



# The Anchor

Elder Law Practice of Timothy L. Takacs

201 Walton Ferry Road, Hendersonville, TN • 1680 S. Jefferson, Suite A, Cookeville, TN

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Issue 25

## New Efforts to Enforce Estate Recovery

### Coming Events

**Feb. 12, Tim Takacs guest on Morning Line, NewsChannel 5+ (Comcast Cable Channel 50) 8am**

**Feb. 14 & 15, AARP Driver Safety Class**  
Madison Senior Center, call 860-7180 for reservations

**March 15, Tim Takacs guest on Open Line, NewsChannel 5+ (Comcast Cable Channel 50) 7pm**

**Alzheimer's Family Care Network**, call (615) 292-4938 for dates, times and locations

**Mental Health Association Education & Events**, call 269-5355 for dates, times and locations

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

**Stroke Support Group**, Skyline Medical Center, 1st Mondays, 2pm-4pm, (615) 865-0300, Free Stroke Screenings, 3rd Wednesdays, 8am-10am, 342-1919

Recent media attention has brought the term "estate recovery" into the spotlight. Some think that it is a new law.

Since the beginning of the Medicaid program in 1965, states have been permitted to recover from the estates of deceased Medicaid recipients who were over a certain age when they received benefits and who had no surviving spouse, minor child, or adult disabled child.

A study commissioned by the Health and Human Services showed that in 2003, estate recoveries amounted to \$330 million, or 0.13% of total Medicaid spending in all states, with individual state collections ranging from 0.0 - 0.64%.

Current state law allows recoveries to be made from the estates of deceased recipients who were 55 or older

when they received Medicaid or TennCare benefits or who, regardless of age, were permanently institutionalized. If the deceased recipient is survived by a spouse or disabled child, there is no estate recovery.

The Bureau of TennCare, the agency who oversees administration of Medicaid and TennCare in Tennessee, has recently been petitioning the probate court to open the estates in order to collect on TennCare's claims against estates of people who died after having received TennCare or Medicaid benefits.

In April 2006, the Bureau of TennCare hired an outside consulting firm in Atlanta, Georgia, to help find properties that were passed on to heirs without going to probate.

Confusion surrounds the letters that TennCare estate recovery is sending to the families of deceased individuals. The letters tell the family member

*Confusion surrounds the letters that TennCare estate recovery is sending...*

that they **must** respond within a certain

number of days and that they have an obligation to probate. If no response is given, subsequent letters are sent and imply that it is the family member's responsibility to pay.

There is no requirement that probate be started in Tennessee by anyone in particular and within any certain period of time. There is no requirement that a response be given to TennCare unless probate has been started. Also, there is no requirement that next of kin are personally responsible for benefits paid to the deceased. ~



## Questions and Answers

**Q** *Whose estate is subject to TennCare (Medicaid) recovery?*

**A** Any person age 55 and older for whom TennCare has paid for nursing facility services or care received from Home and Community Based Services. If the estate is not being probated, you do not have to provide the probate court information.

**Q** *How do I find out if the estate owes money to TennCare (Medicaid)?*

**A** The Bureau of TennCare requires that the executor of an estate in probate court complete a Request for Release Form and provide all requested documentation. If it is determined that no money is owed to the Bureau of TennCare, or that the estate of the deceased TennCare (Medicaid) enrollee is not subject to estate recovery, a release will be provided.

**Q** *What is the difference between TennCare and Medicaid?*

**A** "TennCare" is the name for Tennessee's Medicaid program that covers medical assistance. Every state has a Medicaid program. Medicaid provides medical assistance for certain individuals and families with low incomes and resources. Medicaid eligibility is limited to individuals who fall into specific categories. Although the Federal government establishes general guidelines for the program, the Medicaid program requirements are actually established by each State.~



"The years teach much which the days never knew."

- Ralph Waldo Emerson

## Elder Law Practice Expands Services to Include Health and Life Insurance Quotes

**E**lder Law Practice is pleased to announce that David McGuffey, managing attorney of the Cookeville office, is now licensed to sell life and health insurance products.

For clients who do not know or have an insurance agent, David is able to provide quotes on Long-Term Care insurance, Medigap policies, and similar products.

For Life Care Plan clients, this available service goes hand-in-hand with our "total care" approach.

