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Compliant annuity may help pay for long-term care

Since February 8, 2006, when the federal Deficit Reduction Act went into effect, planning options for those who are in long term nursing home care, and require Medicaid to pay for that care, have been limited. One option that may work for a single person in a nursing home, or for someone with a spouse in a nursing home, is a Medicaid compliant annuity.

Annuities are similar to life insurance but in reverse. A lump sum is paid (the premium), and the premium earns interest per the annuity contract terms. Some annuities are deferred and offer a tax advantage to shelter money when the owner's income is high. Other annuities are immediate, in that regular payments are made to the owner. Most annuities are not an appropriate investment for older persons, particularly when they are deferred, and the owner is no longer in the workforce; there is no tax advantage. However, a very specific type of annuity is a legitimate planning technique for elders when they or a spouse are facing long term nursing home care, and wish to shelter assets.

Consideration is given to buying an annuity for a single person (often a widow or widower) who enters long term nursing home care and applies for Medicaid. Someone who is applying for Medicaid can only keep limited assets, usually \$2,400 or a little more, depending upon the level of the nursing home resident's income. It was permissible, prior to early 2006, to give a gift of approximately one-half of the nursing home resident's assets to children or other relatives, while keeping the remaining assets to pay during the ineligibility period. Now, the money must be "spent down" on the nursing home resident. Sometimes, the nursing home resident enters care, spends down, and achieves eligibility for Medicaid but still owns a house. When the family is able to sell the house, the nursing home resident loses Medicaid eligibility until the proceeds from the house are also spent down. If the resident passes away before the spend down is complete, any remaining assets are expected to be paid back to the State through Estate Recovery. Families usually wish to sell the house, because their loved one is unable to return home, and there is no money for upkeep costs.

A Medicaid compliant annuity may be the answer in this situation. The annuity must be actuarially sound (be for the length of the person's life expectancy per the published tables or less than the life expectancy), non-assignable, irrevocable, pay immediate equal payments with no balloon payments, and must list the PA Department of Welfare as the primary beneficiary to the extent that Medicaid is paid on the owner's behalf. The nursing home resident may outlive the annuity terms, or had received more Medicaid coverage than is remaining in the annuity at his or her death. However, it is a way to stretch out the nursing home resident's money, and potentially leave some for his or her heirs at death. It is a calculated risk, and one permitted by law. However, not choosing this option, when appropriate, means that all of the nursing home resident's funds (especially from a house sale) are spent on care.

The PA Department of Welfare likes the annuity option since they are paid back for care costs provided: furthermore, it costs the State less money to care for the nursing home resident, since the annuity payments are paid to the nursing home in addition to their income already being paid. This leaves more money for other nursing home residents without the means to buy an annuity.

There is a similar option for a spouse of a nursing home resident who wishes to protect additional assets, and to provide for more income each month.

To learn if this option is applicable to you or your loved one, talk with an elder law attorney.