ELDERLAW NEWS

Legal News For Older Americans | *January 1997*

STOP GUESSING!!

Questions about protecting your assets against catastrophic illness and nursing home costs?
Social Security, Medicare?
Medicaid Planning?
Nursing Home issues?
Estate Planning?
Guardianships?
Probate?

Call or write:
Donald Vanarelli, Esq.
Elder Law Attorney
(908) 232-7400

Answers in upcoming editions of the Elderlaw News.

A PUBLICATION OF THE LAW OFFICES OF DONALD D VANARELLI

Union County Office
The Legal Centre
211 North Avenue East
Westfield, NJ 07090
Tel: (908) 232-7400
Fax: (908) 232-7214

Somerset Cty Office
Warrenville Knoll
258 King George Road
Warren, NJ 07054
Tel: (908) 580-0400

Other Conference Locations Available

CAREFUL PLANNING MAKES A DIFFERENCE

Can Social Security Be Saved? -- Advisory Council on Social Security Issues Long-Awaited Report.

This month, the Advisory Council on Social Security issued its long-awaited report detailing recommendations on how to assure the Social Security Trust Fund's solvency into the 21st century.

All 13 Counsel members agreed that some portion of current Social Security funds should be invested in the stock market. By investing some of its funds in Wall Street, Council members say, the Trust Fund could average an annual return rate of 7 percent instead of the current rate of little more than 2 percent. (The Trust Fund now limits its investments to U.S. Treasury securities.) However, the Council split on whether private retirement accounts should be set aside from the payroll tax, and on the degree of control over investments workers should maintain.

The Council was formed 2 years ago for the purpose of formulating recommendations to fix Social Security. If current trends continue, the Trust Fund will be insolvent when the last of the baby boomers retires in the year 2029. At that time it is estimated there will be only 2 workers paying benefits for every beneficiary. Today, the ratio is 3.3 workers to 1 beneficiary.

To fix the problem, the Council offered 3 proposals: under the first proposal, the most conservative, the government would buy stock and control all investments. In the second proposal, individual accounts would be set aside for each worker, with all investments controlled by the government. In the third proposal, considered radical by many, individual accounts are set aside and controlled by each worker.

The Counsel believes that, given the staggering sums of money likely to be invested in the stock market, whether privately or by the government, even a modest increase in the annual rate of return, compounded over decades, will assure the Fund's solvency.

Upon the release of the report, the Administration was noncommittal in its response. Action on the Advisory Council's proposals is not expected to be taken for several years – if at all.

Medicaid Planning: Bill Introduced To Repeal The Criminal Penalty For Asset Transfers Made To Establish Medicaid Eligibility.

United States Representative Steven C. LaToureette (2nd term – R-OH) recently introduced a legislative bill to repeal Section 217 of the Health Insurance Portability and Accountability Act of 1996 which criminalized asset transfers made to establish Medicaid eligibility. Co-sponsors currently include Barry Frank (D-MA), James Walsh (R-NY), Gary Ackerman (D-NY), Gene Green (D-TX) and Frank A. LoBioneo (3rd term – R-NJ).

H.R. 216, introduced on January 7, 1997, would strike paragraph 6 of 42 U.S.C. § 1320a-7b(a). Paragraph 6 was part of the Kennedy-Kassebaum Health Reform Act signed into law by President Clinton on August 20, 1996. This Act established criminal penalties for Medicaid planning when a transfer of assets "results in the imposition of a period of ineligibility" for Medicaid.

The Bill is scheduled for consideration early in 1997. Hence, depending on the support the Bill receives from other members of Congress, the criminalization statute could be repealed as early as February, or much later.

Government Benefits: 1997 Medicare, Medicaid and Social Security Adjustments

Social Security Benefits — Cost of living adjustment for benefits 2.9%

Medicare

Part A		Part B	
Hospital deductible	$760	Premium	$43.80
Hospital co-insurance (days 61-90)	$190/day	Deductible	$100
Hospital co-insurance (days 91-150)	$380/day		
SNF co-insurance (days 21-100)	$95/day		

Medicaid

Maximum community spouse resource allowance (CSRA)	$79,020
Minimum CSRA	$15,804
Minimum monthly maintenance needs allowance (MMMNA)	$1,295
Income Cap	$1,452

ELDERLAW ANSWERS

In your last issue, you wrote that premiums paid for a "qualified LTC insurance contract" are deductible under new IRS law, subject to limitations, and that benefits from LTC policies are not includable as income. Are all LTC policies "qualified" under the law and, if not, how are premiums and benefits from "non-qualified" LTC policies treated by the IRS? *Mark Pletcher, Fanwood, NJ*

To be "qualified", LTC policies issued on or after January 1, 1997 must adhere to regulations established by the National Association of Inurance Commissioners which offer consumers various options. Policies purchased before January 1, 1997 will be grandfathered and treated as "qualified" as long as they have been ap-

In This Issue...

Social Security: Advisory Council on Social Security Issues Long-Awaited Report.
Medicaid Planning: Bill Introduced To Repeal Medicaid Criminal Penalty.
Government Benefits: 1997 Medicare, Medicaid and Social Security Adjustments.
Elderlaw Answers: Tax Treatment of "non-qualified" LTC insurance.

ELDERLAW NEWS

LAW OFFICES OF
DONALD D. VANARELLI
The Legal Centre
211 North Avenue East
Westfield, NJ 07090

Mailing Address