

With help, seniors can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care.



**The Koewler Law Firm**  
JAMES L. KOEWLER, JR.  
Protecting a senior's life savings.™



## Protecting Seniors News

IRAs and 401Ks - What if your state's Medicaid doesn't count them?

This is the sixth newsletter about IRAs and 401Ks. My prior five newsletters have discussed how, when, and why to withdraw money from your IRA (or 401K, or 403B, or MyRA, when it arrives, or any other tax-deferred account.) See "[IRAs and 401Ks are not for tax avoidance. They are for tax timing](#)" from March 20, 2014, "[IRAs and 401Ks – Withdrawing Money Too Slowly](#)" from March 27, 2014, [IRAs and 401Ks – Withdrawing Money Too Quickly](#) from April 4, 2014, [IRA and 401k Withdrawal Strategy - Don't be Stupid about It](#) from April 11, 2014, and [IRAs and 401Ks and the Risk of Long Term Care](#) from April 18, 2014. (As I've done before, I'll call them all IRAs, but the discussion will apply to 401Ks, 403Bs, and even MyRAs (assuming that they act like IRAs when the rules eventually get written,) and other tax deferred accounts, except perhaps Roth IRAs.) This week, I want to discuss what to do if you live in a state, like California or Florida, that doesn't count your IRA as an "asset" for Medicaid purposes.

If you need long term care in a state that doesn't consider your IRA during the Medicaid application process, you shouldn't just assume that all is well. There may be conditions of state law or rules that, over the long run, will use up or take the IRA. There also may be advantages in dealing with the IRA up front.

Caveat: I have made no attempt to learn the various states' laws other than what I've picked up from chance discussions with other elder and special needs law

attorneys. I don't make enough money in journalism to undertake a comprehensive investigation. (Actually, I make no money in journalism.) I practice law only in Ohio, helping seniors who need long term care and people with special needs according to Ohio law and federal law.

Your state might ignore your IRA as an asset only if it is paying out as income. If so, it might be more advantageous to call the IRA an asset and use the tax payment as part of the spend down to reach the asset level necessary for Medicaid eligibility.

Your state might ignore your spouse's IRA while your spouse is still working. If, however, your spouse stops working, the IRA could suddenly become an asset, and your Medicaid coverage could stop until the IRA money is spent. A plan for when your spouse stops working is in order.

Your state might ignore your IRA while you're alive but go after the money in the IRA as part of the "estate recovery" process after you've passed away. (When seniors talk about "losing the house to Medicaid," the estate recovery process is probably what they mean, even if they don't fully understand it.) The estate recovery process can reach more assets than just the house and might include the IRA.

Regardless of your state's Medicaid rules, you should consider whether you could possibly qualify for VA Pension. (Visit the [Veterans](#) tab on my website to learn more.) Pension is not available for veterans or their surviving spouses to too many assets. Even if Medicaid wouldn't count your IRA, you might need to think ahead about possibly qualifying for VA Pension.

Regardless of your state's laws and possible VA benefits, it might be more financially advantageous to make the IRA withdrawal at the time you need long term care rather than waiting to pass the IRA to your beneficiaries. (I suspect this is true more for a married couple where one spouse needs long term care than it is

for a single people who needs care.)

So, if your state doesn't count your IRA as an "asset" during the Medicaid eligibility decision, you should CONSULT AN ELDER LAW ATTORNEY. There are too many variables to consider at a time when you and your family have to deal with long term care decisions. It's too easy to make a decision that seems right in the short run but could have negative consequences over a long period of time.

### **Social Media Posts from the past week**

4-24-2014 Tips for #Seniors to protect against #Fraud #SeniorFraud <http://ow.ly/vYpWo>

4-23-2014 Tools for deciding about your #AgingParent driving #SeniorCare <http://ow.ly/vYpAj>

4-22-2014 Another perspective on buying and using #LongTermCareInsurance #SeniorCare <http://ow.ly/vYrft>

4-21-2014 How #ObservationStatus costs #Medicare patients #SeniorCare <http://ow.ly/vYmPt>

4-20-2014 A #SmartHome can detect symptoms of #Alzheimers and #Dementia. #SeniorCare <http://ow.ly/vWnCa>

4-19-2014 How the #AffordableCareAct (#ObamaCare) helps #SeniorCare <http://ow.ly/vWmT8>

4-18-2014 An #IRA or #401k can make #LongTermCare even more expensive. #SeniorCare <http://wp.me/p47F09-49>

Older social media posts can be found in the [social media post archive](#) on the firm's website, [ProtectingSeniors.com](#).

