

LEGAL NOTES *Revocable Living Trusts*



By Attorney Pamela Oddy, Athol, Mass., 978-249-7511

Revocable Living Trusts are a nifty device to avoid probate, to provide continuity of ownership and to protect the person who establishes the Trust. Anyone who is trying to establish an estate plan or who already has an estate plan but is looking to review it should seriously consider the benefits of a Revocable Living Trust.

It is called a Living Trust because it is drafted and becomes effective while the person is alive (hence, living) and it may own certain assets such as real estate or checking and savings accounts as well as some stock portfolios. Oftentimes, when the trust is drafted, the home is the most common asset that is deeded into the trust. However, vacation homes and bank accounts, including Certificates of Deposit, may be owned by the Trust as well.

The person who establishes the Trust (the settlor) is often the Trustee and the beneficiary. For tax purposes, it is a grantor trust so that any income tax deduction that the settlor received prior to the establishment of the Trust may still be claimed on the settlor's individual tax return. In other words, the Trust does not require its own separate tax identification number nor does it require its own tax return.

Succession is built into the Trust so that it is clear who becomes Trustee if the initial trustee/settlor dies or becomes incompetent. The Trust also has provisions that define how and to whom and in what proportions the trust assets are to be distributed after the death of the settlor. As part of the overall estate plan, a settlor's Will is often re-drafted to state that all assets are left to the Trust. It is called a "pour over" Will.

The Trust is revocable so that the settlor may change the terms of the Trust, including who the successor trustee is as well as the beneficiaries. The Trustee may also add assets to the trust at any time.

There is a lot to like about this type of trust including the fact that the Trustee is in complete control of the trust and assets that are owned by the Trust avoid probate and pass on to the person(s) named as the beneficiaries in the Trust.

The most serious drawback of this Trust is that the assets owned by the Trust count toward the asset limit for most needs-based public benefits, including MassHealth. If more than \$2,000 is owned by the Trust, a person could not qualify to receive MassHealth benefits.

However, it is still worth exploring this trust with an attorney with estate planning expertise to ascertain whether or not it would be beneficial.

The views expressed in this column represent general information. To address your particular and specific needs consult your own attorney. If you need help with referral to an attorney, contact the Franklin County Bar Association at (413) 773-9839 or the Worcester County Bar Association at (978) 752-1311. Elder law resources may be found through the National Academy of Elder Law Attorneys, Massachusetts Chapter, at massnaela.com or 617-566-5640.

Community Legal Aid (CLA) provides legal services free to people age 60 and older for civil legal matters with an emphasis on access to health care coverage (MassHealth and Medicare) and public benefits as well as tenants' rights. A request for legal assistance can be made by phone at 413-774-3747 or toll-free 1-855-252-5342 during their intake hours (Monday, Tuesday, Thursday, and Friday from 9:30 a.m. to 12:15 p.m. and Wednesday from 1:30 p.m. to 4:15 p.m.) or any time online by visiting www.communitylegal.org

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FIND THE WAY HOME WITH CARE TRANSITIONS

Care Transitions are the “in between” of getting from one setting to another, for example going from a hospital stay or a nursing rehabilitation stay to home. When you or a family member are making these transitions, going home is the most important thing on our minds. Successful care transitions help you get home and remain stable by empowering you to take charge and control of your health care and minimizing rehospitalization for your present conditions.

Things that are important to consider during care transitions are:

- Medications are filled/refilled appropriately
- You understand what medications to take, when and why medication is needed
- You understand your health conditions and you have all the information you need and/or know what questions to ask when you follow up with your doctors
- You have scheduled all your follow-up medical appointments and have the means, i.e. transportation, to access these



Care Transitions are there to support you on your way home.

- appointments
- You know when/what changes in your physical condition require action(s) up to and including contacting your doctor(s)
- You know how to access on-going support or services that are available to you, and you know your options for current/future care
- You are aware of available support for

your caregiver(s)

LifePath offers many services in the home and community that facilitate helping you when you are at home and returning there, including:

- Information and caregiver resources
- Care in the home (various programs and services)
- Options Counseling

Our staff members work with your healthcare providers to bridge the transition back to home and set up services or adjust what you had in place. There are many details to think about and take care of when changing settings assuming that a health issue may require some adjustments in your home, care routine or care providers. Communication is a key to making it all work.

Let us help you and your loved one. Contact the Information and Caregiver Resource Center at LifePath anytime at 413-773-5555 or 978-544-2259 or email info@LifePathMA.org with your questions. Read more at LifePathMA.org.



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—Annmarie Newton, Volunteer Ombudsman

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SHINE: SERVING THE HEALTH INSURANCE NEEDS OF EVERYONE

Are you using Medicare's free preventive services to stay healthy?



By Lorraine York-Edberg,
 Western Mass Regional SHINE Program Director, LifePath

Preventative services are an easy and great way to stay healthy. Medicare has been offering free preventive services for over 20 years and has increased benefits to help prevent illness. Paying attention to your body and keeping up to date on your preventive services will help find health problems early, when treatments work best. Things like exams, lab work, screenings, monitoring and counseling are all part of the services offered. Medicare provides and pays for a number of preventive services through Part B of Medicare. Many of these services are FREE whether you have traditional Medicare or a Medicare Advantage plan, like an HMO or PPO.

