

SMART PLANNER

Useful Tips for a Better Tomorrow

Fall 2015



Why Changing Beneficiaries is Important

Do you know right now, without looking, who your beneficiaries are in your Will, life insurance or 401K?

With good intentions and operating on the best information we have at the time, we make important estate planning decisions about who should receive our wealth when we are no longer here.

Things can and will change in our lives, and when they do, make sure you adjust your estate plans and beneficiary designations accordingly.

WHAT IF?

Most of us face the future with optimism. We believe we will experience happy events like getting married, having a baby, buying a house, getting a promotion. Our best-laid schemes may come to fruition exactly as planned, or our lives may take an unexpected detour.

Like our GPS systems, when our “life map” changes, we need to hit the reset button and take a new route. Yet many people neglect to revisit past beneficiary designations when changes come – whether they are planned for or not anticipated – to make sure their choices reflect today’s circumstances.

CHANGES TO STAY ON TOP OF

Here are some of the things you may need to consider as life unfolds and your situation changes:

- You made your parents your beneficiary when you were single, but now you’re married.
- Your Will is set up to place everything in a trust but you never established the trust.
- You planned to divide your assets evenly among all of your children but one has special needs.
 - Should that child get more?
 - Will the inheritance make him or her ineligible for entitlement programs?
 - Is it time to set up a special needs trust?
- You and your spouse are divorced and you are remarried, but your ex-spouse is still listed as your beneficiary.
- Your spouse died and there is no contingent beneficiary.

If your Last Will and Testament is ambiguous, or if the named beneficiary isn’t around to claim his or her inheritance, the state may decide who gets what.

So hold on to your optimism about the future, take charge, and make sure your estate plans and beneficiary designations are up-to-date. That’s the best way to guarantee that your current wishes are carried out as you intended. ■

GOOD TO KNOW

Need a Medicare replacement card?



You can now request one online using a My Social Security account. Sign up for an account at www.socialsecurity.gov/myaccount. Once you have an account, sign in and select the “Replacement Documents” tab to request the new card, which should arrive in the mail in about 30 days.

“Success doesn’t just happen. It’s planned for.”

– Anonymous



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It’s Time. Plan Today for Your Tomorrow.

5 Ways to Deliver Healthy Meals to Seniors

Miss the days when you could take Mom or Dad out to a restaurant for a great meal? Now that they're homebound, those days are over.

Even if they are still mobile – shopping, cooking and cleaning up are often just too much to manage. If you had the time, you'd love to shop for fresh, local ingredients and prepare delicious, healthy meals for them.

Heck, you'd love to do that for yourself! But who has that much free time these days...especially if you're a caregiver. And few among us can afford to hire our own personal chef.

Thankfully, there are options. Here are a few services you can look into – and they will all cater to seniors and individuals with special dietary needs.

> **October Kitchen** (www.octoberkitchen.com) has been preparing and delivering meals to customers in the Greater Hartford area since 2010. The cost is about what you would pay for a meal at a restaurant.



If you don't live in the Greater Hartford area, several chef services deliver meals nationwide:

> **Home Bistro**
www.dinewise.com features a variety of special senior menus.

> **Healthy Chef Creations**
www.healthychefcreations.com will deliver three meals a day if that is your preference, and features free shipping.

> **Magic Kitchen** www.magickitchen.com features a broad range of options, including dialysis-friendly meals and portion controlled meals.

> **Personal Chef to Go** www.personalcheftogo.com has a heart-healthy, Mediterranean-inspired menu.

Maintaining proper nutrition among the elderly is a challenge, as energy, capacity and mobility wane. Great options like these make it easy for you or your elderly loved ones to enjoy chef-prepared nutritious meals at home. ■

Why You Should Delay Social Security Benefits

By Linda Raineault

We keep hearing about delaying Social Security benefits. But we've waited years to tap into this pot!

Well, if you can be patient, you may discover that patience is more than just a virtue.

The good news is that medical science is extending our life expectancy in remarkable ways. Today women who reach the age of 65 can expect to live to age 86 and men to age 84, according to the Social Security Administration.

About a quarter of this group will live past 90. That means that for a married couple there is at least a 50% chance one of you will live past 90. We should all be excited about planning for what we are going to do with all those extra years!

