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Seniors and Special Needs News - October 17, 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 Charity 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. My newsletter of October 10, 2014 discussed transferring assets to your children (or other family members) 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 charity** as a method to protect the gifted assets from the costs of long term care in the future.

Donations to charities are improper transfers according to Medicaid and perhaps to the VA. Gifts to charities are rare for long term care pre-planning.

Why make a gift to charity?

Gifts to charities have income tax consequences completely separate from long term care planning. Gifts to recognized charities create tax deductions.

Gifts that have appreciated above the original investment create tax

deductions higher than the cash cost. Those tax consequences do not change how Medicaid and the VA view gifts to charities, however.

Perhaps because of the tax consequences (or perhaps regardless of the tax consequences,) gifts to charity may fulfill an individual or family plan for philanthropy. Gifts to charities can support good works that are important to the donor.

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 to charity

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.)

Good records of the donation may be necessary, especially if the donation is large. An acknowledgement from the charity may be required as part of the income tax records. Depending on the type of gift, an appraisal may be necessary.

Depending on the type of gift and on whether other non-charitable gifts are given in the same year, the charitable donation may need to be reported on a gift tax return. There should not be an actual tax on the charitable gift, but the gift may require reporting.

Why not make a gift to charity?

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.

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, even if the gift is to a charity. (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 at all 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, gifts to charity risk the possibility that the VA will deny an application for Pension (aka Aid & Attendance benefits.)

Tithing, even a history of tithing, has not overcome Medicaid's aversion to gifts. Recent cases in which seniors seeking Medicaid have given to their churches, even with a long history of making such gifts, have resulted in denials of Medicaid benefits for the applicants.

A gift to charity cannot be reversed (not usually anyway.) If the donor needs long term care (i.e., needs Medicaid or VA Pension or both) within the look back period, a charitable donation cannot be reversed to allow the senior to switch to a crisis type of plan.

As I've mentioned with other gifting strategies, the biggest drawback to a charitable 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 want to make sure that your favorite charities receive your support. If so, then give to those charities, but only with a small portion of your assets. Small gifts may be compensated for with other assets and, therefore, absorbed into a crisis plan for long term care costs. Large gifts to charities can leave an unlucky donor (who needs long term care surprisingly soon after the charitable donation) without the ability to pay for care or to qualify for government benefits to pay for care.

Social Media Posts from the past week

10-16-2014 The importance of #EarlyDetection for #Autism <http://ow.ly/CN1WQ>

10-15-2014 Talking with #AgingParents about #LongTermCare and #EndOfLife issues <http://ow.ly/BGVtn>

10-14-2014 #LongTermCareInsurance is important, but may have big #PremiumIncreases <http://ow.ly/CFXrJ>

10-13-2014 Faster growth of Men needing #MemoryCare #SeniorCare <http://ow.ly/CEWtq>

10-12-2014 #Loneliness of #FamilyCaregiver and then of spouse of #NursingHome resident <http://ow.ly/C17vp>

10-11-2014 #Dementia can affect anyone – #Celebrities included (language alert) <http://ow.ly/C17gO>

10-10-2014 #Gifts to #Family as a way to Protect a #LifeSavings from future #LongTermCare costs <http://wp.me/p47F09-7f>

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

10-29-2014 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

- 10-20-2014 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.
- 11-12-2014 Medina County Senior Services Network, 8:00 a.m.
- 11-12-2014 Summit Senior Sales, Administrators and Marketers Association, Hickory Ridge, 2:30 p.m.
- 11-13-2014 Lorain County Senior Services Network, Busch Funeral Home, 8:30 a.m.
- 11-17-2014 Medina County Senior Services Network's Education Committee, Tres Potrillos in Medina, 11:30 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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