## The Koewler Law Firm News

5-1-2014 to 5-31-2014 Jim Koewler will appear on "Your Health and Wellness" on WCTV in Wadsworth, Ohio discussing Managing Money and Preventing Fraud for Seniors. The show will appear several times throughout the month.

5-7-2014 Jim Koewler will speak to the Richfield Chamber of Commerce about the Affordable Care Act and its requirements as well as opportunities for employers

5-14-2014 Jim Koewler will present the continuing education program "Helping Patients navigate Medicaid, Medicare, and Healthcare Changes" at the Cleveland Clinic.

Continuing Education credit is available to Certified Case Manager, social workers, counselors, and nurses.

5-21-2014 Jim Koewler will present the continuing education program "Preventing Senior Fraud" at the Blue Canyon Kitchen & Tavern in Twinsburg. Continuing Education credit is available for Certified Case Manager, social workers, counselors, and nurses.

8-14-2014 Jim Koewler will present the continuing education program "Legal Issues for People with Dementia" at Southwest General Health Center in Middleburg Heights. Continuing Education credit is available to social workers, counselors, and nurses.

9-26-2014 Jim Koewler will present "Preventing Senior Fraud" at the meeting of Eldercare Professionals of Ohio at Heart Home Care in Euclid, Ohio.

Older items of firm news can be found in the [news archive](#) on the firm's website, [ProtectingSeniors.com](#).

## Jim's available presentations

- Preventing Senior Fraud (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- My Care Ohio and Medicare/Medicaid "Dual Eligibles" (Continuing Education credit available for social workers, counselors, nurses, and seeking approval for Certified Case Managers)

- Government Benefits that can help Pay for Long Term Care (Continuing Education credit available for social workers, counselors, nurses, and seeking approval for Certified Case Managers)
- Legal Issues for People with Dementia (Continuing Education credit available for social workers, counselors, and nurses)
- Protect your Life Savings from the Costs of Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Veterans Benefits for Long Term Care (Continuing Education credit available for social workers, counselors, and nurses)
- Advance Directives – Powers of Attorney, Living Wills, etc. (Continuing Education credit available for social workers, counselors, and nurses)
- Buying Long Term Care Insurance Wisely (Continuing Education credit available for social workers, counselors, and nurses)
- Planning Ahead to Protect against Long Term Care Costs (Continuing Education credit available for social workers, counselors, and nurses)
- Protecting your Money when you need Long Term Care and Essential Estate Planning Considerations (with free living wills for the audience)
- Myths about Long Term Care
- How to help your Parents Manage their Affairs

### **Upcoming meetings**

4-25-2014 Eldercare Professionals of Ohio, The Village at Marymount, 9:00 a.m.

5-6-2014 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, 8:30 a.m.

5-7-2014 Stark Senior Services Network, Canton Baptist Temple, 9:00 a.m.

5-7-2014 Richfield Chamber of Commerce luncheon, The Taverne of Richfield, 11:45 a.m.

5-7-2014 Medina County Senior Services Network's Client Services Committee, Sully's 3:00 p.m.

5-8-2014 Lorain County Senior Services Network, Lake Pointe, 8:30 a.m.

5-9-2014 Eldercare Professionals of Ohio, Berea Towers, 9:00 a.m.

5-14-2014 Medina County Senior Services Network, Liberty Residence, 8:00 a.m.

5-14-2014 Summit Senior Sales, Administrators and Marketers Association, Falls Village, 2:30 p.m.

5-19-2014 Medina County Senior Services Network's Education Committee, Tres Potrillos in Medina, 11:30 a.m.

5-20-2014 UH Bedford Senior Network, Elmcroft of Sagamore Hills, 8:30 a.m.

5-21-2014 PASS, The Weils, 8:30 a.m.

5-22-2014 Portage Senior Services Network, Coleman Adult Day Services, 8:30 a.m.

5-23-2014 Eldercare Professionals of Ohio, Anna Maria of Aurora, 9:00 a.m.

## Newsletter Archive

Past issues of this newsletter can be found in the [newsletter archive](#) on the firm's blog site, [ProtectingSeniors.com](#).

## Contact Jim Koewler

If you'd like to contact Jim, this newsletter has a dedicated [contact page](#) on the firm's blog site, [ProtectingSeniorsNews.com](#).

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