Unfortunately the bad news is that many of us are not thinking that far into the future. It's our nature to only envision the next three to five years and not beyond.

Such short sightedness is causing many of us to make poor decisions when it comes to our financial futures. What good is living to age 90 if we don't have sufficient funds to sustain our basic lifestyles?

Still time to get more

Even if you haven't put away a large retirement nest egg, you can still maximize your Social Security benefits by waiting until age 66 or beyond before signing up. Because Social Security pays inflation-adjusted benefits for life, it can be considered a kind of longevity insurance. Essentially insurance against one spouse living too long.

The one key way to maximize Social Security income in old age is to delay the start of benefits to age 70. That's how you "buy" more longevity protection through Social Security.

What is the cost to you of this insurance?

Should both you and your spouse die before the average break-even age of 78 then you have foregone the monthly benefit you would have received if you had taken your benefit at age 62 and it has cost you the total amount of the foregone benefits.

But if even one of you lives past the average break-even age of 78 you are getting this longevity insurance for free. Should one of you live past the age of 90, and those chances are good, the value of that free insurance is huge!

Maybe the wait will be worth it. ■



It's Time. Plan Today for Your Tomorrow. Call us at (860) 236-7673.

KNOW YOUR OPTIONS

Before Signing Up for Medicare

As you get ready to turn 65, you may be inundated with information about Medicare. All this information is confusing, but it is important to do your research before choosing your plan. If you aren't fully informed, you could end up making mistakes that will cost you down the road, particularly when it comes to how Medicare Advantage and Medigap plans interact.

The first thing to understand is Medicare's alphabet soup of options.

- 1 One option is traditional Medicare. This consists of **Part A**, which covers hospital stays
- 2 **Part B**, which covers physician and other outpatient charges
- 3 **Part D**, which covers prescription medications
- 4 In addition, you can purchase a **Medigap** policy that covers some of the gaps in Parts A and B.
- 5 Another option is **Medicare Advantage (Part C)**, which permits Medicare beneficiaries to receive their medical care from private companies in one package and without the need for a Medigap plan. You must enroll in Part A and Part B in order to join a Medicare Advantage plan. In general, traditional Medicare offers more flexibility with regard to doctors while Medicare Advantage plans tend to be managed care plans, which means only certain doctors and providers are covered.

The first step to choosing the right option is to think about your health care needs. Do you need to see specialists regularly?



Do you want vision or dental services? Is it important to be able to see providers nationwide? These are some of the considerations when choosing between traditional Medicare and Medicare Advantage.

If you decide to go with traditional Medicare, you also need to decide whether you also want a Medigap policy and a Prescription Drug plan.

Medicare has an annual open enrollment period in which you can switch from Medicare Advantage to traditional Medicare or vice versa. However, it's not so simple to switch from Medicare Advantage to a Medigap plan that supplements traditional Medicare. If you apply for a Medigap policy within six months of enrolling in Medicare Part B, a Medigap insurer can't refuse to sell you a plan based on a preexisting condition. But after that, insurers can refuse to sell you a policy, delay coverage, or charge a higher premium because of an existing health condition. Think about this when deciding between traditional Medicare and Medicare Advantage.

If you leave traditional Medicare for Medicare Advantage and then decide to return to traditional Medicare, you won't face quite the same problem with Medigap. Once you return to traditional Medicare, you have the right to go back to the same Medigap policy you had before you joined the Medicare Advantage plan, provided the same insurance company you had before still sells it. If the policy is no longer available, you have a guaranteed right to buy a Medigap policy designated A, B, C, F, K or L that is sold in your state by any insurance company as long as you had Medicare Advantage for less than a year.

There are many resources available to help you with your Medicare decisions. The Medicare.gov web site allows you to compare plans, AARP offers a Medicare tool, *Consumer Reports* has a great guide, and the CHOICES program (www.ct.gov) gives free assistance.

(ElderLawAnswers)



I inherited shares of stock from my father, and I'm trying to pinpoint what they were worth on the day he died. How do I figure my stepped-up tax basis?

Your tax basis for inherited assets is set as the fair market value on the date of your father's death. For stock, find the average of the high and low trading prices for that day. If your father died on a weekend, you use the average of the average trading prices for the Friday and Monday. You can use historical price resources such as Yahoo Finance www.finance.yahoo.com and Big Charts www.bigcharts.com. When you sell the shares, your gain or loss will be based on the date-of-death value.

