

SMART PLANNER

Useful Tips for a Better Tomorrow

Fall 2017

Why Everyone Should be Paying Attention to the Medicaid Debate

While the American Healthcare Act or ACA (also known as Obamacare) has so far escaped the repeal-and-replace hatchet, the debate over how to restructure health care is far from over.



One of the most controversial elements of that debate is Medicaid. Despite the broad news coverage on this topic, there is still a great deal of misunderstanding about what Medicaid is, who uses it, and how it's spent.

Not just for the unemployed and the poor

Conservative groups opposed to Medicaid spending would have the public believe that the program is creating an "entitlement society" in which able-bodied

people choose to depend on government programs like Medicaid instead of working. Partly because of the way this kind of rhetoric has been repeated by certain media outlets, many people mistakenly assume that Medicaid is spent strictly on providing healthcare services to the unemployed and the poor. However, the actual numbers do not support this assumption.

According to a report published by the Henry J. Kaiser Family Foundation (KFF), approximately 28% of the overall Medicaid budget is spent on long-term care for seniors. In a related report, the KFF shows how that percentage translates into Medicaid paying for 62% of all nursing home residents in 2014.

The harsh truth is that long-term care is exorbitantly expensive, and that even people who have tried to plan ahead and save enough to cover the costs simply cannot afford the care they need.

Costs of Care in Connecticut

In 2017, Genworth (a life and annuity insurance company) ran a cost of care survey. For the state of Connecticut, the median monthly costs for various kinds of long-term care were as follows:

Home Health Care: \$3,813	Assisted Living Facility: \$4,600
Home Health Aide: \$4,385	Nursing Home – Semi-private Room: \$12,516
Adult Day Health Care: \$1,733	Nursing Home – Private Room: \$13,505

Looking at those numbers, it's not hard to see why many people, even middle-class people who have done their best to prepare for needing long-term care, end up having to rely on Medicaid. Even people who have done all the right things, made smart financial decisions, and set money aside specifically for long-term care very often find that the money they saved doesn't go nearly as far as they'd hoped.

It's also important to note that paying for nursing homes and other kinds of long-term

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GOOD TO KNOW



WAIT! DON'T SEND IN THAT WARRANTY CARD YET...

If you just bought a product that's under warranty, don't send in the registration card until you're sure you're keeping the product. Some retailers, including Amazon, won't let you return an item after you've sent the card or applied for a rebate (especially if you cut the UPC barcode from the box).

A Happy Client . . .

"When my mom had to file for Medicaid, you guys were the best, I'm glad I had you on my side...trying to figure this out on my own would have been a nightmare!"



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It's Time. Plan Today for Your Tomorrow.

The Shocking Truth About Not Having a Will

by CzepigaDalyPope, LLC

A woman recently came to us very upset because her deceased husband's estate will not all go to her – a certain amount will go to his parents. That's the rule in Connecticut.

That's right. When you die without a Last Will and Testament in place, you're giving the state permission to make decisions for you.

Did you know that the majority of all adults have no Will? Even people with high net worth are guilty of this sin of omission.

If you don't have a Will, maybe you think you have plenty of time to get your ducks in a row and it's just not a priority for you right now. With that belief, you may leave your loved ones with a big headache if your future turns out to be shorter than you thought.

Without a Will, what happens to your minor children? Connecticut law gives the surviving parent guardianship of minor children, but what if the other parent is no longer living? Would you want the state to decide who should be your children's guardian?

When there are life changes

Maybe there's some uncertainty in your life and you're waiting for it to be sorted out before you put anything in writing. It could be a divorce, your own or one of your possible heirs. That's all the more reason to nail things down now, while you still have some say in the matter. Once you have a Will, you can revise it at any time to reflect the new circumstances. **But when you die without a Will, someone else makes all the decisions.**

Wills don't cover all

But your Will doesn't decide everything. Here are some assets that would pass to the surviving co-owner or to a named beneficiary:

- Property you've transferred to a living trust
- Life insurance proceeds
- Funds in an IRA, 401K or other retirement account



- Securities held in a transfer on death account
- Payable on death bank accounts
- Vehicles held by transfer on death registration
- Property you own with someone else in joint tenancy

How the state divides up your estate

For any other property, if you die "intestate" (without a Will), the State of Connecticut divvies up your estate according to your circumstances. Take a look at what would happen in each scenario:

