



The Anchor

ELDER LAW PRACTICE OF TIMOTHY L. TAKACS

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Issue 27

Medicaid Friendly Annuities Best Option?

Coming Events

Nov. 3, Caregiver Resource Fair, Summit Medical Center, Hermitage, 10am—2pm

Nov. 8, Nursing Home Advocacy Training at Pinnacle Financial Bank, Hendersonville, 9am –12:30pm, (615) 824-2571

Nov. 7, Tim Takacs guest on OpenLine, NewsChannel 5+ (Comcast Cable Channel 50) 7pm

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

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

In Medicaid planning, immediate annuities should be evaluated for their usefulness as part of an individual's overall investment strategy.

When evaluated solely as a strategy for "saving the money so the nursing home won't get it," the immediate irrevocable annuity can fall short when measured against other strategies available. Before buying an annuity, please consider the following:

1. An immediate irrevocable annuity is in fact irrevocable. For example, there was one couple who moved to Tennessee from Ohio. The wife had been in an Ohio nursing home before moving. In order to qualify his wife for Medicaid, at the advice of a senior advisor, her husband purchased an immediate annuity using most of their savings shortly before she went into the nursing

home. Three months later, she died, and now he is stuck with an annuity he doesn't want.

2. "Medicaid friendly annuities" are sold (and bought) by folks who don't understand the Medicaid spousal rules. In Medicaid planning, the only reason to buy them is to protect the nursing home spouse's share of the couple's money from the nursing home. But there are other ways to protect that money. For instance, if the community spouse resource allowance can be raised by a Medicaid appeal or by court order, then there is no need to buy an annuity.

3. Some states believe that annuities are an unintended loophole in federal Medicaid law. In their never-ending quest to balance their budgets, some states, by policy change or by court order, have put a

stop to this strategy. Before you make the purchase, make sure you know how your state treats Medicaid friendly annuities.

4. Even in states that currently allow Medicaid annuities, your state's policy could change at any time, and you could be the case on which it changes. You could find yourself stuck with an immediate irrevocable annuity that you can't cash out, and you and your spouse would have to pay the nursing home.

5. There may be better things to do with the at-risk money. For instance, you could buy income-producing property with it and generate an income stream for yourself. Because this is also subject to strict Medicaid criteria, however, you should seek qualified professional help.~



Questions and Answers

Q *What is a gift annuity?*

A A gift annuity is an arrangement under which you make a contribution to a charity and receive, in turn, guaranteed payments for life

Q *My mother enrolled in a Medicare Advantage Plan earlier this year when she thought she was enrolling only in a Medicare Part D prescription drug plan. What can she do?*

A Unless your mother meets conditions for a special enrollment period under Medicare, she may change her election during the annual enrollment period which begins November 15 and ends December 31. Materials about the 2008 plans will be mailed to people on Medicare this fall.

Q *What is a Do Not Resuscitate order?*

A A Do Not Resuscitate (DNR) order is

another kind of advance directive. A DNR is a request not to have cardiopulmonary resuscitation (CPR) if your heart stops or if you stop breathing. (Unless given other instructions, hospital staff will try to help all patients whose heart has stopped or who have stopped breathing.) You can use an advance directive form or tell your doctor that you don't want to be resuscitated. In this case, a DNR order is put in your medical chart by your doctor.~



"A woman is a person who reaches for a chair when she answers the telephone."

- Milton Wright

Medicaid TennCare Letters Cause Confusion

Elder Law Practice clients who become entitled to Medicaid receive a letter from the State of Tennessee Bureau of TennCare. Our office receives calls about the letter which states:

"You now have Medicare to pay for your prescription drugs. So, starting [date] TennCare will STOP paying for your prescription drugs. You'll have NO prescription drug coverage through TennCare Medicaid."

The reason the letter is confusing is because our clients have usually never

had prescription coverage through TennCare. Thus, a letter stating that TennCare will "STOP paying" for prescriptions does not apply.

We believe the letter was primarily designed for TennCare recipients who are turning 65 (or have been on disability for 24 months) and are just becoming eligible for Medicare.

