

Law Office of Eileen R. Fitzgerald

An Elder Law Newsletter

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Email: efitzgerald@efitzlaw.com

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Phone: 630-493-4380

News From Eileen

Thanks for the referrals. I appreciate the confidence you have in me when you refer your friends and neighbors. Once again we will be having summer hours. The office will “officially” close at 3:00 p.m. on Friday afternoons.

The DuPage Senior Citizens Council is having its fundraiser at Brookfield Zoo. The date is August 25, 2007. Cocktails at 6:00 pm., a sunset safari motor tour at 6:30 pm., a Silent Auction and dinner at 8:00 pm. It is a fun time for a good cause. DSCC provides home delivered meals and home repairs for senior citizens in DuPage County. Tickets are \$75.00 per person. Call 630-620-0804 for tickets.

Gifts to Grandchildren

Gifts to your grandchildren can do more than help your descendants get a good start in life, it can also reduce the size of your estate and the tax that will be due upon your death. Perhaps the simplest approach to gifting is to give the grandchild

an outright gift. You may give each grandchild up to \$12,000 a year (in 2007) without having to report the gifts to the IRS. If you're married, both you and your spouse can make such gifts. For example, a married couple with four grandchildren may give away up to \$96,000 a year with no gift tax implications. In addition, the gifts will not count as taxable income to your grandchildren (although the earnings on the gifts, if they are invested, will be taxed).

But you may have some misgivings about making outright gifts to your grandchildren. There is no guarantee that the money will be used in the way you may have wished. Money that you hoped would be saved for educational expenses may instead be spent on a fact-finding mission to Fort Lauderdale. Fortunately, there are a number of options to protect against misuse of the funds by grandchildren, including directly paying a school or medical provider, a custodial account, gift trusts and 529 accounts.

You should seek professional advice from an elder law attorney before making any gifts. There are many aspects of your estate plan to consider before making gifts, including whether you will have adequate funds for your needs and how the gifting will affect future long-term care needs.

Veterans Long-term Care Benefits

Long-term care costs can add up quickly. For veterans and the surviving spouses of veterans who need in-home care or are in a nursing home, help may be available. The Veterans Administration (VA) has an underused pension benefit called Aid and Attendance that provides money to those who need assistance performing everyday tasks. Even veterans whose income is above the legal limit for a VA pension may qualify for the Aid and Attendance benefit, if they have large medical expenses for which they do not receive reimbursement.

Aid and Attendance is a pension benefit, which means it is available to veterans who served at least 90 days, with at least one day during war time. The veteran does not have to have service-related disabilities to qualify. Veterans or surviving spouses are eligible if they require the aid of another person to perform an everyday action, such as bathing, feeding, dressing, or going to the bathroom. This includes individuals who are bedridden, blind, or residing in a nursing home.

To qualify, the veteran or spouse must have less than \$80,000.00 in assets, excluding the home and vehicle. In addition, the veteran's income must be less than the Maximum Annual Pension Rate (MAPR). Following are the MAPRs for 2007:

| | |
|---|--------------------|
| ♦ Single Veteran | \$18,234.00 |
| ♦ Veteran (One Dependent) | \$21,615.00 |
| ♦ Single Surviving Spouse | \$11,715.00 |
| ♦ Surviving Spouse (One Dependent) | \$13,976.00 |

Income does not include welfare benefits or Supplemental Security Income. It also does not include unreimbursed medical expenses actually paid by the veteran or a member of his or her family. This can include Medicare, Medigap, and long-term care insurance premiums, over-the-counter medications taken at a doctor's recommendation, long-term care costs, such as nursing home fees, the cost of an in-home attendant that provides some medical or nursing services; and the cost of an assisted living facility. These expenses must be unreimbursed (in other words, insurance must not pay the expenses). The expenses should also be recurring, meaning that they should recur every month.

How it works. The amount a person receives depends on his or her income. The VA pays the difference between the veteran's income and the MAPR. John, a single veteran, has income from Social Security of \$16,500.00 a year and a pension of \$12,000.00 a year, so his total income is \$28,500.00 a year. He pays \$20,000.00 a year for home health care, \$1,122.00 a year for Medicare, and \$1,788.00 a year for supplemental insurance, so his total medical expenses are \$22,910.00. Subtracting his medical expenses from his income (\$28,500.00 -

\$22,910.00), John's countable income is \$5,590.00. John could qualify for \$12,644.00 (\$18,234.00 - \$5,590.00) in Aid and Attendance benefits.

To apply, contact a VA office near you or call for a referral to someone who can assist you.

Avoiding Family Disputes

Caring for an elderly parent can be stressful for families. Siblings may disagree over how to provide care or where a parent will live, and if these squabbles escalate into a guardianship battle, it can cost the family thousands of dollars. To avoid this, lawyers have begun drafting sibling agreements (also called family care agreements).

If a parent becomes incapacitated and can no longer take care of him- or herself, questions can come up between siblings over where a parent should live, who should manage the parent's money, or who will assume primary caregiving duties. A sibling agreement can address these issues and provide consequences if the agreement is not followed.

Sibling agreements are not meant to replace a trust or a power of attorney. Instead the agreement can complement these valuable estate planning tools by providing guidance for the trustee or the holder of the power of attorney. The following are some examples of topics an agreement might cover:

- ◆ Which sibling has primary care of a

parent and how caregiving duties will be divided among siblings.

- ◆ Whether a sibling will be reimbursed for caring for a parent.
- ◆ Where the parent should live—with a child, in assisted living, in a nursing home?
- ◆ How to decide whether a parent should move into a nursing home .
- ◆ How the parent's money will be managed.
- ◆ Whether the siblings will contribute financially to the parent's care.

If the siblings can't reach an agreement, a geriatric care manager or mediator can help draft the agreement. Mediators can also help if one of the siblings breaches the agreement. Consequences for breaching a sibling agreement could be losing a power of attorney or a reduction in inheritance.

If you would like to discuss a Family Care Agreement, please call to schedule an appointment.

This newsletter is for informational purposes only and should not be taken as legal advice for a particular situation.

The greatest pleasure in life is doing what people say you cannot do.

Will Rogers

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

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

Senior Living Experts

Why Use A Senior Living Expert?

When the time comes to choose senior housing, time isn't always on your side. Usually something has occurred that is causing you or your loved ones to frantically search for the best solution. Without the luxury of time, you are unable to really research all your options. That's where a senior living expert comes in, to help advise and guide you.

Senior living experts can explain the difference in care between communities and the different types of communities that are out there. For example, what exactly does assisted living mean, and who should live there?

Advisors will take into account the level of care you need now and the level of care you might need later. They want to make sure that they match you with a property that can provide you all the help you need now and in the future.

Based on your geographical preferences, (would you like to stay near your church

or move closer to your children?) they can help pinpoint the providers in those areas.

Cost is also a factor to consider. Many places will list the 'starting at' costs in their marketing material, but wouldn't you like to know how much it really is going to cost?

In addition to narrowing down the choices, some advisors will accompany you on tours to make sure you are getting all your questions answered, even the ones you can't think of because you have never done this before.

Senior living experts are experienced professionals in this industry. They can also make great referrals to help make the move easier such as recommendations of movers, packers, in home care providers, doctors, support groups and much more.

Some advisors charge hourly for their service and others are able to offer their service at no charge to you, the customer. So if you are looking for help, instead of calling multiple communities, make one call to a senior living expert.

2007 By Lisa Sneddon, President, Senior Living Experts, Inc. 1-877-882-0509 Visit our website at: <http://www.SeniorLivingExperts.com> and our blog for caregivers: <http://www.SeniorLivingInfo.com>