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## Seniors and Special Needs News - September 26, 2014

1 message

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With help, seniors and people with special needs can keep some of their assets in the family rather than lose their entire life savings to the costs of long term care. They can use these protected assets to enhance their quality of life beyond what long term care alone will provide.

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# Seniors and Special Needs News

## Gifts to Trusts as a way to Protect against Long Term Care Costs

Today's newsletter continues the series about giving money away as a method to plan ahead for protection against long term care costs. My newsletter of September 19, 2014, the first installment of the discussion on gifting, described how the Medicaid "Aged, Blind and Disabled" program and the Department of Veterans Affairs "Pension" (aka VA "Aid and Attendance") program look at assets given away.

The current series on gifting is part of a more comprehensive series on possible ways to plan ahead to protect against long term care costs.

Previously, my newsletters discussed long term care insurance as an approach to planning ahead for long term care costs. In the long term care insurance portion of this discussion, my May 23, 2014 newsletter discussed whether to buy long term care insurance at all; my May 30, 2014 newsletter discussed looking for a stable, proven insurer; my June 6, 2014 newsletter described how to identify a proven, stable Long Term Care insurance company; my June 13, 2014 newsletter discussed the importance of protection against inflation; my June 20, 2014 newsletter suggested insuring for a four year or a five year stay in a nursing home; and my June

27, 2014 newsletter suggested a \$200 or \$250 daily rate to choose when purchasing long term care insurance. My newsletter of July 11, 2014 advised to look carefully at the list of Activities of Daily Living that can trigger coverage from the long term care insurance policy. My newsletter of July 18, 2014 described the differences between a "period of time" kind of coverage and a "pile of money" kind of coverage. My newsletter of July 25, 2014 advised to make sure that the long term care insurance includes coverage for cognitive impairment. My newsletter of August 1, 2014 discussed the differences between tax-qualified and non-tax-qualified long term care insurance policies. My newsletter of August 8, 2014 discussed the value of long term care insurance policies that qualify for the Partnership program. My newsletter of August 15, 2014 described "hybrid policies" that provide both long term care insurance and life insurance. My newsletter of August 22, 2014 described how a long term care insurance policy with a return of premium rider can be used to construct a "hybrid" life insurance/long term care insurance policy. My newsletter of August 29, 2014 described how to use a partnership policy to protect just enough of your life savings while holding down the cost of the insurance. My newsletter of September 5, 2014 described how to coordinate long term care insurance with potential veterans benefits. My newsletter of September 12, 2014 discussed how an elder law attorney can help maximize the value of long term care insurance.

The introductory newsletter in the series on planning ahead for long term care costs was published on May 16, 2014.

Today's newsletter, as part of a internal series on to whom to give assets, discusses **gifts to trusts** as a method to protect the gifted assets from the costs of long term care in the future.

### Why transfer money to a trust?

Transferring money to an irrevocable trust lets you send that money wherever you tell the trust to send it. (For an irrevocable trust, you need to determine at the time you first set up the trust where you want the money to go eventually. You can't decide later.) Should you need long term care after setting up the trust, the money in the trust is not available to you, so it can't be used to pay for your long term care (assuming you write the trust the correct way.)

In addition, assets in the trust normally do not go through the probate process.

## Considerations when making a gift to a trust

Don't transfer everything you have. You still need to live off your life savings. Keep enough back to support yourself for the foreseeable future. (Remember, at the time you'd put assets into the trust, you don't yet need long term care. It's a PRE-planning tool.)

Depending on the size of the transfer, a gift tax return may be necessary. If the transfer is very large, the actual payment of gift tax may be required.

Sizable transfers reduce the unified credit that the senior's estate will have available before triggering a requirement to pay federal estate tax. (A similar result may occur in calculating your state's estate tax as well.)

A transfer to a trust does not protect the transferred assets from long-term care costs until the five-year look back period has passed, according to the requirements of Medicaid. (This means, if you feel that you will need long term care within the next five years, you should talk with an elder law attorney before making any transfers (to a trust, to a person, or to anywhere else) so you can make a plan that addresses your likely care needs.)

## Why not transfer assets to a trust?

First, you must decide if you're worried about the possibility of long term care costs in your future. If you're not worried, then don't use a trust for the purpose of pre-planning.

I'm not a big fan of trusts as a pre-planning strategy simply because trusts are a hassle. They are a separate "person" for tax purposes, and the income that the trust earns must be reported and the resulting tax paid. Trusts are paid at the top income tax bracket whether the trust has high income or low income.

You need to have a trustee that you trust. You can't be your own trustee, and your spouse can't be the trustee either. This trustee will own (in a fiduciary capacity) much or most of your life savings. Do you have someone that you trust that much? (You could pay a bank or trust company to manage the trust, but that costs money, and it still requires you to trust the bank or trust company. Over all, I'm not a big fan of banks trust companies to hold these kinds of trusts. Trust companies are great at watching the trust's money, but they tend not to use the optional powers of the trustee that may have been put into the trust as a way to carry out the wishes of the

person who funded the trust.)

The trust must be irrevocable. Once you set it up, you can't take it back. This isn't an estate planning trust. It's very different.

Medicaid will look very hard at the trust to look for any way that the money can come back (or be forced to come back) to a Medicaid applicant. If Medicaid finds any opening, the trust will lose its protection against long term care costs.

Perhaps the biggest drawback to using an irrevocable trust (in my opinion anyway) is the same drawback as in any gifting strategy. You give up control of the money that you put into the trust. Imagining myself retired, I'm not sure that I'd be emotionally comfortable giving up control of a big part of my life savings.

It's your choice.

