

# Senior Law Quarterly

Volume V, Issue 3

December 2008

## *Inside this Issue*

- Protect Yourself and Your Loved Ones From Elder Financial Abuse
- New Medicare Premiums Announced for 2009
- Gift Annuity Alternative to CDs
- Social Security COLA Increase for 2009 is 5.8%
- Nursing Home and Assisted Living Residents Eligible for Digital Converter Box



National Academy of  
Elder Law Attorneys, Inc.

**MEMBER**

*The articles in this newsletter are written by the attorneys of South County Senior Law & Estate Planning Center, LLC as an informational resource for our friends and clients. Nothing in this publication is intended as legal advice for anyone's particular legal situation. If you have a specific legal issue, please call our office for assistance.*

## Protect Yourself and Your Loved Ones From Elder Financial Abuse

Missouri House Bill 1516, that became effective September 10, 2008, changes the laws regarding protection for vulnerable adults and children.

Victims of elder financial abuse rarely obtain full recovery. In addition to monetary losses, many are left to struggle with increased anxiety, physical symptoms, dependence and reliance on public benefits.

Financial abuse of seniors—the improper or illegal use of an elder person's resources—seems to be growing at an alarming rate. Due to a lack of awareness, fear of retaliation and loss of personal independence, many elder abuse victims do not report what occurred. Should the truth finally get out, they often fear retaliation from the abuser, and less trust and respect from their closest family members and friends.

Some people assume that those who abuse seniors are usually strangers scheming to access another victim's finances. The truth is that elder financial abusers often include immediate family members such as spouses, children or their kin, unethical business professionals such as attorneys, physicians or

financial advisors, unscrupulous service providers such as contractors, caregivers, or storekeepers, as well as unknown predatory scammers or con-artists.

Common warning signs that caring family, friends and service providers should be aware of include:

- The unauthorized use of ATM or credit cards
- Newly authorized signers on financial accounts
- Abrupt changes in wills, trusts or powers of attorney
- Unexpected changes in named beneficiaries
- Bank or credit card statements sent to a different address
- Dwindling funds with repeated unpaid bills
- Missing property, such as jewelry and art

By working with trusted family members or friends, most seniors can structure protections from certain types of financial abuse. Utility, insurance and some mortgage

*(Continued on page 3)*

*The choice of an attorney is an important decision and should not be based solely on advertising.*

## New Medicare Premiums Announced for 2009

For the first time in eight years, Medicare's monthly Part B premium will be unchanged at \$96.40 for most of the 44 million beneficiaries in the U.S. health program for the elderly and disabled. Medicare fees will stay the same partly because the program's reserves have increased, according to a statement from the Centers for Medicare and Medicaid Services on September 19, 2008. This is only the sixth time since Medicare was created in 1965 that rates held steady for two consecutive years, said Rick Foster, Medicare chief actuary. The price wasn't set with an eye on the U.S. presidential election in November, he said. "There is no political manipulation," said Foster, who has worked for the agency since the early 1970s. Every rate recommendation made by the chief actuary to Medicare administrators has been accepted without change, he said.

The average 73-year-old in Medicare has seen his or her premium double since joining the program. Americans old and young continue to struggle with skyrocketing health-care costs. Monthly rates are likely to go up in 2010 as health costs continue to rise. Medicare is financed through payroll taxes, monthly premiums paid by enrollees and general government revenue.

However, Medicare Part D premiums, which provide prescription drug coverage, are

likely to increase dramatically in 2009. The monthly premium for the basic Medicare drug benefit in 2009 is projected to average \$28, which is \$3 more than in 2008, according to the Centers for Medicare and Medicaid. The increases for the most popular plans will be considerable higher. Kerry Weems, CMS acting administrator, put a business-as-usual spin on it, saying "plans do change their offerings from year to year. Some beneficiaries may see significant premium increases or changes, such as reduced coverage in the gap, if they stay in the same prescription drug plan in 2009." A CMS press release put the emphasis on the positive, noting that seniors in every state except Alaska will have the option of a plan that costs less than \$20 a month. In Alaska, the least expensive plan will cost \$23 a month.

Although the \$3 national average increase represents only a 12% hike, premiums for the 10 most popular plans will increase by 31% according to Avalere Health, a Washington, D.C., consulting company. The *Wall Street Journal* said the Avalere analysis found that the average premium increase for all plans would be 24%, reflecting a \$7 increase from the 2008 average premium cost of \$30. UnitedHealth Group's AARP preferred plan, used by 2.7 million Medicare beneficiaries this year, will charge \$37 a month next year, an increase of 15.5% from 2008.

## Gift Annuity Alternative to CDs

Clients who are investors rather than borrowers won't welcome future cuts in interest rates. There is an option, however, for those who are charitably motivated: the charitable gift annuity. With a gift annuity, a client contributes cash or appreciated securities in exchange for annuity payments for life, for one or two annuitants. Annuity rates are generally higher than what's available from CDs or money market funds. Donors may also enjoy payments that are partly tax free or taxed at favorable capital gains rates.

Charitable gift annuities also offer two other advantages not provided with conventional investments: an income tax charitable deduction for a portion of the gift and the satisfaction of providing assistance to a good cause. To learn more about charitable gift annuities, contact Mavis or Dennis. It is not too late to purchase such annuities in 2008 which would provide a charitable deduction on your 2008 taxable income.