Free services include:

- **Welcome to Medicare preventive visit:** Medicare covers a one-time preventive visit within the first 12 months that you have Medicare Part B.
- **Wellness visit:** All Medicare beneficiaries are eligible for an annual preventive wellness visit. Not to be confused with full physical examinations, these are prevention-focused visits to provide an overview of your health and medical risk factors and serve as a baseline for future care.
- **Colorectal cancer screening:** The fecal occult blood test, flexible sigmoidoscopy or colonoscopy is available to all beneficiaries age 50 or older.
- **Mammograms:** All women with Medicare ages 40 and older can get a free breast cancer screening mammogram every year.
- **Pap tests and pelvic exams:** These cervical and vaginal cancer screenings are available every two years, or once a year for those at high risk.
- **Prostate cancer screenings:** Annual PSA (prostate-specific antigen) blood tests are available to all male beneficiaries age 50 and older.
- **Cardiovascular screenings:** Free blood tests to check cholesterol, lipid and triglyceride levels are offered every five years to all Medicare

recipients.

- **Diabetes:** Screening is available twice a year for those at risk.
- **Bone mass measurements:** This osteoporosis test is available every two years to those at risk, or more often if medically necessary.
- **Abdominal aortic aneurysm screening:** To check for bulging blood vessels, this test is available to men, if they are at risk due to a family history or men ages 65 to 75 who have ever smoked.
- **Vaccinations:** An annual flu shot, a vaccination against pneumonia and the hepatitis B vaccine are all free to all beneficiaries.

In addition, Medicare also offers free smoking cessation counseling, medical nutrition therapy to help beneficiaries with diabetes or kidney disease, depression screenings, alcohol screening and counseling, obesity screening and counseling, annual cardiovascular risk reduction visits, sexually transmitted infection screening and counseling, and HIV screenings.

For a complete list of free preventive services go to www.medicare.gov/Pubs/pdf/10110.pdf. We have the most updated copies of the "Guide to Medicare's Preventive Services" available at our regional office and would be happy to mail a copy to those who are interested. Please contact us at the number below to get your copy.

The SHINE program (Serving Health Information Needs of Everyone...on Medicare) provides free, confidential and unbiased health insurance counseling for Medicare beneficiaries. To reach a trained and certified counselor in your area, contact the regional office at 1-800-498-4232 or 413-773-5555 or contact your local council on aging.

"Many of these services are FREE whether you have traditional Medicare or a Medicare Advantage plan, like an HMO or PPO."

INFORMATION & CAREGIVER RESOURCE CORNER

Stay safe during days of extreme heat this summer

By Laurie Deskavich, Information & Caregiver Resource Center Program Director, LifePath

It's summertime, and with that comes heat-related illnesses and heat emergencies.

Extreme-heat emergencies are caused by exposure to extreme heat and sun. According to the Centers for Disease Control and Prevention, "Heat-related deaths and illnesses are preventable. Despite this fact, more than 600 people in the United States are killed by extreme heat every year."

Q: What can you do to avoid extreme heat emergencies?

A: First, it is important to know that there are some people who are more at risk of developing a heat-related illness than others.

- Older adults (age 65+)
- People with chronic medical conditions
- Low-income households
- Athletes
- Don't forget pets are also at risk.

Second, know the different types of heat related illnesses and learn the symptoms and what to do if you show signs of having a heat-related illness.

Here are two heat related illnesses, their symptoms and what to do:

Heat stroke

- Symptoms:
 - ✦ Hot red, dry or damp skin
 - ✦ Headache
 - ✦ Nausea
 - ✦ Passing out
- What to do:
 - ✦ Call 911
 - ✦ Apply cool cloths
 - ✦ Fast strong pulse
 - ✦ Dizziness
 - ✦ Confusion
 - ✦ Move the person to a cooler place
 - ✦ Do not give the person anything to drink

Heat exhaustion

- Symptoms:
 - ✦ Heavy sweating
 - ✦ Fast, weak pulse
 - ✦ Tiredness or weakness
 - ✦ Headache
 - ✦ Cold, pale and clammy skin
 - ✦ Nausea or vomiting
 - ✦ Dizziness
 - ✦ Passing out
 - What to do:
 - ✦ Move to a cool place
 - ✦ Put on cool, wet clothes
 - ✦ Loosen your clothes
 - ✦ Sip water
- Other heat related illnesses include heat cramps, sunburn and heat rash.

Third, here are some tips for preventing a heat related illness.

- Keep cool
- Drink plenty of fluids
- Wear lightweight, light-colored, loose-fitting clothing
- Wear sunscreen
- Pace yourself
- Stay cool indoors
- Schedule outdoor activities carefully
- Don't forget to check on those at risk.

To learn more about LifePath and the programs available, call us at 413-773-5555 or 978-544-2259 or email info@lifepathma.org, and remember: a resource consultant at LifePath can provide resource information on this and many other topics.

The best defense against extreme heat is to be prepared.



If you go outside in extreme heat, pacing yourself, staying hydrated, and wearing light, protective clothing and sunscreen can help you to stay safe.

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