Special Needs Planning and Medicaid Law Newsletter

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A FREE LEGAL UPDATE FOR ELDERS AND OTHERS WHO SEEK ASSET PROTECTION ♦ JULY, 2016 EDITION

Four Social Security Myths Debunked

There are a lot of misconceptions surrounding the Social Security system. Here are four common myths and the truth about how Social Security works and its future prospects.

Myth 1: You Should Collect Social Security Benefits Early

This is one of the biggest Social Security myths. In 2015, more than half of Social Security recipients began collecting benefits before their full retirement age (66 for those born between 1943 and 1954), potentially costing themselves thousands of dollars in additional benefits.

If you take Social Security between age 62 and your full retirement age, your benefits will be permanently reduced to account for the longer period you might collect benefits.

On the other hand, if you delay taking retirement, depending on when you were born your benefit will increase by 6 to 8 percent for every year that you delay, in addition to any cost of living increases.

There are a lot of factors that go into the decision as to when to take Social Security benefits, but if possible it is usually better to wait until your full retirement age, or later.

Myth 2: Your Money Goes into an Account with Your Name on It

When you pay into Social Security, the money is not set aside in a separate account, as with a 401(k) or IRA.

Instead, your contributions are used to pay current recipients. When you start receiving benefits, people paying into the system will be paying your benefits.

Myth 3: Social Security Will Be Out of Money Soon

Many young people believe the Social Security system will run out of money before they have a chance to collect anything.

Currently, the Social Security trustees predict that the trust fund will run out of money in 2034. Politically, it seems unlikely that Congress and the President would let this happen.

Changes will likely be made to the system by either raising taxes (such as by lifting the cap on income subject to Social Security tax), reducing benefits for high-income individuals, increasing the retirement age, or doing something else that will allow Social Security to be fully funded.

However, even if the trust dries up and there isn't enough money to pay all the promised benefits, people will still be paying into the system. Social Security will be likely to pay at least 75 percent of benefits.

Myth 4: If You Haven't Worked, You Cannot Collect Benefits

If you haven't worked outside of the home, you will not be able to collect Social Security benefits on your own work record . But you may be able to collect them based on your spouse or ex-spouse's work record.

Spouses are entitled to collect as much one half of a worker's retirement benefit. This rule applies to ex-spouses as well, as long as the marriage lasted at least 10 years and the spouse applying for benefits hasn't remarried.

SUPPLEMENTAL NEEDS TRUSTS: A FREQUENTLY ASKED QUESTION

IS THERE AN OBLIGATION TO REPAY MEDICAID, OR OTHER GOVERNMENT BENEFITS?

A properly drafted Trust will address the issue concerning paybacks to Medicaid or other such sources. The United States Congress mandates that repayment language must be included in all Supplemental Needs Trusts, whether repayment is required or not.

The amendments to the Omnibus Budget and Reconciliation Act of 1993 (OBRA-93) require that a payback be made to Medicaid, but only under certain specific circumstances.

A Supplemental Needs trust that is funded by parents or other third party sources will not be required to pay back Medicaid.

A Trust which is funded by a personal injury Settlement that is properly Court-ordered into the Trust will not be required to pay back Medicaid.

The only assets within the Trust that are subject to the repayment obligation are those assets which originally belonged to the disabled individual himself or herself that are transferred into the Trust.

Examples of assets which would belong to the disabled individual in the first place could be such assets as earnings from a job, savings, certain Social Security back payments, and personal injury recoveries which are not Court-ordered into the Trust.

The disabled individual's estate then might be liable for an amount equal to the Medicaid used during the lifetime of the disabled or chronically ill individual.

It is not uncommon for a Trustee or a disabled individual to ask a court to direct certain assets into the Trust. In that event, those assets may not be subject to the repayment upon death of the beneficiary.

News You Can Use

2016 FLORIDA MEDICAID LIMITS

Gross Monthly Income Limit for Medicaid Applicant:	**$2,199.00**
Personal Needs Allowance:	**$105.00**
Asset Limit (Individual):	**$2,000.00**
Asset Limit (Couple):	**$3,000.00**
Community Spouse Resource Allowance:	**$119,220.00**
Mimimum Monthly Maintenance Income Allowance:	**$1,966.25**
Maximum Monthly Maintenance Income Allowance:	**$2,980.50**