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MEMBER



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## 2009 ELDER LAW NUMBERS

There are several figures of interest to seniors and their families for 2009. They include long-term care spousal standards, annual gift tax exclusion rates, long-term care premium deductibility limits, and Social Security benefit changes.

The Center for Medicare and Medicaid Services (CMS) has announced changes to the long-term care spousal standards that apply to a community spouse. A community spouse is a person who is not an inpatient in a medical institution or a nursing facility, but is married to a person who is an inpatient in a medical institution or a nursing facility (the institutionalized spouse). The standards that will change in 2009 include, but are not limited to, the Maximum and Minimum Spousal Resource Standards and the Maximum Monthly Maintenance Needs Allowance (MMMNA).

The Protected Resource Allowance (PRA) (often referred to as the Community Spouse Resource Allowance, but technically this is incorrect), is the amount of assets that the community spouse is allowed to retain when the institutionalized spouse is eligible for Medicaid. The PRA is the greatest of either: (1) the Spousal Share (one-half of the total amount of joint countable assets as of the first day of continuous institutionalization for the institutionalized spouse), or (2) the Maximum Spousal Resource Standard at the time of application, or (3) the amount actually transferred to the community spouse as court-ordered spousal support, or (4) an amount determined at a hearing by the Department of Medical Assistance Services (DMAS). The PRA can be no more than the Maximum Spousal Resource Standard and no less than the Minimum Spousal Resource Standard. The Maximum and Minimum Spousal Resource Standards increase each year based on changes in the Consumer Price Index. On January 1, 2009, the Maximum Spousal Resource Standard will increase by \$5,160 to \$109,560. (The maximum for 2008 is \$104,400.) The Minimum Spousal Resource Standard will increase by \$1032, from \$20,880 in 2008 to \$21,912 in 2009.

The MMMNA has a minimum allowance amount and a maximum allowance amount. The MMMNA for 2008 is \$1,750, and this amount will remain as the minimum allowance for the first half of 2009. The maximum maintenance needs allowance for 2009 will increase by \$129, from \$2,610 in 2008 to \$2,739 in 2009. The community spouse excess Shelter Standard for 2008 is \$525, and this amount will remain the same for the first half of 2009.

The IRS has announced that effective January 1, 2009, the annual gift tax exclusion will increase from \$12,000 to \$13,000. This exclusion is the amount that a taxpayer can give to another individual without filing a gift tax return. The IRS also announced the limitations for 2009 for the deductibility of long-term care insurance premiums from federal taxes. Premium amounts above the limits are not considered to be a medical expense. For those age 40 years or less, the maximum deduction is \$320; for those more than 40 to age 50, it is \$600; for those more than 50 to age 60, it is \$1,190; for those more than 60 to age 70, it is \$3,180, and for those over age 70, it is \$3,960. In Virginia, premiums that are not deductible on the federal tax return can be taken as a subtraction on the Virginia state income tax return.

For those on Social Security, the cost of living increase for 2009 is 5.8 percent. The estimated average monthly Social Security benefit payable in 2009 is \$1,153. The maximum taxable earnings is \$106,800, and the maximum Social Security benefit is \$2,323 per month. The Supplemental Security Income (SSI) federal payment standard will increase to \$674 per month for an individual, and \$1,011 per month for a couple.

Oast & Hook can assist seniors with their estate, long-term care, financial, insurance, veterans benefits and special needs planning needs, including determining the effect of these 2009 changes on their plans.

### **Ask Allie**

O&H: Allie, you have been at Oast & Hook for quite a while now. Have you observed any behaviors on the part of the staff that lead you to believe that many have become full-fledged cat enthusiasts?

Allie: Yes, I have! I have also heard stories about our staff members' behavior at home with their own cats that lead to the same conclusion. In the office, many of them have photographs of me or their own cats on their desks or as screensavers. They are beginning to think that no outfit is complete without clumps of cat hair. I have several special seats in the office where no one else is allowed to sit. People stop some of our staff in the pet store and ask them what kind of food and litter they recommend. For those who also have cats at home, they may sleep without their pillow because their cat is sleeping on it; or they also may sleep in one spot on the bed so they don't disturb the cats that share the bed with them. The folks at Oast & Hook can carry on lively discussions for hours about many cat-related subjects. Most of all, it is clear to anyone who knows them how much they care for us and our well-being – and although we may not often show it, we do appreciate their love for us!



Please feel free to e-mail your questions to Allie at: [allie@oasthook.com](mailto:allie@oasthook.com).

### **Announcement**

Oast & Hook and Michael Evans from Prime Mortgage Resources are co-hosting a series of seminars entitled, "Planning for Payment of Long-term Care Expenses." The first presentation in the series is Tuesday, November 11, 2008 at Paul D. Camp Community College Work Force Development Center; 100 North College Drive, in Franklin. The second presentation is Thursday, November 13, 2008 at The Circle, 3010 High Street in Portsmouth. The last presentation is Wednesday, November 19, 2008 at the Old Country Buffet, 1412 Greenbrier Parkway in Chesapeake. These presentations begin at 4:30 p.m. and conclude at 5:30 p.m. For more information or to register for these presentations, please call 800-884-4645.

### **Speakers**

If you are interested in having an elder law attorney from Oast & Hook speak at an event, then please call Jennifer Lantz at 757-399-7506.

### **Distribution of This Newsletter**

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at [mail@oasthook.com](mailto:mail@oasthook.com), telephone us at 757-399-7506, or fax us at 757-397-1267.

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