Elder Law and Disability Planning & Strategies

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Are Annuities useful Medicaid planning Technique in Texas?

Mrs. Henry Jones loves to play bridge. And she heard at her last bridge club that something called an "immediate annuity" could be a wonderful Medicaid planning technique.

As Mrs. Jones was told, with an immediate annuity you send your money to the insurance company and in return for the lump sum payment, the company guarantees to pay you an income either a certain number of years, or even for life.

The theory, from a Medicaid standpoint, is that when the annuity is purchased and then annuitized, assets such as bank accounts or securities are converted into an income stream. In other words, as far as Medicaid is concerned, those assets would no longer count as resources.

her bridge club partner, Mrs. Smith, who lives in Sherman, had even used this to help her husband qualify for Medicaid. Now Mrs. Jones thought she would do the same thing. So she contacted an insurance company and bought a Single Premium Immediate Annuity which was going to pay her $750 per month as long as she lives. In order to do this, at her age, she had to put $50,000 into the annuity contract. She thought she was all set.

Then the unthinkable happened. She has a stroke and needed nursing home care. When she went to apply for Medicaid, she was told that the State of Kansas considers the amount of money that she annuitized to be a transfer. According to the **Kansas Economic & Employment Support Manual section 5722** " A transfer...or personal property to an irrevocable legal device (i.e. an annuity) shall be considered a transfer without adequate consideration." The law goes on to state that the transfer occurred as of "the date payment to the client was restricted or foreclosed."

In other words, when she turned her assets into an income stream, at that point she incurred a one month period of ineligibility for every $2,000 that was annuitized. Since Mrs. Jones put $50,000 into the annuity, she is ineligible for **Kansas** Medicaid for 25 months.

And while it may be possible to fix this bad result by requesting a "hardship" waiver there is no guarantee that such a request will be successful.

The bottom line is that the plan which her bridge club partner used in Missouri, and which was effective in Missouri, caused her horrible results in Kansas. That's why it's important to understand that what may be good planning in one state, may have disastrous results in another. And, as always, good advice to walk through the Medicaid maze is a necessity.

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The Law Firm offers free in-service training on topics related to:

Division of Assets	Medicaid Planning
Guardianship	Powers of Attorney
Other Elder Law Issues	

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