Most of our clients, who are already on Medicare, have been receiving prescription drug coverage through Medicare since

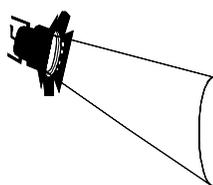
January 2006.

Prior to 2006, people who had both Medicare and Medicaid received prescription coverage through TennCare.

However, due to the Medicare Prescription Drug, Improvement and Modernization Act, effective January 1, 2006, prescription drug coverage is now provided through Medicare instead of TennCare.

People who have both Medicare and Medicaid/TennCare are also entitled to Medicare's "low income subsidy."~





Being a caregiver for a loved one with a dementing disease can be very overwhelming.

While there will be good times, there will also be bad times. Stress is common in caregivers and should be identified as soon as possible. It can be difficult to recognize if you do not know what you are looking for.

Common Feelings Associated with Caregiving

♦ *Guilt.* Guilt can be one of the many causes of caregiver stress. With guilt, you look back on what you should have done or what you should have said. You may feel guilty for considering a nursing home placement. You may feel guilty for not always being there for your loved one. If you carry an overwhelming sense of guilt, then it may affect your future decisions. You desire to be there for your loved one to make sure that he/she is given the best possible care.

♦ *Embarrassment.* Strangers are not always aware of dementing dis-

eases. Your loved one may present a certain behavior in public of which you are embarrassed.

♦ *Helplessness.* This is not uncommon for caregivers. You see your loved one trying to remember what year it is, and you feel helpless because you cannot improve his/her memory.

♦ *Anger.* This emotion can surface because your loved one does not recognize you. Anger because you are the only one wanting to help. And, anger because you don't know what else to do.

♦ *Grief.* Caregivers may experience a sense of loss because their loved one may be losing or have lost characteristics on which life-long relationships were built.

Signs of Caregiver Stress

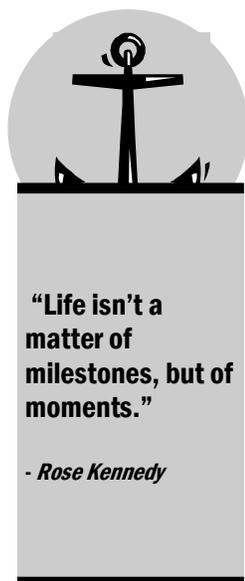
- ♥ Depression
- ♥ Headaches and/or stomach aches
- ♥ Sleeping difficulties
- ♥ More easily upset
- ♥ Cry and/or get angry more

- ♥ Often catch colds
- ♥ Feel you cannot cope anymore
- ♥ Cannot concentrate
- ♥ Eat, smoke, and/or drink more

What can I do about Caregiver Stress?

♦ *Take care of yourself.* Your health is very important. Eat properly and regularly exercise. Exercising can be beneficial in reducing stress. Get enough sleep. If this is not possible because you are up most of the night, try to sneak in naps. If you have time, indulge yourself in a warm bubbly bath. Lay back and relax, read a book.

♦ *Educate.* Educate family and friends on the dementing illness. Do not feel embarrassed about your loved one's condition. They may be hesitant to help you because they do not know what to do. You can hand out pamphlets on how to act towards someone with dementia, you can direct them to web pages on the Internet, and you can have a social gathering in your home and talk to them



"Life isn't a matter of milestones, but of moments."

- Rose Kennedy

Caregiver Stress *(continued)*

there. If you have children, especially little ones, explain to them what is happening. Teach them how to communicate with a person with dementia.

◆ *Receive help.* Do not feel embarrassed about asking. Caregiving is not an easy task. It is extremely important for you, the caregiver, to take care of yourself in

order to help those you love. Once you realize that you are becoming overwhelmed with all of the responsibilities with caregiving, there are services that can provide respite for you.

