MICHAEL B. COHEN
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ANNUITIES IN MEDICAID PLANNING

ABBREVIATIONS KEY FOR COMMON MEDICAID PLANNING TERMS

CS = COMMUNITY SPOUSE
IS = INSTITUTIONALIZED SPOUSE
NCRI = NON-COUNTABLE RESOURCE INCOME
QP = IRA, 401K, SEP AND ROTH
SPIA = SINGLE PREMIUM IMMEDIATE ANNUITY
VA = VETERAN ADMINISTRATION NON-SERVICE DISABILITY
RMD = REQUIRED MINIMUM DISTRIBUTION

Use of Annuities within Qualified Plans | Crisis Medicaid Planning

SINGLE PERSON Countable Resource Limit = $2,000

QP = countable resource, if under 70½, unless invested in annuity. Irrelevant if deferred, fixed, variable, etc. within QP - not subject to 5 year look-back. QP is non-countable if over 70½, no mater how much invested, if there is a RMD. If it is a Roth IRA, it must be invested in an annuity since no RMD.

MEDICAID HELPS PAY FOR LONG-TERM CARE COSTS SUCH AS NURSING HOME CARE, CAREGIVER AT HOME COSTS AND DRUG COSTS IF ELIGIBLE INCLUDING RESOURCES LIMITS. THE USE OF ANNUITIES ARE USED IN PLANNING SO RESOURCE LIMITS CAN BE MET AS THEY WON'T "COUNT" WHEN USED WITHIN THE RULES.

MARRIED COUPLE

If combined NCRI < $3,160.50 monthly income, then usually the lower the income, the greater likelihood that the couple can expand protected resource amount well beyond the maximum which is presently $126,420 and be Medicaid eligible and QP may not be a problem for initial eligibility for applicant and/or spouse under 70 ½ years old (even if QP not invested in an annuity) if there is expansion. However, IS must be below $2,000 of countable resources within 1 year. So, if IS has QP, may convert investment into an annuity within the QP to avoid taxation (other than the required minimum distribution) and retain Medicaid eligibility. It should be noted that NCRI, which is typically Social Security and pension, could include RMD if QP is non-countable.

If NCRI of couple > $3,160.50 monthly income, timing of any type of annuity purchase within QP is crucial due to Medicaid snapshot date (the 1st day of the month of institutionalization for 30 or more days) - usually purchase annuity after hospitalization or institutionalization to get countable resource limit – ½ of countable resources as of snapshot date not to exceed $126,420, this is only applicable if one or both spouses are under 70½ (assuming RMD made if over 70½) and previously had QP without annuity, or if QP was a Roth IRA.

If NCRI of couple < $3,160.50 monthly income, there can be expansion greater than $126,420, but if resources have increased from snapshot date, then consider buying any type of annuity in QP if the QP is countable. If couple sells exempt resource (i.e., home or car), could also then purchase annuity within QP to make resources non-countable to stay below resource limit. Annuity within QP doesn't require state as a remainder beneficiary. Again, only applicable if one of couple is under age 70½ (assuming RMD if over 70½) or if Roth IRA.

Use of SPIA in Non-Qualified Plans or Countable Resources | Crisis Medicaid Planning

SINGLE PERSON (MEDICAID) – use Medicaid SPIA non-transferable, paid monthly in level installments of principal and interest within the life expectancy of the annuitant with the state as a remainder beneficiary to the extent benefits are advanced (to pay difference in cost of care over income with SPIA expiration coinciding with transfer penalty term) as there would be gift planning in connection with the SPIA.

MARRIED COUPLE (MEDICAID) use SPIA for CS especially when combined NCRI > $3,160.50 and CS has higher income.

Planning in Advance for Medicaid With Existing Annuities | Single Persons & Married Couples

SOME LONG-TERM CARE MEDICAID PROGRAMS HAVE A **5 YEAR LOOK-BACK PERIOD**

- Consider transfer of annuities into irrevocable trusts (along with other resources)
- If other resources have capital gains appreciation, consider irrevocable grantor trust
- Revocable living trusts usually not used in Medicaid planning
- Irrevocable grantor trusts usually best for Medicaid – not VA (usually non-grantor trusts although sometimes use a combination of grantor and non-grantor trusts if plan on selling homestead and seeking VA benefits)

*Each situation is different and should be reviewed by competent counsel before annuity purchase or application for public benefits and these guidelines should not be construed as legal advice.

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