
New Connecticut Medicaid Regulations on Annuities

Connecticut issued new Medicaid regulations effective April 1, 2007. Medicaid is a medical assistance program funded by state and federal government. The regulations change many rules on qualifying for Medicaid in Connecticut. One subject of those changes is annuities.

Banks, financial advisors, and life insurance agents sell commercial annuities. Charitable organizations offer charitable gift annuities. Annuities provide a series of regular payments over time. Every annuity has an owner, an annuitant, and a beneficiary. The owner determines who will be the annuitant and the beneficiary, the start date of annuity payments and when the annuity will be sold. The annuitant is the individual whose life is used for measuring annuity payment calculations. The older the annuitant, the higher the annuity payments. Usually, the owner and the annuitant are the same person. The beneficiary is the person who receives the annuity payment. The owner can buy either a deferred annuity or an immediate annuity. Most financial advisors sell deferred annuities – annuities that do not provide annuity payments until a later date. Earnings in a deferred annuity are not taxed until the annuity payments start. Charitable organizations only offer immediate annuities. Deferred or immediate annuities can either be fixed or variable annuities. A fixed annuity has no investment choices and assumes no investment risk. A variable annuity allows the owner to choose the investments in hopes of a larger annuity payment in the future.

The new Connecticut Medicaid regulations treat annuities as both an asset and income. The owner's equity in an annuity is a counted asset to the extent that the owner can sell or otherwise obtain the equity in his or her investment. Any payments received from an annuity are considered income. Most importantly, the right to receive income from an annuity is regarded as an available asset, whether or not the annuity is assignable. Because an annuity owned by the Medicaid applicant or his or her spouse is regarded as an available asset, it could render the applicant ineligible for Medicaid.

The new regulations require every Medicaid applicant to disclose the existence of any annuity owned by the applicant or his or her spouse. The Department of Social Services (DSS) will notify the insurance company issuing the annuity that it has a right to be named as a remainder beneficiary for at least the total amount of medical assistance paid on behalf of the applicant. DSS will not approve a Medicaid application unless it is named as a remainder beneficiary. If the applicant has a spouse or minor or disabled child, the applicant can name them as remainder beneficiaries with priority over the state as remainder beneficiary. DSS will ignore an annuity inside a 401(k) or an IRA because any assets inside such retirement plans constitute available assets in Connecticut.

These new regulations make annuities a poor investment for anyone who may need Medicaid in the foreseeable future. DSS may require the sale and spend down of the annuity to qualify for Medicaid. Commercial purchasers of annuities only tend to pay a fraction of the present value of an annuity. In addition, all commercial annuities have surrender charges. If an owner needs to apply for Medicaid, the owner will have to sell the annuity triggering a surrender charge. Surrender charges vary widely in annuity contracts. The usual format is a declining schedule – such as 8% of the surrender value in the 1st year, 7% of such value in the 2nd year, etc. until the surrender charge reaches zero. The contract may waive surrender charges if the owner resides in a nursing home but not if care is needed at home. If you know someone considering an annuity and applying for Medicaid may be in his or her future, read the annuity contract, consider these consequences, and call us if you need further assistance analyzing the annuity.

Joseph Cipparone appointed to the Executive Committee of the Connecticut Bar Association Elder Law and Estates & Probate Sections

The Executive Committees of the state-wide bar association discuss cutting-edge issues in elder law and estate planning. Joe's appointment to those Executive Committees keeps him informed of the latest techniques used by elder law and estate planning attorneys in Connecticut.

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