

MSBA ELDER LAW SECTION E-NEWSLETTER

December 15, 2009

E-Newsletter Editorial Staff:

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IMPLICATIONS OF NO SOCIAL SECURITY COST-OF-LIVING ADJUSTMENT (COLA) FOR 2010

Submitted by Laurie Hanson, Esq.

For the first time since automatic COLAs went into effect in 1975, there will be no adjustment in 2010. The COLA is based upon the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the third quarter of the previous year to the third quarter of the current year. Since there was no increase in the CPI-W this year, the law does not allow an increase in benefits. So, what does that mean for our clients?

SOCIAL SECURITY

- NO SSI or Retirement or Disability benefit increases for 2010.
- Exempt amounts for the Maximum Taxable Earnings and Retirement Earnings Test remain the same.

MEDICARE

- Most people who received Medicare Part B in 2009 will see no increase in premiums in 2010. The following people WILL see an increase:
 - Individuals who become eligible for Medicare in 2010 will pay \$110.50 per month because they did not have the premium withheld from their Social Security Benefit in the previous year.
 - Beneficiaries who do not currently have the Part B premium withheld from their Social Security benefit will pay \$110.50.
 - Higher income beneficiaries will pay \$110.50 per month plus an additional amount based upon income. See Appendix A at http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_147431.pdf.
 - All coinsurance and deductibles will increase.

MEDICAID

- There will be no increase in spousal impoverishment standards in 2010. The following numbers will remain the same:
 - Minimum Community Spouse Resource Standard - \$21,912.00
 - Maximum Community Spouse Resource Standard - \$109,560.00
 - Maximum Monthly Maintenance Standard - \$2,739.00
 - The minimum monthly maintenance standard remains \$1,821.25 until July 1, 2010.

Stay tuned for a completely updated chart next week. The current chart is on the Elder Law Section website at: [Minnesota Health Care Programs for Seniors Income and Assets Eligibility Figures \(July 2009\)](#) Also see DHS Bulletin # 09-21-15 below for additional information.

LATEST ON HEALTH CARE REFORM BILL:

Check out the latest links below for the most up to date information about the bill that is now before the Senate.

Bill Language

House Version: H.R.3962 - Affordable Health Care for America Act
<http://www.opencongress.org/bill/111-h3962/show>

Senate Version: [H.R.3590](#) - Patient Protection and Affordable Care Act (Legislative Vehicle)
<http://www.opencongress.org/bill/111-h3590/text?version=ocas>

News

Health Reform Could Harm Medicaid Patients A vast expansion of the program will impose unsustainable costs on treatment centers
http://online.wsj.com/article/SB10001424052748703939404574567981549184844.html?mod=rss_Today's_Most_Popular

TOPIC: Health Care – Latest Stories
<http://www.foxnews.com/topics/politics/healthcare/health-care.htm>

Loophole In Senate Bill Would Let Insurers Cap Payments For Costly Diseases
<http://www.medicalnewstoday.com/articles/173867.php>

Health Care Reform: A CBS News Special Report
http://www.cbsnews.com/2718-250_162-209.html

"Health Care Reform" Bill may include Non-Profit Health Care Plans
<http://www.wbko.com/news/headlines/78922342.html>

US Senate defeats anti-abortion measure in healthcare bill
http://www.channelnewsasia.com/stories/afp_world/view/1023556/1/.html.

Senate Democrats Tout Doctors' Endorsement Of Health Reform Bill
<http://www.rttnews.com/ArticleView.aspx?Id=1154104&SMap=1>

Good riddance, public option: Senate Democrats may get the competitive market they want without the ugly debate

<http://www.baltimoresun.com/news/opinion/editorial/bal-ed.publicoption10dec10,0,6008995.story>

ELDER LAW NEWS

Economists: state will spend less on education, more on aging population

<http://www.mndaily.com/2009/12/10/economists-state-will-spend-less-education-more-aging-population>

Gap between Medicaid and quality care spells trouble for America's elderly and disabled citizens

<http://www.news-medical.net/news/20091210/Gap-between-Medicaid-and-quality-care-spells-trouble-for-Americas-elderly-and-disabled-citizens.aspx>

A victim of its own success? Seniors who want the government out of health care get 'fabulous' government help

http://www.cleveland.com/open/index.ssf/2009/12/a_victim_of_its_own_success_se.html

Health Reform Could Harm Medicaid Patients A vast expansion of the program will impose unsustainable costs on treatment centers

http://online.wsj.com/article/SB10001424052748703939404574567981549184844.html?mod=rss_Today's_Most_Popular

Oakdale health care worker charged with bilking elderly sisters

<http://www.startribune.com/local/east/78573807.html?elr=KArksUUUoDEy3LGDiO7aiU>

Study: 30 Percent Of Americans Are Caregivers

<http://www.npr.org/templates/story/story.php?storyId=121216152>

Butler Hospital Neurologist Lead Author Of Ground Breaking Bio-Engineered Treatment Study For Alzheimer's Disease

<http://www.medicalnewstoday.com/articles/173519.php>

MINNESOTA CASES

The Minnesota Court of Appeals released the following unpublished opinion on December 8, 2009:

A09-83

In the Matter of the Estate of: Arthur Mathewson, Deceased.