Caring Senior Service opened as a hands-on personal assistance service in 1994. They have over 30 locations nationally and opened their Nashville location in

February 2007. They assist clients and their families with services such as bathing, medication reminders, rehab exercises, light house-keeping and respite care. Shannah Sledd is the Area Development Manager and can be reached at 615-480-9973 or ssledd@caringinc.com. Their direct office number for referrals, inquiries or intakes is 615-724-1524.~



“Worrying is like a rocking chair: it gives you something to do, but it doesn’t get you anywhere.”

- Unknown

Federal Grants Awarded to Improve Medicaid Efficiency

On October 4, the U.S. Department of Health and Human Services announced that sixteen states and Puerto Rico have been awarded nearly \$52 million to fund research and design in new ways to improve Medicaid efficiency, economy and quality of care, Secretary Mike Leavitt announced.

States will use the funds to implement innovative systems to get more value out of the money they spend providing health care to their low-income elderly, children and disabled citizens.

Congress approved a total of \$150 million for these Medicaid

“transformation grants” in the Deficit Reduction Act of 2005 (DRA) to be distributed over fiscal years 2007 and 2008.

“These transformation grants express the core goal of this Administration to give states the kind of flexibility they need to deliver high quality care in an efficient and more economical way,” Secretary Leavitt said.

Transformation grants went to states with proposals that included:

- *Reducing patient error rates* through technology.
- *Improving rates of collection* from estates of amounts owed under

Medicaid.

- *Reducing waste, fraud, and abuse* under Medicaid, such as reducing improper payment rates.
- *Increasing the utilization of generic drugs* through education programs and other incentives.
- *Improving access* to primary and specialty physician care for the uninsured using integrated university-based hospital and clinic systems.
- *Implementation of a medication risk management program* as part of a drug use review program.

The awards granted vary in amount depending on each state’s application.~



Takacs Tidbits

Jim B. from Hendersonville submitted the winning entry in the first "You've Got Questions" drawing sponsored by the Elder Law Practice of Timothy L. Takacs. The "You've Got Questions" program offers a free forum

for families to submit questions about finding and paying for long-term care to the Certified Elder Law Attorneys at the Elder Law Practice of Timothy L. Takacs. Anyone who submits an elder law question is automati-

cally entered in a drawing for a \$25 prize. One winner is selected each month.

To see Jim B.'s question answered or to submit an elder law question, visit www.tn-elderlaw.com.~

Anchor Line



Our Elder Care Coordinators offer monthly training modules to help our Life Care Plan families better understand their strengths and stressors in caring for an elderly relative with a chronic illness, including dementia. Following are some highlights from the *Alzheimer's Basic Course*.

One of the biggest struggles caregivers face is dealing with the difficult behaviors of the person they are caring for. Having a plan for getting through the day can help caregivers cope.

Communication

Communicating with a person who has Alzheimer's Disease (AD) can be a challenge.

- Choose simple words and short sentences and use a gentle, calm tone of voice.
- Avoid talking to the per-

son with AD like a baby or talking about the person as if he or she weren't there.

- Minimize distractions and noise--such as the television or radio--to help the person focus on what you are saying.
- Call the person by name, making sure you have his or her attention before speaking.
- Allow enough time for a response. Be careful not to interrupt.
- If the person with AD is struggling to find a word or communicate a thought, gently try to provide the word.

Sleep Problems

For the exhausted caregiver, sleep can't come too soon. Many people with AD become restless, agitated, and irritable around dinnertime, often referred to as "sundowning" syndrome. Getting the person to go to bed and stay there

may require some advance planning.

- Encourage exercise during the day and limit daytime napping, but make sure that the person gets adequate rest during the day because fatigue can increase the likelihood of late afternoon restlessness.
- Try to schedule more physically demanding activities earlier in the day. For example, bathing could be earlier in the morning, or large family meals could be at midday.
- Set a quiet, peaceful tone in the evening to encourage sleep. Keep the lights dim, eliminate loud noises, even play soothing music if the person seems to enjoy it.
- Try to keep bedtime at a similar time each evening.
- Restrict access to caffeine late in the day.
- Consider using night lights in the bedroom, hall, and bathroom if the darkness is frightening.~



"There are two ways of spreading light: to be the candle or the mirror that reflects it."

- Edith Wharton,
American novelist

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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