Law Office of Eileen R. Fitzgerald Newsletter

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Services for Seniors

I am a member of the DuPage Senior Citizens Council (DSCC) board. Since 1975, DSCC has been helping senior citizens in DuPage County. DSCC is a not-for-profit, volunteer driven agency, devoted to enriching senior life. Through the efforts of numerous volunteers, a variety of programs are offered to help seniors live safely in their own homes, and provide them the opportunity to maintain their physical and mental health.

DSCC's Home Maintenance Program is available to all DuPage County seniors age 60 and over. The program provides affordable services so seniors can maintain the safety and value of their homes.

Some of the services available through the Home Repair Program include: **Plumbing, Electrical, Carpentry and General Maintenance, Safety Installations and Minor Home Repairs.** Rates for DSCC handyman services are either $40.00 or $60.00 per hour depending on whether the person lives in a Subsidized or an Unsubsidized Community. You can call (630) 620-0804 for more information about the Home Maintenance Program.

Another home related service offered by DSCC includes a Chore Days Program. Every spring and fall volunteers assist seniors with yard work necessary to prepare for the coming season. DSCC also offers a Senior Home Inspection Program designed to alert seniors to any risk of fire, burglary or injury in their home. DSCC also offers a Contractor Referral Program which assists seniors in finding an Independent Contractor. You can log on to DSCC's website (dupageseniorcouncil.org) to learn more about this important agency and how you can become a volunteer. Currently, DSCC needs volunteers to deliver meals to seniors.

New Asset and Income Allowances

The new Public Aid spousal asset allowance for 2004 is $92,760.00. The new spousal income allowance for 2004 is $2,319.00 per month.

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 $4,637.00 for funeral home services for an irrevocable prepaid funeral and remains at $1,500.00 for funeral home services for a revocable prepaid burial. There is no limit on amounts for burial merchandise including coffin, plot, vault, marker and grave opening.

The look-back period remains at 36 months for non-trust assets or 60 months for assets in a trust. The look-back period refers to the amount of time that Public Aid will check the "paper trail" of a Public Aid applicant's assets. It is wise to use checks to pay for expenses rather than cash because Public Aid requests copies of any expenses over $500.00. You should be sure your financial records are organized since preparation for a Public Aid application can be very difficult if you do not have proper documentation.

Who is Your Beneficiary?

Typically life insurance, IRAs and other retirement accounts have a beneficiary. The asset passes to the beneficiary upon the death of the owner of the asset. A person's Will has no effect on the beneficiary designation. Many clients cannot remember who their beneficiary is, or if they have named a beneficiary.

Not naming a beneficiary or not updating the beneficiary may cause problems. If an asset does not have a beneficiary, it passes to the owner's estate and goes through probate. A probate estate is not a designated beneficiary of a retirement account and would cause the account to be taxed within five years, rather than deferring the income tax for a longer period of time. If a beneficiary designation is not updated it could cause a later born child to be excluded, which could cause family problems or hurt feelings. Events that may prompt a person to change or update a beneficiary designation include marriage, divorce, birth of a child and death of a beneficiary.

A banker, human resources clerk or financial planner can usually assist with checking on beneficiary designations of your assets. It is a good idea to check the beneficiaries every so often and keep them up to date so that the assets will be distributed according to your wishes in the event of your death.

New Urgency for Advanced Directives

HIPAA, the Health Insurance Portability and Accountability Act of 1996, has made advance medical directives even more important. Under HIPPA, healthcare providers, including hospitals and doctors, cannot discuss a patient's health with spouses, children or other family members unless they have a signed consent from the patient.

An advance directive is a Power of Attorney for Health Care that names an agent to make medical decisions, when the patient is unable to do so. A Power of Attorney for Health Care also states a patient's desires regarding life sustaining treatment, burial directions and organ donation. Without a Power of Attorney for Health Care family members will have a difficult time obtaining information about their loved one's medical status and they will not know important information regarding organ donation and burial wishes.

Preparation of a Power of Attorney for Health Care is a service I provide. This document is something that **all adults** should sign. It is important for young and old since anyone can become ill or be involved in an accident. You need to decide who you would like to be your agent, and who you would like to be your successor agent, in the event your agent becomes incapacitated or predeceases you. Please call me if you have any questions regarding this document.

Assets in Joint Tenancy

Joint Tenancy is the ownership of property by two or more people in which the survivors automatically own the deceased joint tenant's interest. Many people use joint tenancy as a way to avoid probate. Assets typically owned in joint tenancy include bank accounts, real estate, stocks and bonds.

Loss of control over assets is a disadvantage of using joint tenancy as an estate planning measure. For example, John, who is a widower with no children decides to put his home in joint tenancy with his nephew, Paul Doe, in order to avoid probate. (This is accomplished by John signing a deed, and then having it recorded in the county where the property is located.) Paul is now part owner of his uncle's residence. Paul can transfer his portion of the residence to someone else without his uncle's consent. He can also refuse to sell the residence when his uncle is ready to do so. The uncle cannot sell his home without his nephew's signature or consent, even though it is the uncle's property. By law, the property is now owned by John and Paul. John has lost full control of his residence by putting Paul on his deed as joint tenant.

