

It seems like TennCare rules change every year. This year has ushered in two major changes that will have a profound impact on people who are applying for TennCare CHOICES long-term care services.

Changes in Pooled Trusts

Based on 42 U.S.C. Section 1396(d)(4)(C), Pooled Trusts like Vista Points, Inc, have been a practical Medicaid spenddown tool for disabled adults of all ages. Pooled Trusts have proven to be particularly useful to people over the age of 65. In fact, in 2000, Takacs McGinnis Elder Care Law founder and Certified Elder Law Attorney Tim Takacs established the Tennessee Pooled Trust to serve this vulnerable population.

Unfortunately, thanks to the recent TennCare rule change, Pooled Trusts will no longer be an option for applicants over the age of 65 in Tennessee. The new rule will limit the use of Pooled Trusts to people under the age of 65, just like other Special Needs Trusts.

The new law states that Pooled Trusts can be established for individuals, under age 65, living with a physical or intellectual disability and who have resources over the asset limit for a government benefit. Assets are transferred into a Trust in an effort to qualify for or maintain government benefits while preserving those assets for the disabled person's individual use. This kind of Trust can be established by a parent, grandparent, conservator, court, or an individual with a disability and/or an attorney-in-fact. A Pooled Trust is different from other kinds of Trusts in that the trustee is a nonprofit organization.

Effective August 22, 2019, TennCare will not impose a period of ineligibility on transfers to a Trust established solely for the benefit of an individual under age 65 who is disabled according to the Social Security administration and that meets the requirements of 42 U.S.C. section 1396(d)(4)(C).

Will this affect someone you love? It will if they attempted a transfer

after August 22, 2019. This change should not have any impact on program eligibility for disabled adults over the age of 65 who transferred funds to a Pooled Trust prior to August 22, 2019.

Annuitization of Spousal IRAs

The second change related to TennCare CHOICES applications and financial eligibility involves the retirement accounts of the community spouse. Effective August 22, 2019 the retirement funds of a community spouse are fully countable if the funds are accessible to the owner. Previously, the retirement funds of the community spouse were not considered a resource if payments were being received. Ultimately, this means that an IRA will need to be annuitized in order to prevent it from being countable as a resource.

Whenever changes like these occur, it takes some time for the dust to settle. One thing is clear: TennCare continues to implement changes to rules and policies making eligibility for benefits harder on families with moderate means to pay for long-term care.

Team Tidbits

Congratulations, Movers & Shakers!

Over the summer, three Takacs McGinnis staff members received public recognition.

Associate Attorney Chris Johnson was appointed to the Leadership Summer Board of Directors. He is a 2019 graduate of the Leadership Summer program.

Outreach Coordinator Dana Hentschel was named 2019 Louise B. Katzman Volunteer of the Year by Mental Health America of the Mid-South. She is pictured with Tom Starling, Executive Director of Mental Health America of the Mid-South.

Medicare Specialist Joshua Hunter earned a Certificate in Elder Care Coordination from the Stockton Center on Successful Aging at the Richard Stockton College of New Jersey.

The digital edition of *The Continuum* offers more details about each staff member's accomplishment. Read about Chris Johnson at <https://bit.ly/34fPOcX>, read about Dana Hentschel at <https://bit.ly/2LivW0b>, and read about Joshua Hunter at <https://bit.ly/2Uhjcek>.



Chris Johnson



Joshua Hunter



Dana Hentschel



LearningCafé recap

CLIENT EDUCATION SERIES

Managing Grief

Coping with the loss of a close friend or family member may be one of the hardest challenges that many of us face. Everyone reacts differently to death and employs personal coping mechanisms for grief.

In a recent Learning Café event, Elder Care Coordinator Debra King discussed the complexities of the

grieving process and offered five tips to help people come to terms with the loss, along with advice for moving on in life.

The digital edition of *The Continuum* includes a video recap of Debra's presentation, along with the video transcript. View it at <https://youtu.be/c5GxKHZQKBE>.



Did you know that the digital edition of *The Continuum* often contains bonus content?

Email us at continuum@tn-elderlaw.com to subscribe to the digital edition.

If you know someone who might benefit from this publication, we encourage you to share it.

Guest Column

Amputations Due to Diabetes Can Be Prevented

Observing a few simple rules can make all the difference

Of all diabetes-related complications, a serious foot ulcer and subsequent amputation might be the most preventable with proper care and vigilance in checking the feet at least once a day for small cuts and other abrasions. Even those with good control of their blood sugar can experience foot ulcers, especially if neuropathy, a frequent diabetes complication, has caused decreased feeling on the bottom of their feet.

Loss of sensation inhibits the body's normal pain response. As a result, walking can apply repetitive, unfelt pressure to a wound, making it larger and deeper. Left untreated, diabetic ulcers lead to serious infections, which may result in amputation.

Foot and ankle surgeons use a variety of surgical and non-surgical methods to heal diabetic ulcers, but stressed early intervention yields the most favorable outcomes.

Daily self-exams are the best protection. Too often, patients fail to check their feet for small cuts or punctures that over time will ulcerate and become infected. If you have diabetes and see anything suspicious on your feet, consult a foot and ankle surgeon for diagnosis and treatment. Even a few days can make a difference in preventing serious foot problems from developing.

An estimated seven in ten diabetes patients have nerve damage that impairs feeling in their feet. Fifteen

percent eventually will develop a foot ulcer. Among those with ulcers, one in four will lose a foot. Each year more than 86,000 amputations are performed as a direct result of diabetes, and studies show half of those who have one foot or leg amputated will lose the other within five years. Proper diabetic foot care prevents foot loss.

In some cases, amputation might be the preferred option. If vascular and podiatric surgeries can't improve blood circulation and foot function, resolve infection or restore foot function, amputation may be the only solution that enables the patient to heal. Today, advances in prosthetics make it possible for patients to return to an active lifestyle, a necessity for keeping diabetes under control.

Foot problems are not an inevitable consequence of diabetes. The risk can be lessened significantly by following a few simple precautions:

- ◆ Keep your blood sugar under control.
- ◆ Lose weight, don't smoke, take your medication, and exercise.
- ◆ At least once a day, examine your feet for cuts and other small wounds you may not feel.
- ◆ Never walk barefoot, outdoors and indoors.
- ◆ Cut nails carefully – straight across and not too short; never

trim corns and calluses yourself.

- ◆ Wash your feet every day in lukewarm water; dry carefully.
- ◆ Choose comfortable shoes with adequate room for the toes.
- ◆ Wear clean, dry, non-bulky socks; change them daily.
- ◆ Shake pebbles or bits of gravel out of your shoes before wearing.
- ◆ Seek treatment from a foot and ankle surgeon if minor cuts and sore spots don't seem to be healing.

A few simple precautions today will go a long way toward preventing major problems down the road.



Dr. Gina Mendoza, DPM, FACFAS is a Doctor of Podiatric Medicine and founder of Mendoza Podiatry, a podiatric medicine and surgery practice with offices in Hendersonville and Lafayette, Tennessee. For more information, call (615) 826-0941 or visit mendozapodiatry.com.



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The Continuum is a quarterly newsletter designed to enhance the service Takacs McGinnis Elder Care Law, PLLC provides to clients. Please direct feedback, questions and comments to continuum@tn-elderlaw.com.

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