- **If you die with children but no spouse**, your children inherit everything
- **If you die with a spouse but no descendants or parents**, your spouse inherits everything
- **If you die with a spouse and descendants from you and that spouse**, your spouse inherits the first \$100,000 of your intestate property, plus 1/2 of the balance; your descendants inherit everything else
- **If you die with a spouse and at least one descendant from you and someone other than that spouse**, your spouse inherits 1/2 of your intestate property, and your descendants inherit everything else
- **If you die with a spouse and parents**, your spouse inherits the first \$100,000 of your intestate property, plus 3/4 of the balance; and your parents inherit the remaining intestate property
- **If you die with parents but no spouse or descendants**, your parents inherit everything
- **If you die with siblings but no spouse, descendants, or parents**, your siblings inherit everything.

Few of us would actively choose to let our state government take charge of our property and make critical decisions about our minor children. But by leaving this important task of adulthood undone, you are doing just that. ■

Paying Attention to the Medicaid Debate

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Care is a challenge and hardship that most people will eventually have to confront. The U.S. Department of Health and Human Services estimates that "70% of people turning age 65 can expect to use some form of long-term care during their lives." This is clearly an issue that will touch most senior Americans.

Burden falls on caregivers

In addition to the direct effects on the finances of the seniors who need long-term care, the rising costs of nursing homes and potential changes to Medicaid pose a very real threat to the financial stability and general well being of family members and friends.

If Medicaid is unavailable to cover the costs of long-term care,

family and friends will need to step in to provide care. The financial and emotional burden of taking on this kind of responsibility can lead to extreme financial crisis, not only draining bank accounts but also keeping younger family members from being able to work. Apart from the cost concerns, taking on the role of primary caregiver can lead to depression, high stress, and anxiety.

The bottom line is that Medicaid is a critical part of our healthcare system. It's a program that helps a wide variety of people and is particularly crucial to seniors from all walks of life who need long-term care as they get older. The Medicaid issue, and by extension the entire healthcare debate, is something everyone should care about.

If you would like some guidance about protecting your money from the costs of long-term care, or how to navigate the Medicaid process, give us a call – we'll be happy to assist you. ■

7 WAYS TO GET A GOOD NIGHT'S SLEEP

Our need for sleep changes throughout our lifetimes, but maybe not as much as we once thought. Contrary to popular belief, **adults 65 and older do *not* require less sleep than they did at 35 or 50.** The National Sleep Foundation recommends 7-9 hours of sleep a night for adults of all ages.

Everyone, regardless of age, can sleep better by doing simple things like improving sleep hygiene and avoiding caffeine close to bedtime, but seniors should also make sure to address age-related sleep issues:

- 1 Seniors naturally find that they tend to go to bed earlier and wake up earlier than they used to. Don't fight this tendency; work with it. **Go to sleep and wake up around the same time every day.**
- 2 **Keep naps short**, at 20-30 minutes tops, so they don't interfere with your regular sleep schedule.



- 3 **Replace regular nightlights with motion-sensitive nightlights** in order to help prevent nighttime falls.
- 4 **Ask a snoring partner to see a doctor** (for their sake and for yours!) as the noise can cost you an hour of sleep a night. Otherwise, consider sleeping in separate bedrooms.

- 5 **Get some sunlight.** Seniors tend to spend more time indoors, missing out on sunlight's powerful effect to help regulate sleep cycles.
- 6 **Talk to your doctor about how existing medical conditions are impacting sleep.** This may include prostate enlargement for men and reduced levels of estrogen for women.
- 7 **Look at your meds.** Many kinds, including antidepressants, interfere with the production of melatonin, a hormone that helps regulate the sleep cycle. This is in addition to the natural decline of melatonin production as we age.

By improving sleep habits and working with your doctor, you can avoid many of the sleep disorders that occur with age and enjoy better health because of it. ■



New Madison Office!

To serve our residents on the shoreline, we have added an office in Madison. The office at 149 Durham Road (Rte 79), is a ½ mile north of downtown. If Madison is more convenient than our Berlin, New Milford, Simsbury or South Windsor offices, just call us and we'll schedule an appointment for you.