## Protect Yourself and Your Loved Ones From Elder Financial Abuse

*(Continued from page 1)*

companies allow seniors to name other people who may be alerted should missed or insufficient payments occur. Additionally, when noting unusual cash withdrawals or other financial activities, bank personnel may be directed to flag accounts and contact the seniors' authorized representatives.

Certain professionals, including bank employees, custodial and health care providers, clergy and law enforcement officers, are categorized as "mandated reporters". This means that they are legally required to report allegations of abuse to proper authorities in a timely manner.

With the assistance of caring family and friends, seniors

can protect themselves by:

- Using direct deposits for the receipt of social security, pension plans and other monthly incomes
- Refusing to sign blank checks
- Carefully reviewing credit card and bank statements
- Refusing to sign papers they do not fully understand
- Checking out whether a charity is a state-recognized nonprofit organization before donating
- Placing outgoing mail inside, and not outside, a covered mailbox while awaiting pickup

Elder financial abuse is an increasing problem that

can only be avoided or stopped by recognizing each elder's concerns, intervening when abuse is suspected, and educating seniors, families and friends about how to recognize and report abuse.

One of the most significant provisions of the new Missouri law "requires any person responsible for the care of a person 60 years of age or older who has cause to suspect that the person has been abused, neglected, or financially exploited by a person, firm, or corporation to make a report to the Department of Health and Senior Services."

## Social Security COLA Increase For 2009 is 5.8%

Monthly Social Security and Supplemental Income benefits for more than 55 million Americans will increase 5.8% in 2009, the Social Security Administration has announced. The 5.8% increase is the largest since 1982. Social Security and Supplemental Security Income benefits increase automatically each year based on the rise in the Bureau of Labor Statistics' Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), from the third quarter of the prior year to the corresponding period of the current year. This year's increase in the CPI-W was 5.8%.

The 5.8% Cost-of-Living Adjustment (COLA) will begin with benefits that over 50

million Social Security beneficiaries receive in January 2009. Increased payments to more than 7 million Supplemental Security Income beneficiaries will begin on December 31<sup>st</sup>.

Some other changes that take effect in January of each year are based on the increase in Average wages. Based on that increase, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to \$106,800 from \$102,000. Of the estimated 164 million workers who will pay Social Security taxes in 2009, about 11 million will pay higher taxes as a result of the increase in the taxable maximum.

**SOUTH COUNTY SENIOR LAW & ESTATE  
PLANNING CENTER, LLC**

5520 Telegraph Rd., Suite 104  
5518 Telegraph Rd., Suite 102  
St. Louis, MO 63129

Phone: 314-845-0541  
Fax: 314-845-2580  
Email: dmertz@STLseniorlaw.com  
mkennedy@STLseniorlaw.com  
chart@STLseniorlaw.com



*Dennis B. Mertz*

*Mavis Kennedy (seated)*

*Christine F. Hart*

**South County Senior Law & Estate Planning Center, LLC has been serving the needs of our senior clients for twenty years. The firm attorneys, Dennis B. Mertz, Mavis Kennedy, and Christine F. Hart are members of NAELA, Inc. (National Academy of Elder Law Attorneys), dedicated to meeting the legal needs of all persons of all ages, including seniors.**

**We concentrate our practices in the areas of estate planning, trusts and estates, powers of attorney, probate, asset preservation, including Medicaid planning and tax advice, Special Needs Trusts and trust administration, nursing home abuse, will contests and other contested estate matters, financial exploitation of the elderly, personal injury, and guardianships and conservatorships. The initial consultation with any of our senior law attorneys is always at no charge or obligation to employ our firm. Call us at (314) 845-0541 to schedule an appointment to discuss any of your legal questions.**

**SHARE YOUR NEWSLETTER**

We encourage you to share this newsletter with anyone who is interested in issues pertaining to seniors. The information in this newsletter may be disseminated without charge or permission, but with appropriate citation to Senior Law Quarterly.

Anyone wishing to be added to our newsletter mailing list should contact our office at (314) 845-0541 with your request.

**Nursing Home and Assisted Living Residents Eligible For  
Digital Converter Box Coupon**

U.S. Secretary of Commerce Carlos M. Gutierrez announced on September 16, 2008 that residents of licensed nursing homes, intermediate care facilities, and assisted living facilities will be eligible to request coupons from the TV Converter Box Coupon Program. The rule change took effect on October 16, 2008. "Allowing nursing home residents and households who rely on a post office box for their mail to request coupons helps those most in need to make the switch to digital television," Gutierrez said. "Ensuring that no one is left

behind is our top priority and I encourage those who need a coupon to apply soon, and buy a converter box when their coupon arrives in the mail."

Applicants living in licensed nursing homes, intermediate care facilities and assisted living facilities will be required to provide their name, address of the facility and whether they receive television exclusively with an antenna, or through cable, satellite or other pay television service. A family member or a representative from the licensed facility may

apply for one coupon for a nursing home resident, but the coupon will be mailed directly to the nursing home resident. A special application has been made available for nursing home residents to fill out.

To address the possibility of waste, fraud and abuse, the Coupon Program will be vigilant and will deny applications that appear to be fraudulent. The address of each applicant will be checked against a third-party database to assist in validating eligibility.