THE BUCKS COUNTY

Elder Law Handbook

A Free Publication
for
BUCKS COUNTY SENIORS

Published in Partnership by The Bucks County Bar Association
and The Bucks County Area Agency on Aging

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PREFACE

The Bucks County Elder Law Handbook and Resource Guide

This guide is designed to provide information about legal issues facing Bucks County's senior citizens, their caregivers and families. It also lists a number of available resources. The Bucks County Bar Association has published this guide to help seniors make appropriate choices so that they can maximize personal autonomy, minimize costs, have an understanding of applicable legal concepts, and protect themselves against predators bent on deceiving, exploiting or defrauding them.

No publication can cover all of the legal issues relating to a group as diverse as the senior citizens of Bucks County. These materials are, moreover, for informational purposes only. They are not intended to be, and do not constitute any substitute for, legal advice or legal opinions on any specific fact or issues. Obviously, the free dissemination of this information is not intended to create an attorney/client relationship with any individual in or associated with the Bucks County Bar Association.

This publication is not copyrighted, because the Bar Association wishes to ensure that the information it provides is accessible to everyone who needs it. Any page or pages may be copied, and the Guide is available in its entirety for free from the Bucks County Bar Association's website at www.bucksbar.org.

Like all reference guides, it begins to be out of date the day of its publication. The Bucks County Bar Association hopes to revise this guide periodically as part of its long-standing tradition of public service to the residents of Bucks County.

SPECIAL THANKS

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PENNSYLVANIA LAWYERS FUND FOR CLIENT SECURITY

Although the percentage of lawyers involved in fraud and theft is extremely low, the news is often given wide play in the media. The fact is that lawyers are often put in positions of trust and temptation which occasionally, though rarely, result in a financial loss to a client. In such cases, the Pennsylvania Lawyers Fund for Client Security can help to recoup some or all of the losses. Claims are submitted on pre-printed forms from the Supreme Court of Pennsylvania, telephone 1 (800) 962-4618.

CHOOSING AN ATTORNEY

Every individual has notions about how to work with a professional advisor to resolve personal problems. To choose the best person to act on your behalf in legal matters, you should first think about your goals. Is it a simple question of updating your will, or is it the more complex process of planning the series of financial steps for retirement and changes in life situations? Once your needs are outlined, you can consult friends, relatives, business colleagues, clergy and others for recommendations about attorneys. Another source of information is the Bucks County Bar Association Lawyer Referral Service (215) 348-9413 ext. 102. They are open from 9:00 to 4:00 Monday through Friday, except for legal holidays. That office can help you determine if you might qualify for legal services assistance.

OLDER AMERICANS ACT

The Older Americans Act, which is a federal law, passed in 1965 established a basic framework for programs for seniors and their caregivers and set up Area Agencies on Aging (AAA) throughout the United States. In 2000, the Act was expanded to include the National Family Caregiver Support Program which funds programs for information, assistance, counseling, respite care, and supplemental services for care-givers. Information and assistance regarding Caregiver Support in Bucks County is handled through our local Area Agency on Aging, the Bucks County Department of Aging Services. Their address is 30 East Oakland Avenue, Doylestown, PA 18901. Their telephone number is 267-880-5700. Their Website is www.buckscounty.org/aging.

FINANCIAL PLANNING

The need for senior citizens to properly plan is more critical now than it has ever been in the past. Due to advances in health care, the fastest growing segment of our population is now the segment over age 85. The U.S. population is aging in such a manner that seniors may now live twenty or thirty years or more after they retire. There-fore, it is essential that senior citizens plan for a secure source of income for their use

during retirement and maximize the use of benefits afforded them under the current law - both state and federal.

Sufficient Income During Retirement

To adequately insure that there is sufficient income during the retirement years, each senior citizen should develop his or her financial plan (i.e. objectives post retirement and the plan for achieving those objectives) as early as possible. Individuals should identify their potential income needs, health care costs, housing costs, property management in the event of incapacity, and the disposition of their estates following death.

Social Security Retirement Benefits

For most senior citizens, Social Security retirement benefits begin at age 65 or soon thereafter. Depending upon the extent of the individual's other income, these benefits may be subject to income tax. For questions concerning the benefits you may be entitled to upon retirement, contact your local Social Security Administration office or visit their website at: http://www.ssa.gov.

Individual Retirement Accounts (IRAs)

Traditional IRAs or annuities are taxable for income tax purposes. However, the tax treatment of distributions from the IRAs will depend on the individual's age at the time of distribution. Distributions made from such accounts before an individual has reached age 59 1/2 are taxed, and they are also subject to an additional 10% penalty tax unless the distribution qualifies for an exception. Once the individual reaches age 59 1/2, distributions are subject to ordinary income tax but are no longer subject to the penalty tax.

Even if he or she does not need the money, the owner of a traditional IRA must begin to receive the entire balance of his or her IRA through periodic distributions by April 1st of the year following the year in which he or she reaches age 70 1/2. If the IRA owner fails to take the required minimum distribution in any year, he or she will be required to pay a 50% excise tax for that year on the amount not distributed as required.

