



Jim Koewler &lt;jameskoewler@gmail.com&gt;

## Seniors and Special Needs News - October 3, 2014

1 message

**The Koewler Law Firm** <Newsletter@protectingseniorsnews.com>  
 Reply-To: The Koewler Law Firm <Newsletter@protectingseniorsnews.com>  
 To: Jim <protectingseniorsnewsarchive@gmail.com>

Fri, Oct 3, 2014 at 9:06 AM

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.

Email not displaying correctly?  
[View it in your browser.](#)



# Seniors and Special Needs News

## Gifts to LLCs 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. My newsletter of September 26, 2014 discussed transferring assets to a trust for protection against long term care costs.

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 the sub-series on to how to give assets away, discusses **gifts to Limited Liability Companies (LLCs)** as a method to protect the gifted assets from the costs of long term care in the future.

#### Why transfer money to a Limited Liability Company?

Transferring money (or any asset, but we'll call everything "money" most of the time) to an LLC lets you decide how that money will be managed and eventually where that money will go. You, with help from an attorney, can set up the LLC and create its Operating Agreement. The Operating Agreement is, effectively, the LLC's constitution and by-laws, containing all of the important decision-making criteria for the LLC.

In setting up the LLC, you should describe its primary purpose as investment management for the benefit of the LLC's members. Even though your purpose in making the gift to the LLC is protecting the assets from long term care costs, that should not be the stated purpose of the LLC itself. After the assets are given to the LLC (if done properly,) the protection from long term care costs has been accomplished. Then, the LLC's purpose is to manage the money it contains.

Like with a trust (described in the [previous installment](#)), you, as the person who sets up the LLC, can have the Operating Agreement written in a way that reflects your wishes regarding the distribution of the LLC's profit and eventually its principal. You can also name a Managing Member, whose job is quite similar to the trustee described in the trust discussion. That Managing Member is in charge of day to day "operations" and decisions for the LLC, within the limits, if any, set in the Operating Agreement.

The people you would normally name in your will as your beneficiaries you would name as the members of the LLC. They are the people who receive the profits and, when the LLC is dissolved, the principal. (The principal is the money that you put into the LLC originally to shelter that money from long term care costs.)

#### Considerations when making a gift to an LLC

Don't transfer everything you have (just like I suggested in the trust discussion last time.) 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 LLC, 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 your 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 an LLC 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 an LLC, 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 an LLC?

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 an LLC for the purpose of pre-planning. (If you aren't worried about long term care costs in your future, you probably wouldn't do any pre-planning at all.)

While LLCs are easier to manage than are trusts, an LLC still needs some level of management above just handling one's own personal affairs.

LLCs are given a great deal of flexibility on taxes, and, in LLCs for this purpose, taxation as a partnership is probably best. That way, every member will pay his or her own taxes on the income at his or her own tax rate. (The LLC isn't locked into the highest tax bracket like a trust.) Still, the income must be reported to the IRS and to the LLC members via a form K-1 (even for profits that aren't distributed out to the members.) To accomplish these tasks, the LLC will probably need to have an accountant, resulting in some costs for accounting services.

You need to have a Managing Member that you trust. You can't be your own Managing Member, and your spouse can't be the Managing Member either. The LLC will own, under the supervision of the Managing Member, much or most of your life savings. Do you have someone that you trust that much? Banks or trust companies don't offer "Managing Member services" like they offer trust services. You can't hire a professional Managing Member because that hired professional would become part owner of the LLC.

The gift to the LLC is irrevocable. You give your money away, and you can't take it back.

You can't be a member of the LLC. If you were a member, you're membership interest would be counted by Medicaid and by the VA as an asset available to pay for your long term care.

Despite what you might wish (as the person who funded the LLC in the first place,) the members can change the Operating Agreement (if they can all

agree.) Your initial plan may be changed by the people whom you intended to benefit.

Medicaid will look very hard at the LLC 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 LLC will lose its protection against long term care costs.

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

It's your choice.

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

10-02-2014 Pregnancies too close together increases #Autism risk <http://ow.ly/C163h>

10-01-2014 Even in a #NursingHome, keep an eye on #AgingParents #Prescriptions <http://ow.ly/Bu0JZ>

9-30-2014 #LongTermCareInsurance may be available through #EmployeeBenefits <http://ow.ly/C14Tp>

9-29-2014 TODAY is deadline for July 1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-29-2014 Getting ready to help an #AgingParent to #AgeInPlace #SeniorCare <http://ow.ly/BH1bZ>

9-28-2014 Monday is deadline for July 1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-28-2014 #MedicareAdvantage plans - usage statistics and effect on

#Medicare <http://ow.ly/BGjoN>

9-27-2014 Monday is deadline for 7/1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-27-2014 What #Medicare covers and what it doesn't cover <http://ow.ly/BGeYh>

9-26-2014 Monday is deadline for 7-1 people in #MyCareOhio to change insurers & (maybe) optout of Medicare part of program <http://wp.me/p47F09-5I>

9-26-2014 #Gifts to #Trusts as a way to Protect a #LifeSavings from future #LongTermCare costs <http://wp.me/p47F09-6N>

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

10-7-2014 Jim Koewler will present the continuing education program "Essential Legal Issues when a Client has Dementia" at Lutheran Hospital in Cleveland. Continuing Education credit is available for social workers, counselors, and nurses.

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.

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

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.  
10-28-2014 Professional Networking Group, Montefiore, 8:30 a.m.  
10-30-2014 The Association of Specialists in Aging, Mentor Senior Center,  
8:30 a.m.  
11-1-2014 The Association of Specialists in Aging Chili Cook-Off, Mentor  
Senior Center

## 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](#).

© 2014 The Koewler Law Firm. All rights reserved.

---

[follow on Twitter](#) | [friend on Facebook](#) | [forward to a friend](#)

Copyright © 2014 The Koewler Law Firm. All rights reserved.  
You are receiving this email because you subscribed through our website or



10/30/2014

Gmail - Seniors and Special Needs News - October 3, 2014

asked to be on our mailing list.

**Our mailing address is:**

The Koewler Law Firm

P.O. Box 443

Richfield, OH 44286



[Add us to your address book](#)

[unsubscribe from this list](#) | [update subscription preferences](#)