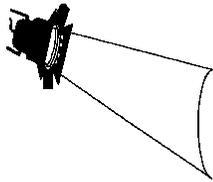
This service, however, is not limited to Life Care Plan clients. It is separate from the firm's legal services and is available to all residents of Tennessee. *There is no charge for quotes.*

With David's years of



experience as a Certified Elder Law Attorney, he is able to help individuals sort through the health and life insurance products available in Tennessee.

For help with insurance quotes, contact 931-526-3828. ~



## Guest Column

# The Truth about Direct Deposit: Myths vs Facts

**Direct deposit is a safer and easier way to get your paycheck or government benefits than paper checks. Below, common misconceptions about direct deposit are set straight.**

**MYTH:** Receiving paychecks or benefit payments in the form of a check gives you more control over your money because you can deliver it to your financial institution when it's convenient for you.

**FACT:** You have more control with direct deposit. Your money goes straight into your account at the same time each month, so your check doesn't rule your schedule. It also eliminates the risk of lost or stolen checks and helps protect you from check fraud and identity theft.

**MYTH:** Switching to direct deposit is time-consuming and a hassle.

**FACT:** Usually enrolling in direct deposit is fast and easy, whether it's your paycheck or a government benefit. If you receive Social Security or



Supplemental Security Income (SSI), you can sign up for direct deposit by calling the *Go Direct* toll-free helpline at (800) 333-1795 – it only takes a few minutes. You also can enroll online at [www.GoDirect.org](http://www.GoDirect.org), or sign up at your local bank or credit union or Social Security Administration office.

**MYTH:** People who don't have a bank account shouldn't consider direct deposit.

**FACT:** There are many options available if you don't have an account. Call the *Go Direct* toll-free helpline at (800) 333-1795 for more information.

**MYTH:** If you use direct deposit you won't know when your money is in your account.

**FACT:** You can be sure your money is in your account by the time your bank or credit union opens on payment day. Paper checks can get lost or stolen, but with direct deposit

your money is always on time, every time.

**MYTH:** Direct deposit doesn't really save time because the check still has to be mailed to the bank.

**FACT:** With direct deposit your federal benefit payment is electronically transferred to your bank account. The payment process is completely paperless.

**MYTH:** Direct deposit is not a trustworthy way to receive federal benefit payments.

**FACT:** Direct deposit is completely reliable. You are 30 times more likely to have a problem with a check than with direct deposit.

**MYTH:** Direct deposit is expensive.

**FACT:** There are no fees associated with signing up for direct deposit.

**MYTH:** Your decision to use direct deposit only affects you.

**FACT:** All Americans benefit when people use direct deposit. It costs 75 cents more to mail a federal benefit payment check than to issue an electronic



"Time is the scarcest resource and unless it is managed, nothing else can be managed."

- Peter Drucker

## The Truth about Direct Deposit *(continued)*

electronic payment. The government mails more than 150 million benefit checks each year. If all those payments were converted to direct deposit, it would save about \$120 million annually.

*This information was provided by **Go Direct**, a national campaign designed to motivate more Americans to select direct deposit for their Social Security, Supplemental Security Income (SSI) and other federal*

*benefit payments. The U.S. Department of the Treasury and the Federal Reserve Banks are sponsoring the campaign.*

*The campaign reaches out to people through organizations and people they know and trust -- such as financial institutions and community-based groups -- to inform them about the benefits of direct deposit, and help them sign up for it.*

**Why is this campaign important now?**

*Unless the rate of direct deposit use increases, the costs associated with issuing federal benefit checks will balloon when baby boomers start retiring in 2008.*

*The Treasury recognizes that it is important to take action now. The money saved on postage, printing and other costs as a result of Go Direct will be used to cover the costs of future Social Security payments.~*



"We've put more effort into helping folks reach old age than into helping them enjoy it."

- Frank A. Clark

## Good Recordkeeping

**Beneficiary designations:** By naming a beneficiary(s) for your insurance policies, IRA's and investment accounts, these assets will be paid directly to the beneficiary(s) and avoid the probate process. When you designate a beneficiary of an account, keep a copy of the actual form you complete naming the beneficiary. If you don't have a copy of previously filed forms, contact the institution and request a confirmation in writing of the beneficiary on record.

*Banks and other institutions are merging and*

*being bought out by other institutions at an ever increasing rate. The bank where you purchased an IRA fifteen years ago may not have accurate records if they have undergone structural changes over the years. Do not rely on their record-keeping!*

**Durable Power of Attorney:** If you have executed a Durable Power of Attorney, give a copy to the bank where you do your primary banking. Do not give them the original. You may also want to have your attorney-in-fact (the person you



named in your Durable Power of Attorney)

have signature power on your account(s). Go with that person to your bank and have them sign a signature card. **Do not** have them listed on the account as a joint owner. Ask the bank for a copy of the signature card once it's completed and keep a copy for your files.