Annuities

Annuities offer a steady stream of income. Each payment received includes a return of the investment made, as well as an interest component. Annuities may be purchased from insurance companies or arranged privately. However, private annuities involve a risk of loss. For death tax purposes, annuities which terminate at death are not typically included as a part of the annuitant's taxable estate but to the extent there

is any value passing to or for the benefit of an heir of the annuitant, such benefit may be taxed for death tax purposes, as well as income tax purposes.

REVERSE MORTGAGES

In retirement many seniors are land rich but cash poor and typically cannot qualify for loans. Recognizing this dilemma, the federal government passed a law authorizing home equity conversion mortgages for older homeowners. The law is intended to mitigate the hardship caused some seniors by the increased costs of health, housing and subsistence. In these so-called "reverse mortgages" a lender loans money to a borrower using the borrower's home as security. The loan proceeds may be disbursed in a single lump sum, monthly payments, or through a line of credit. Unlike traditional mortgages, which are usually repaid in monthly installments, reverse mortgages are repaid at death, at a specified maturity date, at resale of the home, or at refinancing of the mortgage. These mortgages are a good way to overcome the "house rich but cash poor" dilemma that confronts many elderly homeowners.

These mortgages may be provided by the federal government as HOME EQUITY CONVERSION MORTGAGES, or by state or local government agencies, or by banks and private lenders. Home equity conversion mortgages that are provided by the federal government may require that the funds be used for a specified purpose, such as home repairs, and the borrower may have to meet certain income requirements.

Basic Requirements

Borrowers must be age 62 or older; there is no maximum age limit. The mortgaged property must be a one-unit dwelling used as the principal residence of the borrower. The property must be in good repair; proceeds from the reverse mortgage may be used to make needed repairs. The property to be mortgaged must be free and clear of a mortgage or almost mortgage-free. The borrower may be required to pay the balance of the mortgage from the proceeds of the reverse mortgage.

The Federal Housing Administration (FHA) insured reverse mortgage program is administered by the Department of Housing and Urban Development (HUD). A borrower's age, the geographic area and the value of the home determine the maximum amount available under this program. HUD permits an agent appointed by a properly drafted power of attorney to apply for a reverse mortgage on behalf of an elderly homeowner. For free information from HUD about reverse mortgages, call 1(888) 466-3487.

Private lenders such as local banks may also offer reverse mortgages and may have more flexibility in setting maximum loan amounts or placing higher age limits on borrowers. Generally speaking, it is an event of default for a borrower to move from the property. This means, for instance, that a single homeowner who expects to move soon

to assisted living or skilled care should not consider paying for his nursing home bill with a reverse mortgage. He might instead sell the residence and use the proceeds for his long term care. A private lender might permit a loan and payments to continue even if the borrower does not live at the home. However, overall costs and interest rates may be higher. Contact your local banking institution to ask if they offer reverse mortgage products and compare details to make the best choice for your situation. Remember to include closing costs on the loan and interest rates when running calculations.

While reverse mortgages do not adversely affect an individual's receipt of Social Security or Medicare benefits, reverse mortgage proceeds which are held beyond the month they are received are considered "liquid assets" and may adversely affect eligibility for SSI and Medicaid benefits.

Another important factor to note is that these reverse mortgages are "nonrecourse" loans. This means that you can never owe more than the value of the home at the time the loan is repaid. A lender seeking repayment has no recourse other than the value of your home. Further information regarding reverse mortgages can be obtained by requesting a "Home Equity Conversion Information Kit" from the American Association of Retired Persons (AARP) by writing to AARP Fulfillment, D-15601, 601 E Street, NW. 20049, Washington DC.

PROPERTY TAX AND RENT REBATES

The Property Tax/Rent Rebate Program began in 1971 to assist elderly citizens to maintain their homes. Under this program, a person living on a limited income may be eligible to receive a rebate of some part of the money paid for property taxes or rent during the previous calendar year. Rebates depend on the claimant's income level and actual tax or rental costs.

The current (2006) maximum amount payable under the program is $500 and the 2006 maximum income for applicants is $15,000 per year. Excluded from income for purposes of determining eligibility is 50% of Social Security or Railroad Retirement income, as applicable. Therefore, for example, a single or widowed person with $16,000 per year income from Social Security alone would be counted as receiving $8,000 per year and would qualify. Persons living in subsidized housing may only claim that amount actually paid in rent.

On June 27, 2006, the Property Tax/ Rent Rebate Program was expanded significantly by the passage of Special Session House Bill 39 (SS HB 39). For applicants filing in 2007, the household eligibility income limit has been increased from $15,000 to $35,000 and the maximum rebate, depending on income and actual taxes paid, has been increased from $500 to $650.

To be eligible for a property tax/rent rebate, the individual:

- must own and occupy the property for which a rebate is claimed; or, rent and occupy a property for which the owner paid property taxes. In either case, the property must be the principal residence;
- must be a Pennsylvania resident age 65 or older or have a spouse
- age 65 or older living in the same household;
- can be age 50 or older if widowed;
- can be permanently disabled and age 18 or older, meeting the Social Security disability requirements;
- must meet the income eligibility requirements as described above.

