Law Office of Eileen R. Fitzgerald
An Elder Law Newsletter

Winter, 2005 **Volume 6, Issue 1**
Email: efitzgerald@efitzlaw.com **Phone:** 630-493-4380

News From Eileen

Happy New Year! Thank you for the Christmas cards and the referrals for other clients! I hope the coming year is a happy, healthy and prosperous one for all of you.

I am speaking at a seminar at Brighton Gardens in Wheaton on Saturday, February 12, 2005 at 9:30 a.m. My topics will be estate planning and advance directives. If you would like to attend, please call Rita Peckhart at Brighton Gardens. Her telephone number is 630-681-1234 .

Increased Real Estate Tax Exemptions

Illinois has increased the tax exemptions for real estate in Illinois. The new exemptions are $3000.00 for the senior exemption and $5000.00 for the residential exemption. These exemptions reduce the assessed value, which ultimately reduce the amount of real estate taxes paid. If you are eligible for either of these exemptions, please be sure they are on your real estate tax bill. If not, contact your local township assessor.

New Public Aid Limits

The new Public Aid spousal asset allowance for 2005 is $95,100.00. This is the amount that can be transferred from the nursing home spouse's assets or from joint tenancy assets to the community spouse's name only. The new Public Aid community spouse income allowance for 2005 is $2,377.50 per month. The community spouse is the spouse still living at home. The rules for spouses are complicated and anyone doing any planning should speak with an elder law attorney.

The Public Aid recipient is allowed to keep $2,000.00 in assets, as well as $30.00 per month from his or her income. The prepaid burial limit has increased to $4,776.00 for funeral home services for an irrevocable prepaid funeral and remains at $1,500.00 for funeral home services for a revocable prepaid funeral. There is no limit on amounts paid for burial merchandise including coffin, plot, vault, marker and grave opening.

Please call for an appointment if you would like to discuss Medicaid planning.

Public Aid Rules
Lookback and Penalties

There are two terms that are commonly used when discussing Public Aid/Medicaid. Those terms are "lookback period" and "penalty period". The two terms are often confused.

The "lookback period" is the length of time that Medicaid will look back to determine what the Medicaid applicant did with his assets. The typical "lookback period" is 36 months. For trusts the "lookback period" is 60 months. Medicaid will look back at the applicant's assets for 36 months (or possibly 60 months) to determine if the applicant has given away or transferred any assets in order to qualify for Medicaid.

The intake clerk will review bank statements, brokerage statements and all assets. Any withdrawals over $500.00 will be scrutinized. If assets were gifted or transferred during the lookback period in order to qualify for Medicaid benefits, the transfer will be subject to Medicaid's "penalty period". If the transfers or gifts were done for reasons other than to qualify for Medicaid, they should not be subject to Medicaid's penalty period. Many times a parent, while in good health, will make a gift to a child or grandchild just for the sake of making a gift. Then, if the parent must enter a nursing home within a short period of time the gift will become the subject of Medicaid's scrutiny. If the parent can prove with medical records that he was in good health and entering a nursing home was not imminent, Medicaid should not penalize the gift.

Another term used by Medicaid is the "penalty period", which is the length of time that a Medicaid applicant will not qualify for Medicaid benefits because of a transfer or gift. The "penalty period" is calculated by taking the amount of the gift and dividing it by the private pay rate at the nursing home. The private pay rate at the nursing home includes room and board only. It does not include costs for extras such as incontinence, medicine, laundry, etc. The "penalty period" starts when the transfer is made, not when the individual applies for Medicaid or enters a nursing home. For example: If a parent makes a gift of $100,000 in January, 2003 and the private pay rate at the nursing home is $5,000 per month, the "penalty period" would be 20 months. The "penalty period" would start in January, 2003 and end 20 months later. After the "penalty period" expires the applicant should be approved for Public Aid. Some planning is possible to preserve assets prior to a Public Aid application. If you would like more information, please call to schedule an appointment

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.

Why Do I Need Long-Term Care Insurance

1. Medicare pays for a small amount of long-term care costs for a short period of time. Medicare supplements do not pay for long-term care costs unless it is part of the plan and then only when Medicare pays.

2. Long-term care costs can wipe out a lifetime of savings in a few months.

3. A Harvard University study showed that 69% of single people and 34% of married couples would exhaust their savings after 13 weeks of nursing home costs.

4. At age 65 a woman has a one in two change of spending time in a nursing home. A man has a one out of three chance. It's not that men are healthier, they usually die sooner.

5. Medicaid pays only after a single person has spent assets down to $2000.00. Rules are different for a married person and vary depending on the couple's situation.

6. Children can't quit their jobs to take care of their parents because they often have children of their own that they need to support and care for.

7. People can't buy long-term care insurance after they have a medical crisis.

8. Health rarely improves with age.

9. Long-term care insurance allows you to choose the facility to go to because you have the money to pay for it. Medicaid does not pay in all facilities.

Long-term care insurance is a good investment. If you need a referral for someone to talk to about long-term care insurance, please call me.

Deductions for Long-Term Care Insurance Premiums

The IRS has changed the deductions amounts for long-term care insurance.
The following are the amounts allowed as a deduction for long-term care insurance premiums paid in 2005:

Age of taxpayer	Maximum deduction
40 or less	$270
More than 40 but less than 50	$510
More than 50 but less than 60	$1,020
More than 60 but less than 70	$2,720
More than 70	$3,400

Age is a number, old is in your head.

Law Office of Eileen R. Fitzgerald
1561 Warren Avenue
Downers Grove, IL 60515

* Please notify us at 630-493-4380 or efitzgerald@efitzlaw.com if there is a change of name or address.

Medicare Premium and Deductibles for 2005

The Medicare Part B premium is increasing from $66.60 to $78.20 for 2005. For Medicare Part A the deductible paid by a Medicare beneficiary when admitted to a hospital for up to 60 days will be $912.00 in 2005. If the person is in the hospital over 60 days, the beneficiary must pay an additional $228 per day for days 60 through 90 and $456 per day past 90 days.

For beneficiaries in skilled nursing facilities, the daily co-insurance for days 21 through 100 will be $114 per day in 2005. The hospital deductible amounts and co-insurance amounts may be paid by a Medicare supplemental insurance if that is part of the individual's plan.

Social Security income benefits will increase by 2.7% in 2005. By law, the Medicare Part B premium increase cannot be larger than a beneficiary's cost of living increase in Social Security. The maximum amount of earnings subject to the Social Security tax will increase to $90,000.00 in 2005 (from $87,900.00) in 2004.

Funding Living Trusts

Clients often choose to sign a living trust for their estate plan. That's when the work begins. In order to "fund" a living trust, the client's assets must be re-titled in the name of the trust. A deed must be prepared that changes the name on the property from John Doe as the owner to John Doe's Trust, dated January 1, 2004. The deed is then recorded in the County where the property is located. Each stock certificate must be returned to the transfer agent and retitled in the name of John Doe's Trust. If stocks are in a brokerage account, the account is changed to John Doe's Trust and the broker usually prepares the documents. This is much easier than retitling the name on each individual stock. The bank accounts are transferred by having the bank clerk retitle the accounts into the Trust name. If there is a significant amount of personal property, a Bill of Sale is used to transfer personal property to the Trust. Signing a trust isn't like signing a Will. There is paperwork to be done after signing a Trust. If the assets are not transferred and the person dies then the estate must go through the probate process. One of the reasons that a trust is done is to avoid probate. The client or his estate will have paid attorney's fees for the trust and probate, which is good for the attorney, but not the client.