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Seniors and Special Needs News - October 10, 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 your Children 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. My newsletter of October 3, 2014 discussed transferring assets to a Limited Liability Company 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 your children (or other family members)** as a method to protect the gifted assets from the costs of long term care in the future.

Transfers to others in this manner are gifts. For long term care pre-planning, these gifts most often go to the senior's children. (At the time that a senior is planning ahead for long term care, the children are usually middle-aged themselves.) Gifts can also go to grandchildren or any other relative, to a friend, to a charity, or to anyone else to whom one can make a gift. Gifts to charities or to people outside the family are rare for long term care pre-planning. (Gifts to charities have income tax consequences completely separate from long term care planning, but income tax issues will not be

discussed here.) Gifts for the purpose of long term care pre-planning are almost always within the family.

Why make a gift to your family?

Simply put, a gift within the family keeps the gifted money in the family. The gift-giver expects to need long term care in the future or at least fears the costs of long term care enough to plan ahead. By pushing assets to a younger generation, the assets stay within the family.

In addition, gifts given while the senior is alive avoid the probate process (perhaps unless the senior dies shortly after the gift.)

Considerations when making a gift

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 make this gift, you don't yet need long term care. It's a PRE-planning tool.)

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

Sizable gifts 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.)

Why not make a gift to your family?

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 gifting for the purpose of pre-planning.

I'm not a big fan of gifting as a pre-planning strategy simply because I don't trust your children. (When I'm giving a speech, I describe my fears as "I don't trust Junior.")

I'm sure you have great children – responsible and trustworthy. But, a big influx of money can affect even the most responsible person. That responsible child may suddenly decide to build a pool or buy an expensive car

or take a high-roller's trip to Las Vegas. The child will almost always promise himself or herself that the money will be repaid to build it back up, but all too often, that repayment never happens.

Even if your child remains trustworthy and responsible, not touching the big pile of money that came in, there are too many risks in life to make me comfortable. The child can have a business downturn causing creditors to go after personal assets. (After a gift, the gifted money is among the child's personal assets.) Alternatively, the child or your grandchild can have a car accident, and the other person in the accident could go after everything in the child's name. Or, your child can get a divorce, putting all assets at risk for being divided up.

A gift does not protect the gifted 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 gifts so you can make a plan that addresses your likely care needs.)

Similarly, with the VA starting to look back at prior income tax records and at least inquiring about now seemingly missing assets, gifting to children risks the possibility that the VA will deny an application for Pension (aka Aid & Attendance benefits.)

Perhaps the biggest drawback to a gifting strategy, in my opinion anyway, is that you give up control of the money that you give away. 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 trust your children with all of your life savings. Then use gifting as your pre-planning strategy. I don't think I'd use gifting for my pre-planning, but it may be the perfect approach for you.

Social Media Posts from the past week

10-09-2014 Incredible rise in #Autism cases in Alberta – in line with many areas <http://ow.ly/C174Y>

10-08-2014 How #SeniorCare can be different for #LGBT adults <http://ow.ly/Cj4Tp>

10-07-2014 What is #LongTermCare Insurance worth? (has math typo) <http://ow.ly/C15tT>

10-06-2014 #Minorites have to use #NursingHomes more often <http://ow.ly/CiV03>

10-05-2014 The incredible societal cost of Financial #ElderAbuse <http://ow.ly/BGznc>

10-04-2014 Pondering #Memory and #MeaningOfLife <http://ow.ly/BGnbg>

10-03-2014 #Gifts to #LLCs as a way to Protect a #LifeSavings from future #LongTermCare costs <http://wp.me/p47F09-6V>

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

10-06-2014 Jim Koewler was named the Bright Star of the Richfield Chamber of Commerce. A Bright Star is honored for his or her contributions to the local Chamber of Commerce. The Bright Star program is sponsored by the Northern Ohio Area Chambers of Commerce.

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.

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

10-10-2014 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

11-4-2014 Aging Services Network of Euclid, Euclid Hospital's Waltz Auditorium, 8:30 a.m.

11-5-2014 Stark Senior Services Network, Canton Baptist Temple, 9:00 a.m.

11-5-2014 Richfield Chamber of Commerce luncheon, Richfield Days Inn and Suites, 11:45 a.m.

11-5-2014 Medina County Senior Services Network's Client Services Committee, Sully's 3:00 p.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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