Perhaps you have no fear of any of the risks I describe. Perhaps you have someone you trust to manage your money. Perhaps you're comfortable with the hassles of a trust. Then use an irrevocable trust as your pre-planning strategy. I don't think I'd use one for my pre-planning, but it may be the perfect approach for you.

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

9-25-2014 Deadline in 4 days for July 1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-25-2014 #Autistic children have good #LanguageSkills, but have trouble communicating <http://ow.ly/BGgvI>

9-24-2014 Deadline Monday for July 1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-24-2014 #FamilyCaregivers need to look out for themselves, socially and legally, when providing #SeniorCare <http://ow.ly/zGjUK>

9-23-2014 Deadline on Monday for July 1 people in #MyCareOhio to change

insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-23-2014 What to look for in #LongTermCareInsurance (a summary) <http://ow.ly/BGdFL>

9-22-2014 Don't judge a #NursingHome by its cover, and keep watching for good #SeniorCare <http://ow.ly/Bu2BE>

9-21-2014 #PlanningAhead for #Retirement #HealthCare and #SeniorCare costs <http://ow.ly/Bu3S4>

9-20-2014 Surprising side benefit of #WeightLossSurgery - reduction of #AlzheimersDisease (preliminary findings) <http://ow.ly/Bu19w>

9-19-2014 #Gifts as a way to Protect a #LifeSavings from future #LongTermCare costs <http://wp.me/p47F09-6J>

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

## The Koewler Law Firm News

9-11-2014 Jim Koewler presented the continuing education program "Preventing Senior Fraud" at The Cleveland Clinic's main campus. Continuing Education credit was available for Certified Case Managers, social workers, counselors, and nurses.

9-16-2014 Jim Koewler presented the continuing education program "Legal Issues for People with Dementia" at the Matus Winery in Wakeman, Ohio. Continuing Education credit was available for social workers, counselors, and nurses.

9-18-2014 Jim Koewler spoke to the International Referral Network's Fairlawn/Montrose chapter on government benefit programs that can help pay for long term care.

9-23-2014 Jim Koewler became a volunteer guardian for a needy senior as part of the Volunteer Guardianship program of the Summit County Probate Court and Summit County Jewish Family Services.

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.

10-7-2014 Jim Koewler will present the continuing education program "Helping Medicare/Medicaid 'dual eligible' senior clients through 'My Care Ohio' enrollment" at The Orchards on Ridgewood in Akron, Ohio. Continuing Education credit is available for social workers, counselors, and nurses.

10-9-2014 Jim Koewler will present the continuing education program "Government Benefits that can help Pay for Long Term Care" at Mercy Hospital in Canton, Ohio. Continuing Education credit is available for social workers, counselors, and nurses.

10-15-2014 Jim Koewler, as chair of the Medina County Senior Services Network's Education Committee, will host a continuing education event on the Prevention and Treatment of Osteoporosis at Wolf Creek Winery in Norton, Ohio. Continuing Education credit is available for social workers, counselors, and nurses.

10-29-2014 Jim Koewler will volunteer at the blood drive at Revere High School in Bath, Ohio. (Come out, and donate)

11-18-2014 Jim Koewler will present "Helping Medicare/Medicaid 'dual eligible' senior clients through 'My Care Ohio' enrollment" to the Summit County Senior Services Network. Continuing Education credit is available for social workers, counselors, and nurses. (The topic is subject to change.)

11-18-2014 Jim Koewler will present "Elder and Special Needs Law" to the Solo and Small Firm Practitioners Section of the Akron Bar Association. Jim will discuss how to identify elder law and special needs law issues for clients, "first responders" actions for clients, and considerations to help clients plan ahead for long term care. Continuing Education credit is available for attorneys.

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

## **Jim's available presentations**

- Navigating Medicaid, Medicare, and the Affordable Care Act (Continuing Education credit available for social workers, counselors, nurses, and Certified Case Managers)
- Preventing Senior Fraud (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**

- 9-26-2014 Eldercare Professionals of Ohio, Heart Home Care, Euclid, 9:00 a.m.
- 10-1-2014 Stark Senior Services Network, Canton Baptist Temple, 9:00 a.m.
- 10-1-2014 Richfield Chamber of Commerce luncheon, Richfield Days Inn and Suites, 11:45 a.m.
- 10-1-2014 Medina County Senior Services Network's Client Services Committee, Sully's 3:00 p.m.
- 10-2-2014 Professional Networking Group's Health Fair, Medina, 10:00 a.m.
- 10-7-2014 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, 8:30 a.m.
- 10-8-2014 Medina County Senior Services Network, Western Reserve Masonic Community, 8:00 a.m.
- 10-8-2014 Summit Senior Sales, Administrators and Marketers Association, Chambrel at Montrose, 2:30 p.m.
- 10-9-2014 Lorain County Senior Services Network, UH Avon Health Center, 8:30 a.m.
- 10-10-2014 Eldercare Professionals of Ohio, The Heights Care & Rehabilitation Center, 9:00 a.m.
- 10-15-2014 PASS, Brooks House, 8:30 a.m.
- 10-20-2014 Medina County Senior Services Network's Education Committee, Tres Potrillos in Medina, 11:30 a.m.
- 10-21-2014 UH Bedford Senior Network, Montefiore, 8:30 a.m.
- 10-23-2014 Portage Senior Services Network, Coleman Adult Day Services,

8:30 a.m.

10-23-2014 Parma Hospital Senior Resource Network, The Diplomat, 8:30 a.m.

10-24-2014 Eldercare Professionals of Ohio, Anna Maria of Aurora, 9:00 a.m.

10-28-2014 Summit County Senior Services Network, Anthony Kucko Kertesz Funeral Home, 8:00 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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