A problem may also occur if Paul predeceases his uncle. If Paul dies and three weeks later John dies with or without a Will, his property becomes part of his probate estate, which is exactly what John was trying to avoid. Joint tenancy does not provide for successors in the event both joint tenants die.

Leaving the deed to his home in his name only and having a Will or a Trust would ensure that John Doe would remain the sole owner of his property and retain complete control. He can make changes to his Will or Trust whenever he wishes. He can also maintain privacy, during his lifetime, regarding the identities of his beneficiaries. (If the property is in John's name only and he has a Will, the property will go through probate.)

Having a joint tenant on a bank account can also pose a problem since the joint tenant has the right to withdraw funds at any time without the other joint tenant's consent. Also, if a joint tenant has creditor problems, the creditor can garnish the jointly held account to satisfy the debt.

Another disadvantage to joint tenancy is that adding someone as a joint tenant may be considered a gift to that person and a gift tax may be imposed. Also, if a capital asset is given to another person in joint tenancy, the co-owner will most likely have to pay capital gains tax when the asset is sold because the basis of the property will be that of the original owner. If the asset was purchased many years ago, it may have increased in value, which increases the capital gain. When the first owner dies and the co-owner sells the property, the capital gain is incurred and must be reported on an income tax return. Don't make changes to your assets unless you understand the implications of doing so. Joint tenancy is more complicated than most people think it is.

Illinois' New Estate Tax

Illinois has a new estate tax, effective January 1, 2003. In previous years Illinois would receive the amount of estate tax allocated under Federal law as the "state death tax credit". When an estate owed estate tax, part of it went to the federal government and part went to Illinois. In 2001 when Congress passed the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) the amount of estate taxes allowed to Illinois and the other states was reduced. The amount was reduced by 25% in 2002, 50% in 2003, 75% in 2004 and will be eliminated in 2005. In order to recapture the lost revenue, Illinois has changed its estate tax law so that an estate must pay to Illinois the amount that Illinois would originally have received under federal law. What this means to the estate is that it will be paying the full federal estate tax and an additional Illinois estate tax. Generally Illinois tracks the federal law so that Illinois estate tax will be due only when federal estate tax is due. Generally, estate tax is due for an estate exceeding $1.5 million starting in 2004. The 2003 limit was $1 million. Estate tax planning is even more important now to avoid both federal and the new Illinois estate tax.

How to Sign as an Agent Under a 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.

Humor is Mankind's Greatest Blessing

Mark Twain

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

Medigap Insurance- Compare the Plans

A Medigap plan is a health insurance plan that fills the gaps in original Medicare plan coverage. There are standardized Medigap plans with each plan having a different set of benefits. Standardized plans can be sold as a Medicare Select plan. Medicare Select plans typically cost less since you have to use certain doctors and hospitals, except in an emergency.

To learn more about Medigap insurance and to compare the plans offered, log on to www.medicare.gov/MGCompare/home.asp.

2004 Medicare Numbers

Part A: (Hospital Insurance) Premium

Most people do not pay a monthly Part A premium because they or a spouse has 40 or more quarters of Medicare-covered employment.

The Part A premium is $189.00 for people having 30-39 quarters of Medicare-covered employment.

The Part A premium is $343.00 per month for people who are not otherwise eligible for premium-free hospital insurance and have less than 30 quarters of Medicare-covered employment.

Medicare Deductible and Coinsurance

The Medicare Part A deductible for 2004 is $876.00, an increase of $36.00. Medicare pays for all covered costs except the deductible and the coinsurance amounts for hospital stays that last longer than 60 days and less than 150 days.

For each benefit period in a hospital you pay:

A total of $876 for a hospital stay of 1-60 days- the deductible amount noted above.

$219 per day for days 61-90 of a hospital stay.

$438 per day for days 91-150 of a hospital stay (Lifetime Reserve Days).

All costs for each day beyond 150 days.

Skilled Nursing Facility Co-Insurance

Medicare pays the entire amount for days 1-20 for skilled nursing. Medicare pays for all but $109.50 per day for days 21 through 100 for each benefit period in 2004. The patient must be receiving skilled care and coverage may be denied if the patient reaches a plateau and is not improving

The Part B, Medical Insurance premium is increasing to $66.60 per month in 2004, an increase of $7.90 per month. This is the premium that is withdrawn from a person's Social Security check each month.

Part B covers Medicare Eligible Physician Service, Outpatient Hospital Services, Certain Home Health Services and Durable Medical Equipment. The patient pays 20% of the Medicare approved amount for services after meeting the $100.00 deductible.

Do Not Dwell in the Past, Do Not Dream of the Future, Concentrate The Mind on the Present Moment

Buddha