We invite you to submit your questions to us at plantoday@ctseniorlaw.com.

LATEST NEWS

Probate Fees Skyrocket

Probate fees on settling estates – a legal process that determines the authenticity of Wills and the administering of a deceased's assets – have risen substantially.

Connecticut previously had a cap of \$12,500 on probate court fees, regardless of the value of the estate. This maximum fee was reached with an estate of \$4,754,000. Now, with the new legislation, the fee has increased on estates worth more than \$2 million so that the rate on amounts in excess of \$2 million is increased from .25% to 0.5% of the excess. Estates totaling less than \$2 million will not be affected. For example, under the old fee schedule, the probate fee for \$3.5 million was \$9,365. But now, with the new schedule it will be \$13,115.

The new fees took effect July 1 as part of the new state budget, and will apply to certain estates of Connecticut resident dying on or after **January 1**.

If you're interested in learning ways to protect your assets from probate costs, and from Connecticut estate taxes that range from 7.2% to 12%, give us a call. There are strategies you can implement to minimize the hit.



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- October 21 **Estate Planning: Don't Make These Mistakes!**
– Atrium Rocky Hill
- October 24 **Estate Planning: Don't Make These Mistakes!**
– Vernon Middle School, Resource Fair
- October 26 **Legal and Financial Planning: CT Alzheimer's Assoc.**
– Unitarian Universalist Church, Manchester
- October 27 **Special Needs Resource Fair** – Oakdale Theater
- October 29 **Paying for Long-Term Care** – Canton Senior Center
- November 4 **Estate Planning: Don't Make These Mistakes!**
– Burlington Library
- November 17 **Veteran's Aid and Attendance** – Arden Courts, Farmington
- December 11 **Estate Planning: Don't Make These Mistakes!**
– South Windsor Senior Center

To see our Adult Education schedule, go to www.ctseniorlaw.com.

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Special Insert For Legal, Financial and Healthcare Professionals

Court Remands to SSA to Consider Whether the Temporary Misuse of an SNT Dooms it Forever

A federal district court concludes that the Social Security Administration's decision to permanently discontinue a recipient's SSI benefits because of temporary mismanagement of a special needs trust requires remand to the agency for reconsideration of whether the trust is forever an includable resource. (*Elias v. Colvin*)

In 2007, the Social Security Administration determined that Carolyn Colvin was disabled as a result of lupus. In 2008, as a part of Ms. Colvin's divorce settlement, a Special Needs Trust was established for her benefit to receive her ex-husband's pension benefits in trust while allowing her to continue to meet the income limitations for receipt of Supplemental Security Income (SSI).

In March 2011, the agency determined that Ms. Colvin had access to the trust funds — making them a countable resource — and found her ineligible for benefits as of January

2009. The agency determined that Ms. Colvin had received an overpayment of \$18,137 in benefits. The agency upheld its decision over Ms. Colvin's requests for reconsideration and also denied her request for a waiver of the requirement that she repay the overpayment. Ms. Colvin requested a hearing.

At the hearing, Ms. Colvin admitted she had used a debit card drawn against trust funds to pay bills and other expenditures after her father, the first trustee, became ill. However, she asserted that after being alerted by the agency that this was improper, the debit card was destroyed and the trust was properly managed by a successor trustee starting in September 2012. Ms. Colvin argued that her benefits should be reinstated from either the time when she no longer had access to the trust because the debit card had been destroyed or when the trust was being properly administered as a special needs trust. Ultimately, the administrative law judge (ALJ) affirmed

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Medicaid Applicant Can't Relitigate Penalty Period by Filing Second Application

A New Jersey appeals court holds that a Medicaid applicant who was assessed a 10-year penalty period cannot "relitigate" her application by filing a second application after some transferred assets were returned. (*C.W. v. Division of Medical Assistance and Health Services*).