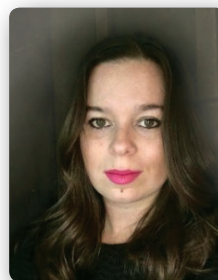
We look forward to seeing you there!

WHAT'S UP WITH US

We're expanding to serve you better!

Join us in welcoming our 3 new attorneys:

Jennifer Reale has joined our litigation department; Jeff Rivard's practice includes estate planning and Medicaid and asset protection planning; and special needs attorney Colleen Masse has joined our disability planning department.



Jennifer Reale



Jeff Rivard



Colleen Masse

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



- 11/9[VA Benefits & Estate Planning Panel](#) – Stonebrook Village, Windsor Locks
- 11/14[Planning for Long-term Care](#) – Arden Courts, Farmington
- 11/16[Alzheimer’s panel](#) – hosted by Alzheimer’s Association, Wilton Library
- 11/29[Special Needs Planning Fair for Avon Schools SEPTA](#) – visit us at the Avon Library
- 12/6[Navigating Long-term Care & Healthcare with Farmington VNA](#) – Simsbury Inn

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



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Federal and Connecticut Estate Tax Tension: 2 Big Reasons to Add a Trust to Your Estate Plan

By Paul T. Czepiga

Connecticut residents are exposed to both a federal estate tax and a Connecticut estate tax if their net worth at death exceeds a certain level.

Unfortunately, the net worth level at which these taxes apply, and how they apply, is different for the federal estate tax and for the Connecticut estate tax. **Here is a quick walk through of how these taxes work and the tension that is created by having two different thresholds:**

For right now, the federal estate tax threshold is \$5.49 million (it is indexed for inflation and will likely increase each year). This means that each taxpayer is given a \$5.49 million exemption from the federal estate tax. So if you die with a net worth less than this amount, your estate is not subject to the federal estate tax and is not required to file a federal estate tax return. If you are exposed to the federal estate taxes, the rate is a flat 40%.

What about gift tax?

Yes, there is also a federal gift tax, and that also has a \$5.49 million exemption. **But you only get ONE exemption for federal estate and gift tax. If you make lots of big gifts during your lifetime, you will “use up” part of your exemption and have that**

much less exemption left when you die that you could otherwise have used to protect the assets you still own at your death.

You do not have a choice about paying gift tax now and “saving” the exemption for when you die. Gifts automatically soak up the exemption first.

Big gifts are those in excess of \$14,000 to any one person in any given year. The \$14,000 is indexed for inflation and rounded to the nearest \$1,000 (it does not increase each year).

Property between spouses

Property passing between spouses during life or at death is not taxed for gift tax or estate tax purposes. This is known as the unlimited marital deduction.

For example, if your spouse dies with a \$7.0 million gross estate and leaves you \$4.0 million, your spouse gets a \$4.0 million deduction, leaving them with a \$3.0 million net taxable estate from their gross taxable estate.

The \$3.0 million net taxable estate would itself be shielded from the federal estate tax because of the \$5.49 million exemption. The \$2.49 million of remaining exemption is portable for

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Treasury to Withdraw 2704 Proposed Regulations

The Treasury Department issued a second report on its plans to modify or withdraw eight regulations identified as imposing undue burdens on U.S. taxpayers. In this report, proposed regulations under Code Sec. 2704, which deal with the treatment of lapsing rights and restrictions on liquidations, were recommended to be withdrawn in their entirety. In an earlier interim report, which was created pursuant to Executive Order 13789, April 21, 2017, the proposed regulations were identified as imposing an undue financial burden on taxpayers, adding undue complexity to the tax laws, or exceeding the statutory authority of the IRS.

The proposed regulations provided that certain noncommercial restrictions on the ability to dispose or liquidate family-controlled entities would be disregarded in determining the fair market value of an interest in that entity for estate and gift tax purposes.

Commentators were concerned that the proposed regulations would make valuations more difficult. In particular, commentators contended that the valuation of an entity interest as if no restrictions on withdrawal or liquidation existed in either the entity's governing documents or state law was not realistic. Comments were also received that the proposals would result in unrealistic valuations. The Treasury Department and IRS agreed with the commentators that the proposed regulations approach to the issue of artificial valuation discounts was untenable. The report also cites the excessive burden placed on taxpayers by the proposed regulations and the potential that the proposals could have an unintended effect where valuation discount factors were not created artificially. As a result, the Treasury Department and IRS intend to withdraw the proposed regulations in their entirety in a withdrawal published in the *Federal Register*.

