



Special needs require special lawyers.



# Scales Elder Law Newsletter

*"Caring for a loved one shouldn't cost a lifetime of savings."*



1001 STATE ST. SUITE 1400 ERIE, PA 16501 (814) 461-7820  
115 S. WASHINGTON ST. POST OFFICE BOX 346 TITUSVILLE, PA 16354 (814) 827-2788  
425 FIRST AVE. FIRST FLOOR PITTSBURGH, PA 15219 (888) 827-2788

TOLL FREE: (888) 827-2788  
FAX: (814) 827-9521  
[INFO@SCALESELDERLAW.COM](mailto:INFO@SCALESELDERLAW.COM)  
[WWW.SCALESELDERLAW.COM](http://WWW.SCALESELDERLAW.COM)



June, 2007

## Successful Planning Under the New Medicaid Laws

As readers of this Newsletter will know, the Deficit Reduction Act of 2005 (the DRA) has placed numerous new restrictions on Medicaid eligibility for seniors. Nevertheless, elder law attorneys are still able to assist individuals and families in developing estate plans to avoid depleting their assets should they become ill and need long term care. For those individuals who are already in a nursing home, despite the harsh new rules, elder law attorneys are continuing to help them qualify for Medicaid benefits while maximizing the amount of money they are able to keep.

Here are just a few examples of families we were able to assist under the new DRA rules:

\* \* \* \* \*

Frank\* came into our office in June. His wife, Betty,\* had entered a nursing home which was costing the couple over \$5,000 each month. Not including their home, their assets totaled roughly \$100,000 at the time Betty entered the nursing home in April. Frank was told by the state that he could keep the couples' home as an exempt asset and then once they had spent down their assets to approximately \$52,000, Betty would qualify for Medicaid.

We advised Frank that he could stop spending down and purchase an immediate annuity for himself with Betty's portion of the assets. As long as the terms of the annuity conformed exactly with the provisions under the new law, this purchase would not be a disqualifying transfer.

The month following our initial meeting, we filed a Medicaid application with the County Assistance Office. Shortly after filing the application, we received word that Betty was approved for benefits retroactive to the date of the annuity purchase. Not only did Frank save \$48,000, but their co-pay to the nursing home is just \$510 per month.

Note: Before purchasing an annuity, it is very important that you consult with someone who understands the new requirements for annuities under the DRA. If structured improperly, the same annuity purchased by Frank could have resulted in a seven-month penalty during which Betty would have been ineligible for Medicaid.

\* \* \* \* \*

Patty\* met with us in our office in March to discuss the situation with her mother, Alice.\* Patty moved in with her mother a few years ago to help care for her. Last year Alice had a stroke and Patty quit her job to assist her mother full time. When Patty came to our office, it had gotten to the point that Alice needed more help than Patty could provide. The doctor told Alice it was no longer safe for her to live at home, even with Patty's assistance. Alice, the doctor said, needed nursing home care.

Patty and Alice were concerned that Alice would have to sell her house to pay for her care and Patty would have no place to live. It was very important to Alice that she give her home to her daughter as a way of saying thank you for the care Patty had provided. But both Patty and Alice had heard that gifting the home would cause Alice to be ineligible for Medicaid (and under the new

DRA, the penalty wouldn't even start until Alice applied for Medicaid and was otherwise eligible!).

Through some planning, we were able to transfer the home to Patty without causing any Medicaid penalties for her mother. The same month Alice went into the nursing home, we applied for Medicaid, included the transfer of the home on her application, and Alice was approved for benefits.

Gifting an applicant's residence to a caretaker child continues to be available under the new DRA so long as the conditions set forth in the law are met and the requisite proof is provided, including a doctor's statement. On the other hand, if the transfer is made improperly, the result could be up to five years of Medicaid ineligibility.

Please keep in mind that Medicaid planning is very fact-specific and the above planning techniques will not work in every situation. Before spending down all of your assets, we recommend contacting an elder law attorney knowledgeable in the area of Medicaid laws.

\*names have been changed for privacy

*The content herein is for general informational purposes only and does not constitute legal advice. For specific questions you should consult a qualified elder law attorney.*

Kemp Scales, CELA,\* is an Elder Law Attorney who serves clients throughout western Pennsylvania from his offices in Erie, Titusville, and Pittsburgh. Attorney Scales frequently makes presentations to professional and civic groups, to senior centers, hospitals and long-term care facilities throughout western Pennsylvania. If you would be interested in having attorney Scales speak to your group, please contact us at toll free at (888) 827-2788 or by e-mail at [Info@ScalesElderLaw.com](mailto:Info@ScalesElderLaw.com).

*Certified as an Elder Law Attorney by the National Elder Law Foundation as authorized by the Pennsylvania Supreme Court.*

---

## Upcoming Seminars

Want to learn more? Attorney Scales will be presenting seminars on Long-term Care Planning as follows:

July 25, 2007: Attorney Scales is hosting a noon tele-conference entitled "Paying for Long-Term

Care without Losing Your Life Savings: The Laws have Changed – Learn the New Rules." For more information, or to register for this seminar, call Scales Elder Law toll-free at 888-827-2788.

August 23, 2007 at the Rouse Warren County Home in Youngsville, Pennsylvania. For more information, or to register for this seminar, call Andrea Wagner at (814) 563-7565.

---

## On the Lighter Side

### AGE IS A FUNNY THING

"Do you realize that the only time in our lives when we like to get older is when we're kids? If you're less than 10 years old, you're so excited about aging that you think in fractions: "How old are you?" "I'm four and a half. "

You're never 36 and a half, but you're four and a half going on five!

That's the key. You could be 12, but you're gonna be 16.

And then the greatest day of your life happens: you become 21. Even the words sound like a ceremony -- you BECOME 21! YES!!!

But then you turn 30. Ohhh, what happened? Makes you sound like bad milk. He TURNED. We had to throw him out. There's no fun now. What's wrong? What changed?

You BECOME 21, You TURN 30, then you're PUSHING 40, you REACH 50, you MAKE IT to 60, and by then you've built up so much speed, you HIT 70!

After that, it's a day by day thing. You HIT Wednesday. You get into your 80's and you HIT lunch. I mean my grandmother won't even buy green bananas. "Well, it's an investment, you know, and maybe a bad one."

And it doesn't end there...into the 90's you start going back-ward: I was JUST 92. Then a strange thing happens, if you make it over 100, you become a little kid again: I'm 100 and a half!

Age is a funny thing." George Carlin