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MEMBER



Special needs require special lawyers.

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LONG-TERM CARE PARTNERSHIP PROGRAM AND MEDICAID

Long-term care partnership programs encourage the purchase of private long-term care insurance as the primary source of funding of long-term care for the participant. This is because the program enables insurers to offer specially crafted long-term care insurance policies that increase a family's ability to protect part of the family's life savings if long-term care services are needed. For every dollar that a long-term care partnership insurance policy pays out in benefits, it protects this amount for one who eventually exhausts the policy's proceeds and then requires Medicaid assistance.

The Deficit Reduction Act of 2005 (DRA) lifted a long-standing moratorium on long-term care partnership programs for states in addition to the four states that had programs in place prior to May 14, 1993. Virginia submitted a state plan amendment to the Centers for Medicare and Medicaid Services (CMS) for approval, and CMS approved the state plan amendment. The Virginia Department of Medical Assistance Services worked with the Bureau of Insurance, the Virginia Department for the Aging, the Virginia Department of Social Services, industry representatives, and others to ensure that state and federal requirements were met, and that the program was designed to best meet the needs of Virginians. As a result of this effort, the Virginia Partnership program was launched on September 1, 2007. Individuals are now able to purchase Partnership policies, but many may not understand how the asset protection feature works.

Section M1460.160 of the Virginia Medicaid Manual describes Long-Term Care Partnership policies and the documentation required to be submitted with Medicaid Applications. For single individuals, the amount the policy paid out in benefits is disregarded when determining eligibility for Medicaid. For example, if a single individual has \$260,000 in resources, and his or her Partnership Policy paid out \$250,000 in benefits, then the \$250,000 in benefits are disregarded, and the individual now has \$10,000 in countable resources. Medicaid Manual Section M1480 details how the Partnership

Policies affect the calculations for eligibility for institutionalized individuals with a community spouse. The Partnership Policy disregard is not applicable to the resource assessment for such couples. This is good news for couples.

For example, if a couple has \$200,000 in countable resources, then the community spouse's share would equal one-half of this amount, or \$100,000. The institutionalized spouse's share is \$2,000, leaving \$80,000 in excess resources. If the institutionalized spouse had a Partnership Policy that had paid out \$100,000 in benefits, then that amount would be subtracted from the excess resources, and the institutionalized spouse would be eligible for Medicaid. Please note that only the institutionalized spouse's Partnership Policy benefits can be disregarded in this calculation. If the community spouse received Partnership Policy benefits for care at home, for example, then those benefits could only be disregarded if the community spouse applied for Medicaid for himself or herself.

If the Partnership Policy disregard was applicable to the resource assessment, which fortunately it is not, then the result would be different. Using the same example, the couple has \$200,000 in countable resources, and \$100,000 in Partnership Policy benefits paid to the institutionalized spouse. If the Partnership Policy was applicable to the resource assessment, then the \$100,000 would be subtracted from the \$200,000 total countable resources, leaving \$100,000 in countable resources. The community spouse's share would be one-half of this total, or \$50,000, and the institutionalized spouse's share would be \$2,000, leaving \$40,000 in countable resources that would have to be spent down or converted to exempt resources. This is a significant difference that will not apply to couples in Virginia, and it illustrates the valuable impact that Partnership Policies can have if an individual requires Medicaid assistance after he or she has exhausted the policy's benefits.

Long-term care partnership programs offer states and individuals the opportunity to save Medicaid dollars by sharing long-term care costs with the private sector. These partnership programs promote greater individual self-reliance and choice, stimulate the expansion of the long-term care insurance market, and allow individuals to protect a portion or all of their assets.

Oast & Hook currently advises clients regarding all aspects of their estate, long-term care, financial and investment planning, including long-term care insurance, including the Virginia Partnership program.



All of us at Oast & Hook wish you a happy holiday season and a healthy 2009!

Ask Allie

O&H: Allie, last week you told us about some special things that families can do for their pets during the holiday season. Do you have any more tips?

Allie: Yes, I do. Get your pet caught up on vaccinations so your pet can stay healthy. Resolve to exercise your pet more during the holidays and the upcoming year; this will benefit both of you. (Our staff needs to keep new batteries in my laser toy!) Get some sort of pet identification, either tag or microchip, in case your pet goes missing. This was one of the first things that Oast & Hook did for me. Pet-proof your home during the holidays; keep plants that may be toxic and electrical cords out of reach. Learn a new fact about your pet's breed and share it with the family. Find a few healthy treats that you can make at home and let the family have some fun. Finally, and perhaps most importantly, make a contribution to a local shelter in honor of your pet, or better yet, adopt an additional pet if it is the right time for your family to do so. I hope all of our readers have a very Merry Christmas and Happy New Year!

Here is the last letter to Santa for this year: "Dear Santa Claws: I would like whatever you recommend for repairing scratches and gouges in woodwork. This would keep me out of a whole lot of trouble. Also some large fish. I will be your friend forever, Luther."



Please feel free to e-mail your pet and animal-related questions to Allie at: allie@oasthook.com.

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