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ASK THE EXPERT

Mark your calendars to listen to the “Ask the Expert” show on WTAR radio (850 AM) from 8:00 a.m. to 9:00 a.m. on Saturday, June 24th. William Oast and Stefan Gravenstein, M.D., will be the guest speakers. Dr. Gravenstein is the director of the Glennan Center for Geriatrics and Gerontology at the Eastern Virginia Medical School.

PATIENT ASSISTANCE PROGRAMS

As individuals grow older, the amount they spend on prescription medications typically rises as well. To assist seniors and low-income individuals, many pharmaceutical companies had offered Patient Assistance Programs (PAPs) to alleviate the burden of prescription drug costs. A number of large pharmaceutical companies offered their medications either free or at a reduced cost to individuals who fall within certain income and asset limits. Many seniors qualified for these programs because of their reduced income, the use of their principal assets as an income supplement, and the high cost of their medications.

In January 2006, the federal government introduced Medicare Part D as its answer to rising drug prices for seniors. In a few short months, Medicare Part D has become a large machine and appears to be the way the country is headed for drug coverage for the elderly. Many prescription drug insurance plans offered through employers or unions have been cut, and most Medicare supplement plans have been deemed “not creditable,” meaning that the benefit under the supplement is not actuarially equivalent to the basic Medicare Part D benefit. Individuals who did not have creditable coverage were told that they would be penalized for not signing up for a Medicare Part D plan. As a result, millions of Americans enrolled in a prescription drug plan. Now that many individuals either have independent prescription drug coverage or Medicare Part D plans, it was commonly believed that PAPs would be eliminated, especially because Medicare Part D offers a price break for low-income individuals.

In addition, a federal anti-kickback law prohibits offering or receiving payments to increase product use at the expense of federal health care programs. Because PAPs encouraged low-income individuals to use the PAP provider's products, and Medicare Part D is available for low-income Medicare beneficiaries, it was thought that PAPs violated this federal law. As a result, many drug companies voluntarily discontinued their PAPs.

The Office of the Inspector General (OIG) recently issued an advisory opinion that approves two PAPs offered by the Schering-Plough drug company. The Schering-Plough company programs offer assistance with outpatient treatment for cancer and hepatitis as well as allergy, asthma, cardiovascular, and dermatological medications. The OIG opinion indicated that the programs were legal so long as they complied with the following requirements:

- Safeguards to notify Part D programs of the patient involvement in the PAP;
- The PAP provides assistance for the entire year (not just when the patient enters the Part D coverage gap);
- The PAP assistance is available even if the patient's use is periodic throughout the year;
- The PAP maintains accurate records of the subsidized drugs for the Government's inspection;
- Assistance is awarded based on reasonable, uniform, and consistent measures of financial need; and
- The PAP complies with all other Center for Medicare Services (CMS) guidelines.

The advisory opinion issued by the OIG cautions other companies to seek approval through the OIG's office, rather than to rely on these guidelines to continue their programs. Merck and AstraZeneca allow Medicare beneficiaries to sign up for their PAPs, but as of yet these drug companies have not sought approval through the OIG.

For more information on PAPs, please visit the following links:

- www.schering-plough.com/schering_plough/pc/patient_programs.jsp
- www.merckhelps.com/patientassistance/PartD
- www.astrazeneca-us.com/pap/

If you have any questions regarding Medicare Part D or other public assistance programs, then please contact Oast & Hook. If you have not signed up for a Medicare Part D prescription drug plan, then Oast & Hook can assist you with selecting a plan so that you can be prepared to enroll during the next enrollment period this fall.

Announcement

Oast & Hook is pleased to announce its sponsorship of a series on WHRO-TV entitled "Boomers: Redefining Life After 50." This week's episode is "Fiscal Fitness." It will be aired at 4:30 p.m., Saturday, June 24th.

Congratulations

Andrew H. Hook, CELA, has been selected as one of Virginia's "Super Lawyers" for 2006. The Super Lawyers program is sponsored by Law & Politics. The candidates are screened and evaluated by peers in their practice areas. Oast & Hook has also learned that an article written by Mr. Hook and Thomas D. Begley Jr. has been selected for inclusion in a law school casebook. The article is entitled "The Reason for Medicaid Planning," and it is included in "Teaching Materials on Estate Planning, Third Edition," by Gerry W. Beyer, Professor of Law at St. Mary's University School of Law. Oast & Hook congratulates Mr. Hook on these accomplishments.

Oast & Hook

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying, account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Distribution of This Newsletter

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