



## Tip of the Day

*401(k) beneficiary instructions supersede what is written in your Will, so make sure the beneficiary listings on your 401(k) are up to date. Failure to do so could result in your money going to an unintended person when you die. Issues can also arise if you leave the account to someone who predeceases you or if you have no beneficiaries listed at all.*



**CZEPIGA DALY POPE & PERRI**  
Estate Planning | Elder Law | Special Needs | Litigation | Probate

## Caregiver Agreements:

### Compensating Family Caregivers *Without* Jeopardizing Medicaid Eligibility

Transfers of assets generally raise a red flag when it comes to applying for Medicaid. They can trigger a penalty period, or a period of ineligibility.

The good news is the Connecticut Department of Social Services (DSS) will allow certain types of Medicaid asset transfers. For example, a correctly constructed caregiver agreement is a good way to compensate caregivers that are providing needed care, and still allow the care recipient to retain eligibility for Medicaid.

First, an individual must demonstrate a functional need for assistance with one or more activities of daily living.

Second, the type of care provided must be spelled out in a caregiver agreement, and with certain DSS conditions being met, including:

**1. Compensation must be received in accordance with a legally enforceable agreement** (called a caregiver agreement.) It spells out all the details of the arrangement, just as if your loved one was hiring an outside agency instead of you. The types of things that might be included, depending on the situation, would be:

- The location where the care will be provided
- The type of care provided such as chores, transportation, meal preparation, medication management, etc.
- The number of hours per week
- The hourly rate
- The schedule and method of payment

*(continued)*



# Big News For Special Needs Trusts!

Charities May Now  
Be Named As SNT  
Remainder Beneficiaries



The Special Needs Trust Improvement Act of 2022 made significant changes to the SECURE Act, allowing charities as remainder beneficiaries of special needs trusts (SNTs). (A remainder beneficiary is a beneficiary of a trust whose interest would vest at the termination of an SNT.)

This is a huge win for families who had previously sought to name a beloved non-profit as a remainder beneficiary in a special needs trust only to be told it wasn't possible to do so.

In 2020, Congress passed the Setting Up Every Community Up for Retirement Enhancement Act, known as the SECURE Act. The law requires most IRA beneficiaries to take distributions by the tenth year following the decedent's date of death.

However, some beneficiaries, including those who are disabled and chronically ill, are excluded from this rule, meaning these beneficiaries may receive IRA distributions over their lifetime. This is called a "stretch IRA," which provides significant income tax savings to the beneficiaries because they can take distributions over an extended time, thereby deferring the income tax. However, disabled or chronically ill individuals did not receive the stretch IRA if they named a charitable beneficiary.

With the passage of the Special Needs Trust Improvement Act of 2022 (under the SECURE ACT 2.0), certain types of charitable organizations can now be named as remainder beneficiaries of SNTs funded with retirement accounts, without compromising the favorable "stretch" payout available to individuals with disabilities who are the primary beneficiaries.

## Caregiver Agreements

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### 2. DSS details specific rates if the services provided fall into the category of homemaker or home health aide.

The rate is the established current minimum wage for these types of services.

### 3. Compensation in the form of real or personal property is calculated using its fair market value.

### 4. If the individual receiving care resides with the caregiver, payments can be made for home improvements necessary to remain in that home and avoid institutionalization. For example, adding a bathroom to the main level of the home, or installing a wheelchair ramp, grab bars or a stair lift.

### 5. The caregiver must keep an accurate record of services provided, by, for example, logging time in a daily timesheet.

### Create an Agreement Before You Start

A key thing to keep in mind is that the caregiver agreement cannot be created retroactively. You can't decide that you've been providing care for five years, determine what that was worth, and create an agreement after the fact. If you and your loved one wish to enter this type of arrangement, create your caregiver agreement beforehand.

And remember, it is always prudent to work with an elder law attorney experienced in Medicaid planning to help you understand your options, navigate the complexities, and provide the best possible care for your loved one.

# WHAT'S GOING ON WITH US

We are pleased to welcome Attorneys Jeanne Bundrick Di Minno and Adam L. Avallone to our Czepiga Daly Pope & Perri team!

Jeanne joins the firm with more than 20 years of experience helping people throughout Western Connecticut with their legal needs. Jeanne will be working alongside Attorney Lynda Lee Arnold in our New Milford office location to serve your needs in the areas of estate planning, elder law, and estate administration.

Adam, an experienced litigator who has represented clients in trial courts throughout Connecticut and the Connecticut Appellate Court, will be working alongside our litigation team in our Simsbury location. He will continue to help our clients in need of defending, negotiating and/or prosecuting in areas such as fiduciary litigation, probate litigation, Will contests, nursing home collections, elder financial exploitation, and conservatorships.



Attorney  
Jeanne Bundrick  
Di Minno



Attorney  
Adam L. Avallone

## Multigenerational Vacations: 6 Steps For Planning A Trip Together

There are few experiences more transformational than travel. And when we travel with people we love, there is the added benefit of being able to share those memorable experiences. Here are 6 steps to help start your trip:

- 1. Planning** – Start early communications – Your best bet is to plan way ahead (it's not unreasonable to get started a full year ahead of your intended departure date) and put one person in charge of overall planning and communication – although not necessarily all the decisions – to keep track of details, schedules, itineraries, booking confirmations, budgets, etc.
- 2. Budget** – Be clear right up front – Always be candid about the budgeting process including who pays for what, how much each contributor can afford, and what the spending priorities are for the group.
- 3. Destination** – Consider proximity, accessibility, and activities – Pick your destination carefully considering distance, general accessibility, and appeal to all the different members of your group.
- 4. Lodging** – Consider space, privacy, and amenities – Get clear input from everyone about what they'd like in terms of amenities and how much privacy everyone needs

- 5. Expectations** – Don't make assumptions about cooking, cleaning, or babysitting – Make sure you know what each person is willing (and unwilling) to do. And if there are tasks that no one volunteers for, consider finding another way to cover those items, like ordering out, hiring cleaning staff, or setting up a shared schedule for babysitting.
- 6. Itinerary** – Make plans, but go with the flow! – Don't try to schedule every minute of every day with a fully packed itinerary. Instead, pick out a handful of key activities you'd like to do as a family or sights you'd like to visit together, and then leave the rest of the schedule open.

At the end of the day, it's about spending time with people you love, and maybe even learning a bit more about each other.

