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Brooks & Brooks, LLP

Estate Planning with Certainty

MANDATORY CHANGES IN THE WAY YOU RECEIVE SOCIAL SECURITY

The Social Security Administration is becoming leaner, but not meaner. In an effort to streamline payments to millions of retirees and also save on expenses, it has invoked two major changes in the way retirement benefits (including SSI payment) will be paid.

→ First, effective on May 1, 2011, all new applicants for Social Security and SSI must choose either direct deposit or the Direct Express® debit card. If you have a checking account, the direct deposit will be the logical choice. If you are one of those few individuals who not rely upon the banking system, the Direct Express® debit card will be your only choice.

→ Second, people who are currently receiving checks from the Social Security Administration **will have until March 1, 2013** to switch to direct deposit or the Direct Express® debit card. If you are one of the 15% of Social Security beneficiaries receiving benefits by check, you must do something. You can to go the Department of Treasury's website http://www.godirect.org or call the Go Direct Call Center at 800-333-1795 to sign up for the direct deposit or Direct Express® debit card. *And remember, March 1st will come very quickly, so be sure to act now.*

MEDICARE INSURANCE & OVERSEAS TRAVEL

Many retirees look forward to traveling outside of the country in their retirement. If a traveling retiree needs medical attention outside of the US, how will that work?

MEDICARE - Traditional Medicare does not provide coverage for hospital or medical costs outside of the US (other than Puerto Rico, Guam, the US Virgin Islands, American Samoa and the Northern Mariana Islands). In rare cases, Medicare may pay for inpatient hospital services in Canada or Mexico.

Some Medicare Advantage (private Medicare) Plans may provide coverage benefits outside of the United States, so individuals with these types of plans need to check their plans carefully before traveling to see what the coverage is. However, travelers enrolled in the traditional Medicaid Program will need to purchase additional health care insurance for overseas care from another source, or purchase a Medigap Policy that covers foreign emergencies. Medigap Plans C thru J offer travel emergency coverage, but the benefits are limited to the first 60 days of any trip. The benefit covers 80% of emergency care administered, with a $250 deductible and $50,000 lifetime maximum.

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Free Workshops

February 19, 2013

Old Library, Olean
6:30 to 8:30 p.m.

February 27, 2013

The Robert H. Jackson Center, Jamestown
with Luke Buehler
6:30 to 8:30 p.m.

Medicare Insurance & Overseas Travel– con't.d

Many travel agents and private companies offer health insurance plans to cover expenses incurred overseas, including evacuations. The US State Department's Bureau of Consular Affairs provides information on medical insurance for overseas travel and includes a list of companies that offer such insurance.

REVERSE MORTGAGE NOT DEDUCTIBLE IN VALUING LIFE ESTATE

A 2010 Greene County Supreme Court case (Wolf v. New York State Dept. of Health) holds the State did not have to take into account the balance of a reverse mortgage when assessing the value of a Medicaid applicant's life estate for the purposes of determining a penalty period.

FACTS: Mrs. Wolf transferred her house to her son and reserved a life estate for herself. The Wolfs then took a reverse mortgage out on the property and eventually Mrs. Wolf entered a nursing home. Her son then sold the home and received the net sales proceeds, after payment of the reverse mortgage, of slightly over $198,000. Apparently Mrs. Wolf did not receive any of the sale proceeds, a part of which would be attributable to her life estate. Mrs. Wolf then applied for Medicaid and the Department of Social Services determined that the gift of her life estate value was an uncompensated transfer to her son resulting in the imposition of a penalty period.

The crux of the case is the fact that the State valued Mrs. Wolf's life estate on the value of the home, which was the sale price. The son appealed the decision and argued that the State should have factored in the closing costs and reverse mortgage when valuing his mother's life estate, which would have reduced the uncompensated transfer by over $79,000.

Case Holding: The Court held that the State did not have to take the reverse mortgage into account when determining the value of Mrs. Wolf's life estate. The Court found that there is no provision in the regulations to reduce the value of a life estate by an outstanding mortgage, so the State's initial decision was not arbitrary and capricious. Thus, Mrs. Wolf did not qualify for Medicaid benefits for over one year.

What did we learn? The Rules relating to Medicaid are very complex and sometimes seem to fly in the face of logical reasoning. The planning point is to plan early, understand how the rules will affect your own situation and implement a plan which will give you the best degree of certainty possible to deal with long term nursing care and Medicaid.

We at Brooks & Brooks devote a substantial portion of our practice to asset protection planning for long-term nursing care and create and implement plans for clients, which give them the certainty and peace of mind that they are looking for.

COMING TOPICS FOR FUTURE NEWSLETTERS:

Federal Estate Tax Exemption Portability - a surviving spouse using his or her deceased spouse's unused federal estate tax exemption.

Estate Planning for Mineral Interest - in light of the expected exploration and drilling for natural gas and oil in Southwestern New York.

Planning for the New Biology - Art Children - to deal with the possibility of "after born" grandchildren.