

# Law Office of Eileen R. Fitzgerald

## An Elder Law Newsletter

Winter, 2010  
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### NEWS FROM EILEEN

Thank you for the referrals. I appreciate the confidence you have in me when you refer your friends and neighbors.

Thank you to those of you who purchased raffle tickets from the DuPage Senior Citizens Council. The raffle helped provide Meals on Wheels to seniors in DuPage County.

### 2010 MEDICARE PREMIUMS

The Medicare Premiums for 2010 are as follows:

#### Part A (Hospital Insurance) Premium

- ♦ Most people do not pay a monthly Part A premium because they or a spouse have 40 or more quarters of Medicare covered employment.
- ♦ For people having 30-39 quarters of Medicare covered employment the premium is \$254.00 per month

- ♦ For people that have less than 30 quarters, the premium is \$461.00 per month.

#### Part B (Medical Insurance) premium:

- ♦ Most beneficiaries will pay the same \$96.40 premium amount in 2010 if they have their premium withheld from their Social Security payment and have income of less than \$85,000 (single person) or \$170,000 (married couple).
- ♦ For all others the monthly premium will increase to \$110.50. If income is higher than \$85,000 or \$170,000, then the premium might be higher than \$110.50.

#### Medicare Deductible and Coinsurance Amounts for 2010:

For each benefit period, you pay:

- \*\$1,100.00 for a hospital stay of 1-60 days;
  - ♦ \$275.00 for days 61-90;
  - ♦ \$550 for days 91-150 (lifetime reserve days);
  - ♦ All costs for each day beyond 150 days.
- For a skilled nursing facility you pay \$137.50 per day for days 21 through 100 for each benefit period.

Part B (physician services, outpatient hospital services, certain home health services, durable medical equipment), you pay \$155.00 per year and 20% of the Medicare approved amount after you meet the \$155.00 deductible.

## WHO CAN SERVE AS EXECUTOR

One important reason to have a will is to be able to name your executor (also called a personal representative). An executor is the person responsible for managing the administration of your estate after you die. If you don't choose an executor, the court will choose one for you.

The first decision is whether to choose a person or an institution to act as executor. A bank, trust company, or other institution can serve.

Next, you need to make sure the person or institution will be allowed to serve. States often have qualifications that a person must meet in order to act as executor. For example, minors and convicted felons may not serve in this capacity. In addition, some states don't allow executors who live in another state unless they are family members. An elder law attorney can tell you who is qualified to serve in your state.

If you die without a will or the person named in the will can't serve as executor, then the probate court will choose an executor. State law dictates who has priority to serve. The surviving spouse usually has first priority, followed by children. If there is no spouse or children, then other family members may be chosen. If more than one person has priority and the heirs can't agree on who should serve, then the court will choose.

## KEEPING TRACK OF YOUR WILL

### **Keeping Track of Your Will**

Once you've taken the step to create a will and get your estate plan in order, you need to figure out what to do with the will itself. It is important to keep track of the location of your current will as well as any old wills.

### **Where To Keep a Will**

The safest place to keep the original copy of your will is in a bank safe deposit box. If you keep the will at home, even if it is safe, you run the risk of it being stolen or being destroyed in a fire. Some attorneys may keep the original copy of the will. But if you leave the will with your attorney, make sure the attorney receives updated contact information from you when you move. That way if the attorney moves offices or retires, he or she will know where to find you and you will know where your will is.

You may want to keep a copy of your will at home with your other financial documents. It is usually not a good idea to give a copy to family members or friends because you may want to change the distributions at some point and may need the will back.

### **What Do You Do With an Old Will?**

Once you have written a new will, your inclination may be to destroy the old will, but this may not be a good idea. If, for some reason, your new will is invalidated, the court may be willing to reinstate

an old will rather than allowing your estate to pass intestate (according to state law). It is likely that your old will adheres more closely to your wishes than an intestate distribution. If the will is destroyed, it cannot be reinstated.

### **Making Changes To a Will**

If you want to make changes to a will, do not mark up the will by hand, even if you have only small changes to make. A court could take a marked-up will as a sign that you intended to revoke the will. If you want to make a change, contact an attorney who can draft an amendment to the will (called a codicil).

## **COMMON MISTAKES IN ESTATE PLANNING**

\*Neglecting to plan – not having a will, trust or powers of attorney.

\*Not transferring assets to your trust.

\*Not having the proper beneficiary designations on assets.

\*Not providing for successor executors, trustees, agents and beneficiaries.

\*Preparing forms by yourself.

\*Not reviewing or updating your plan periodically.

An estate planning attorney can assist you do not make these common mistakes.

## **NEW WEBSITE PROMOTES SENIOR VOLUNTEER OPPORTUNITIES**

Seniors who want to remain active and engaged often turn to volunteering. A new government Web site sponsored by the [Corporation for National and Community Service](#) is promoting volunteerism for seniors. The site, [www.getinvolved.gov](http://www.getinvolved.gov), makes it easier for seniors to find volunteer opportunities around the country.

Those age 55 and older can use the Web site's search engine to locate volunteer opportunities by interest and location. They can search in interest areas such as animals, homelessness, politics, and sports, among others. Most of the opportunities are flexible so seniors can volunteer when and where their schedule allows.

In addition, through the Web site, seniors can sign up for one of the following Senior Corps' National Service Programs, which connect seniors to service opportunities in their communities

- RSVP offers volunteers 55 and over a variety of service opportunities in their local communities.
- The Foster Grandparent Program connects volunteers age 60 and over with children and young people with exceptional needs.
- The Senior Companion Program brings together volunteers age 60 and over with adults who have difficulty with the simple tasks of day-to-day living.

To learn more about Get Involved, visit [www.getinvolved.gov](http://www.getinvolved.gov)

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## **DON'T LEAVE CHILDREN UN-EQUAL SHARES BY MISTAKE**

Siblings do not always receive equal shares of a parent's estate. Sometimes the inequality is intentional and sometimes it is accidental. Regardless of how it happens, it can cause arguments among the children. However, there are some steps parents can take to promote family harmony.

If you intend to leave your children equal shares of your estate, don't forget to consider any money or property held jointly with a child. Property in a joint account passes outside of your estate. If you add a caregiver child to one of your bank accounts out of convenience, the account will pass to that child alone when you die. This is true for any property held in joint tenancy or any property in a POD (Pay on Death) account. If you don't intend for that child to receive a bigger share of your estate, you can add a provision in estate planning documents stating that any property passing through joint tenancy to a beneficiary will be treated as an advancement of that beneficiary's share.

On the other hand, you may intend to leave one child a different share of your estate than your other children.

For example, you may want to reward a caregiver child or you may feel that a child with a disability needs a bigger share. If you do decide to favor one child over another, you should explain in detail your reasoning in your estate planning document. This may help your children understand your decision. You also need to make it clear that it is your decision and not the influence of the favored child. If your children are unhappy with how much they have received, they may try to challenge your will. A qualified elder law attorney can help you ensure your estate is divided the way you intend.

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## **POWER OF ATTORNEY**

It is important to know how to sign as an agent under a power of attorney. If John Doe is the agent and he is signing for Mary Doe, John signs as follows:

**Mary Doe, by John Doe, Agent**

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