Nursing home resident C.W. gifted to her children \$539,352.25 in cash and her home, valued at \$324,582.86. She applied for Medicaid in March 2008, and the state assessed a 10-year penalty period due to the transfers. She did not appeal the decision. The children returned some of the cash and the home. C.W. sold the house and deposited the proceeds into a bank account in the name of the children. The children entered into an agreement with C.W. to pay for her nursing home care out of the proceeds. C.W. applied for benefits again, and the state assessed a six-year penalty period due to the returned assets.

C.W. requested a fair hearing, arguing that the agreement with her children was a trust-like document. The administrative law judge (ALJ) recommended that the penalty period be adjusted downward based on the agreement. The state rejected the ALJ's recommendation and reinstated the original 10-year penalty period, holding that C.W. could not "reopen" her original application. C.W. appealed to court.

The New Jersey Superior Court, Appellate Division, upheld the original 10-year penalty period. The court ruled that there is no evidence "supporting the proposition (C.W.) should be able to relitigate a previously-adjudicated and finalized penalty through a subsequent and wholly independent reapplication." (*elderlawanswers.com*)

Efforts to Change Will Using Photocopy and Then Downloaded Form Are Ineffective

In a case that serves as a cautionary reminder to clients thinking of changing their estate plan on their own, a Minnesota appeals court rules that a testator's alleged attempts to revoke her original Will by first marking up a photocopy of it and later trying to make a new Will using an online form were invalid, and the original will stands. (*Minn. Ct. App., No. A14- 2112, Aug. 17, 2015*).

Esther Sullivan validly executed a Will on January 19, 2006, that devised 50% of her property to a former employee of Ms. Sullivan's, Tara Jean Johnson, and a contingent share to Ms. Sullivan's grandson, Joseph VanHale. On October 11, 2008, Ms. Sullivan allegedly made handwritten changes to a photocopy of the 2006 will, writing her initials next to each alteration and signing and dating the bottom of each page. She allegedly wrote on top of the 2008 photocopy, "[t]he Will dated January 19, 2006 is void and to be replace[d] with this and all written in changes." Among the changes was that Ms. Johnson was replaced by Mr. VanHale as a 50% beneficiary. On October 30, 2010, Ms. Sullivan allegedly attempted to execute another Will using a downloaded form and filling in the provisions by hand. This document named Mr. VanHale as Ms. Sullivan's sole beneficiary.

Following Ms. Sullivan's death in 2013, Mr. VanHale contended that the 2010 document was a valid Will, while Ms. Johnson argued for the 2006 will. The district court held that the 2008 photocopy and 2010 document were invalid because they did not comply with Will formalities. The court held that Ms. Sullivan arguably intended to revoke the 2006 Will, but did not successfully "revoke with a properly executed document." The district court applied the doctrine of dependent-relative revocation because of Ms. Sullivan's intent to revoke the 2006 Will, and admitted it into probate. Mr. VanHale appealed, arguing that Ms. Sullivan clearly intended to revoke the 2006 Will and that the 2010 document was valid.

The Court of Appeals of Minnesota admits the 2006 Will to probate but on somewhat different grounds. The court finds that the district court did not err by finding that Ms. Sullivan's alleged attempt to revoke the 2006 Will was ineffective and that the 2010 document was not validly executed. However, the court rules that a revocatory act must be performed on a properly executed Will, not a photocopy. Because Ms. Sullivan never revoked the 2006 Will, the court holds that the district court erroneously applied dependent relative revocation to revive it. (*elderlawanswers.com*)

Court Remands to SSA

(Continued from front)

Ms. Colvin's ineligibility for SSI benefits and the agency's determination that she owed the overpayment. Ms. Colvin appealed to the federal district court.

The United States District Court, Middle District of Pennsylvania, remands to the agency for reconsideration, concluding that "the ALJ has not adequately discussed the issue of whether temporary misuse and improper administration of a properly formed Special Needs Trust must forever negate consideration of the trust as an excludable resource if the administrative problems and misuse are rectified."

(*elderlawanswers.com*)

Have a Client with a Settlement Proceeds?

When you need help protecting your client's settlement, give us a call at (860) 236-7673. We can assist you with benefit eligibility, Medicare Set Asides, special needs trusts and trust administration.

WACKY TAX LAW!

Can an overbite be cured by a clarinet? The taxman says it can. In the case of a girl with an overbite whose doctor recommended therapeutic clarinet lessons, the music lessons were deemed a medical expense by the IRS. Go figure.



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