**Durable Power of Attorney for Health Care:** If you have executed a Durable Power of Attorney for Health Care and/or Living Will, give a copy to your primary physician. Do not give them the original.~

## Takacs Tidbits

Tim was honored in recent months when he was selected by his peers as “Best Lawyer” and “Super Lawyer.”

Out of four elder law attorneys, Tim was selected to be included in the 2007 edition of *The Best Lawyers of America*.

The list has been published biennially since 1983 and represents 80 specialties in the United States. The cur-

rent, 13th edition of *Best Lawyers* (2007), is based on more than 1.8 million detailed evaluations of lawyers by other lawyers.

In addition, Tim was chosen for inclusion in the inaugural edition of *Mid-South Super Lawyers*, an annual listing of outstanding lawyers in Arkansas, Mississippi and Tennessee who have attained a high degree of

peer recognition and professional achievement.

The *Super Lawyers* list is based on the survey of more than 13,000 attorneys who have been in practice for five years or more. The goal is to select as *Super Lawyers* the top 5 percent of Arkansas, Mississippi and Tennessee attorneys in more than 60 practice areas.~

## Nursing Home Family Council an Advocacy Tool

The 1987 Nursing Home Reform Act guarantees the families of nursing home residents a number of important rights to enhance a loved one’s nursing home experience and improve conditions.

Key among these rights is the right to form and hold regular private meetings of an organized group called a *family council*.

Facilities certified for Medicare and Medicaid must provide a meeting space, cooperate with the council’s activities, and respond to the group’s concerns. Nursing facilities must appoint a staff advisor or liaison to the family council, but staff and administrators have access to council meetings

only by invitation. While the federal law specifically references “families” of residents, close friends of residents are also encouraged to play an active role too.

*Council meetings provide an opportunity for families to talk. . .*

Even the most dedicated and caring staff cannot replace family and friends, whose involvement is crucial to patients’ quality of life.

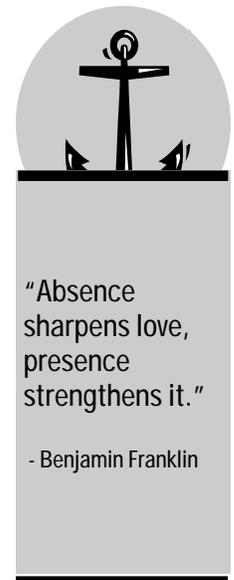
Involvement can also play an important part in the family’s successful adjustment as well. A study commissioned by the Tennessee Health Care Association revealed that family members who visit the nursing home regularly or become actively

involved are more likely to be satisfied with the care their relative receives.

Council meetings provide an opportunity for families to talk with one another as well as with facility administrators. A family council can play a crucial role in voicing concerns, requesting improvements, supporting new family members and residents, and supporting facility efforts to make care and life in the facility the best it can be.

Help is available through the National Citizen’s Coalition for Nursing Home Reform, [info@nccnhr.org](mailto:info@nccnhr.org).

Also, the Elder Law Practice offers a Speaker Bureau for family councils.~



“Absence sharpens love, presence strengthens it.”

- Benjamin Franklin

*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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Elder Law Practice of Timothy L. Takacs

Tim Takacs

Certified as an Elder Law Attorney by the National Elder Law Foundation

Certified as an Elder Law Specialist in TN

David McGuffey

Certified Elder Law Attorney

Lisa Love

office manager

Joanne Bass

Public Benefits Specialist

Carol Mosely, RN

Elder Care Coordinator

Sandy Reynolds

Elder Care Coordinator

Debra King, CMSW

Elder Care Coordinator

Patsy Gentry, RN

Elder Care Coordinator

Bonnie Woodard

Medicare Specialist

Bo Siler

Office Assistant

Debra Zemke

Administrative Assistant

Angela Riley

Office Assistant

Phone: 615-824-2571 Hendersonville Fax: 615-824-8772

Phone: 931-526-3828 Cookeville Fax: 931-526-3835

Web address: <http://www.tn-elderlaw.com>

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ELDER LAW PRACTICE  
OF TIMOTHY L. TAKACS  
201 Walton Ferry Road  
Hendersonville, TN 37075