The Treasury also announced that it is conducting a comprehensive review that has already identified over 200 regulations that should be repealed. According to the Treasury Department, the repeal effort will begin in the fourth quarter of 2017.

[2017 CCH Incorporated]

Federal and Connecticut Estate Tax Tension

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married couples—a new feature that came into being in 2012. This means that you, as surviving spouse, would have your own \$5.49 million exemption and the remaining \$2.49 million of your predeceased spouse's exemption, for a total exemption of \$7.98 million.

Connecticut taxes

Connecticut, like the federal government, also has an estate tax and a gift tax (Connecticut is the only state with a gift tax – lucky us!).

The Connecticut estate and gift tax works almost identically to the federal estate and gift tax with a few major exceptions.

1. The Connecticut estate and gift tax exemption is only \$2.0 million per person and it is NOT portable—the first spouse to die either uses their \$2.0 million exemption or it is lost forever.
2. The Connecticut exemption is not indexed for inflation.
3. The rates for gifts or bequests go from 7.2% to 12%, unlike the federal flat rate of 40%.

Property passing between spouses during life or at death is not taxed for gift tax or estate tax purposes. This is known as the unlimited marital deduction and is identical to the federal scheme.

Unless your estate plan is carefully drafted, this federal and state law can cause a problem.

Problem #1

Assume Joe has \$3 million and his wife has \$2 million.

Joe dies first and has an outdated estate plan that, in typical fashion, says to leave in a trust for his spouse, the largest amount that he can shield from federal estate by use of his exemption. This would be \$5.49 million, but Joe has only \$3 million of assets so his entire estate passes into a trust for his spouse. This type of trust normally does not qualify for the marital deduction, but there won't be any federal estate tax due because Joe's \$3.0 million net taxable estate is fully protected by his federal estate tax exemption.

2018 Annual Gift Tax Exclusion to Rise to \$15,000

The numbers are now final. For 2018, the annual gift tax exclusion will rise from \$14,000 per year to **\$15,000 per year** and the estate/gift tax exclusion will rise from \$5.49 million to **\$5.60 million**.

But what of Connecticut's estate tax. Joe has a \$3.0 million net taxable estate, but he only has a \$2 million Connecticut estate tax exemption. The excess over the \$2.0 million Connecticut exemption (\$1 million) that passes into the trust for his spouse will be taxed to Joe's estate by Connecticut at 7.2%, or a cost of \$72,000. Oops!

Problem #2

Assume the same facts as above, but Joe's estate plan says something to the effect of: Gee, my wife's and my estates combined are \$5.0 million, and between us, due to the portable nature of the federal estate tax exemption, I can just leave my entire estate outright to my wife and she, at her death, will have available to her both mine and her \$5.49 million federal estate tax exemptions—a total shield of \$10.98 million.

Joe dies and leaves his entire estate to his wife and she later dies with the \$5.0 million.

Result: No federal estate tax at either death, but when she dies with \$5.0 million and only a \$2.0 million Connecticut estate tax exemption, her estate will owe roughly \$216,000 of Connecticut estate tax. She only has her \$2.0 million exemption—unlike the federal scheme, Joe's wife does not get the benefit of Joe's unused Connecticut exemption.

Is there a solution?

Yes. It involves a trip to the attorney's office to get the documents redrafted to factor in the use of one or more types of trusts that will allow all of the husband's assets to be made available to the surviving spouse in a manner that delays or reduces the Connecticut estate tax.

UPCOMING EVENTS

For the Connecticut Bar Association:

- 11/1 – Anatomy of a Special Needs Trust – Brendan Daly & Sharon Pope (New Britain)
- 11/9 - Single Premium Immediate Annuities & Medicaid Planning – Brendan Daly (Orange)

For the Connecticut Society of CPAs members:

- 11/30 – New POA Updates – Paul Czepiga (Rocky Hill)

For the CT Trial Lawyers Association:

- 12/1 – come see us at the CLE Lollapalooza (Hartford Club)

For all professionals:

- 11/28 – Medicaid Update – CTCPA Training Facility, Rocky Hill



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