JOHNSON, Judge

Near the end of his life, Arthur Mathewson made a gift to Dorothy Sledge by giving her a key to his safe-deposit box, which he said contained \$41,000 in cash. In the probate action that followed his death, the district court initially determined that Sledge is entitled to the contents of the box. But after it was discovered that the box contained two certificates of deposit worth \$122,000, the personal representative moved to modify or vacate the first order. The district court granted the personal representative's motion and ruled that the certificates of deposit belong to the estate. This court reversed, holding that the district court erred in its second order because it had no basis for modifying or vacating its first order. In re Estate of Mathewson, No. A07-1230, 2008 WL 2885743, at *7 (Minn. App. July 29, 2008).

Following this court's decision, the personal representative sought a final order providing that, among other things, the two certificates of deposit are property of the estate. The district court overruled Sledge's objection and issued a final order awarding the proceeds of the two certificates of deposit to the estate. In this appeal, Sledge argues that the final order of the district court, which denies her the proceeds of the certificates of deposit, is erroneous due to the doctrine of law of the case. We agree and, therefore, reverse.

The opinion is available at:

<http://www.lawlibrary.state.mn.us/archive/ctapun/0912/opa090083-1208.pdf>

Unpublished opinions may not be cited except as provided by Minn. Stat. Section 480A.08, Subd. 3 (2008).

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #09-21-15: DHS Provides Information Regarding Medicare Part B Premiums for 2010. Because the Social Security Administration (SSA) announced no increase in monthly Social Security and Supplemental Security Income (SSI) benefits for 2010, certain groups of people receiving Medicare Part B will be “held harmless” in 2010 with no increase in premium while other groups will pay an increased amount. For individuals not enrolled in the buy-in, the Medicare Part B premium can be used in a number of ways: as a health care expense used to meet a medical spenddown, as a deduction from an enrollee’s income in a long-term care (LTC) income calculation used to determine an enrollee’s LTC spenddown or waiver obligation, or, in certain situations, it can be reimbursed as a cost effective health insurance premium. The bulletin, dated December 2, 2009, is available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_147431.pdf.

UPCOMING EVENTS AND CLE PROGRAMS

Elder Law Institute

Video Replays

January 21-22, 2010 – Duluth

Contact Information: <http://www.minncle.org/SeminarList.aspx> or 1 800-759-8840.

Estate Planning in Uncertain Times (including Medical Assistance)

Video Replay

February 12, 2010 - Duluth

Contact Information: <http://www.minncle.org/SeminarList.aspx> or 1 800-759-8840.

Estate Planning for the Final Years of Life

Lorman Teleconference

January 20, 2010, 1:00 p.m.

Contact information:

<http://www.lorman.com/teleconference/teleconference.php?pid=207029> or 1-866-878-9329.

ELDER LAW SECTION ACTIVITIES

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, December 15, 2009, at the MAO Offices, 2021 E. Hennepin, Suite 200, Minneapolis. Topics for the meeting may be submitted to MA Committee Chair, Cathryn Reher, at creher@mnelderlaw.com, or faxed to 952-542-9201. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

GOVERNING COUNCIL MEETING: The next meeting of the Elder Law Section Governing Council will be at 3:30 p.m. on Friday, December 18, 2009, at the MAO offices, 2021 E. Hennepin, Suite 200, Minneapolis. All members are welcome to attend. To participate by phone, please contact Vicki McIntyre at vmcintyre2@yahoo.com or 612-722-8572.

VULNERABLE ADULT COMMITTEE MEETING: The next meeting of the Vulnerable Adult Committee will be Thursday, January 28, 2010 at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5th Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at klabore@prslegal.com or Joel Smith at joel@koslaw.com for more information.

GREATER MINNESOTA COMMITTEE: Please contact Bonita Kallestad at 1-320-235-9600 or bkallestad@westernlegal.org with issues you would like the Greater Minnesota Committee to address. Also contact Bonita if you would like to serve on the Greater Minnesota Committee.

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE. Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the

Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE

Click here: <http://www2.mnbar.org/sections/elder-law/index.asp>.

Please send E-Newsletter contributions by noon on Saturday of each week to Suzy Scheller at sscheller@prslegal.com.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Elyse Farnsworth at efarnsworth@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www2.mnbar.org/sections/elder-law/newsletters.asp>.