Claims applications must be filed between January 1 and June 30 of the year following the year in which the taxes or rent was paid. In addition, owners must have paid taxes prior to filing and renters must make certain their landlords were required to pay property taxes or made payments in lieu of property taxes on the rental property.

Rebate checks are mailed beginning July 1 each year. Proof of income is required, such as copies of the state or federal income tax returns for the claim year in which you are filing. If you are claiming a rent rebate, you must include proof of the rent you paid, such as an affidavit signed by the landlord or the landlord's agent. If the landlord's signature cannot be obtained, the claimant must complete and submit a notarized rental occupancy permit.

Persons who qualify for the property tax and rent rebate program may also be eligible for PACE or PACENET, which are prescription drug programs funded by the Pennsylvania lottery (See page 43 for more information).

For further information regarding property tax/rent rebate you can contact the Pennsylvania Department of Revenue, toll-free at (888) 222-9190 or consult their website: www.revenue.pa.gov You can get help in filling out PACE and tax rebate forms through the Bucks County Department of Aging Services, 267-880-5700 or aging@buckscounty.org. You may also contact your local area senior center.

INCOME TAX PLANNING

As there are tax laws which inure to the benefit of the elderly, senior citizens should familiarize themselves with such information and utilize these laws wherever possible. For a general guide to the tax laws affecting the elderly, see Internal Revenue Service, Publication 554, "Older Americans' Tax Guide." This publication is available free of charge by contacting the IRS at 1 (800) 829-3676 or at its website at: http://www.irs.ustreas.gov.

Tax Return Preparation

Many seniors fail to effectively utilize the tax laws which are beneficial to the elderly, because they are unable to afford professional tax assistance. For those seniors with limited means, volunteer tax preparation and filing assistance are available through several programs, such as Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE), programs coordinated by the IRS. Local libraries may also be able to recommend a convenient program site. Many Senior Centers in Bucks County during tax season offer free tax assistance and tax return preparation through volunteers. Information can be obtained by calling your local Senior Center listed in the white pages of your telephone directory.

The American Association of Retired Persons (AARP) offers assistance in many communities through their Tax Aide program. Like VITA and TCE, this program offers free assistance in preparing tax returns to elderly people of modest means. To locate the nearest Tax Aide site, contact the AARP at 1(888)227-7669 or at their website: http://www. aarp.org.

The IRS also provides walk-in tax return preparation services free of charge at its service centers.

Standard Deduction at Age 65

As stated above, federal income tax laws apply to all Americans; however, certain provisions give beneficial tax treatment to seniors. One such benefit is the additional standard deduction for taxpayers who have reached age 65 and who do not itemize their deductions. Below is a chart demonstrating the additional standard deduction, depending upon filing status. In order to use the additional standard deduction, the taxpayer must have reached the age of 65 before the end of the year for which the return is being filed. However, an individual whose birthday falls on January 1 of the succeeding year, is permitted to utilize this additional deduction for the tax year preceding his or her reaching age 65.

BASIC and ADDITIONAL
STANDARD DEDUCTION (Tax Year 2010)

Note: Many of these items change each year - check the IRS website noted above for the most current amounts in a given tax year.

Filing Status	Basic Standard Deduction
Single	$7,150.00
Married; filing jointly	$13,900.00
Married; filing separately	$6,950.00
Head of Household	$9,950.00
Surviving spouse	$13,900.00

Income Tax Credit Age 65 or Older Or Disabled

A U.S. citizen age 65 or older (or retired on a permanent basis and on total disability) may be able to take this credit if income does not exceed a certain limit. For tax year 2006, the maximum credit available is $1,125.00. As it can be quite complicated, it may be helpful to obtain the assistance of a tax professional to properly calculate the credit due.

Medical Expense Deductions

If deductions are itemized, medical expenses are deductible to the extent they exceed 7 1/2 % of adjusted gross income. Please keep in mind that the deduction is limited to unreimbursed out-of-pocket medical expenditures. Examples of deductible expenses include:

Expenditures for medicine, if the medicine was prescribed by a physician; A!! the costs associated with a long-term care facility, including meals and lodging, if the principal reason for admission is the availability of medical care;

Personal care services, if provided pursuant to a plan of care prescribed by a licensed health care practitioner. Since assisted living care is not traditionally skilled medical care, only a portion of the costs associated with such care may be deductible. The assisted living facility should be able to tell you the portion of each payment which is deductible; and Capital expenditures for equipment and home modifications to accommodate the handicapped to the extent they don't increase the market value of

the residence. For instance, wheelchair ramps and widening of entrances are deductible improvements.

Personal Dependent

If you provide more than 50% of the support of a relative, you may be able to claim that relative as a dependent on your tax return and as such receive a deduction, provided all of the other elements required by law are met:

The relative's gross income for that year must be less than $3,300 (in 2006) not including nontaxable income such as welfare benefits or nontaxable Social Security benefits; and

The relative must not have filed a joint return with his or her spouse.

Medical Deduction

Even if you are unable to claim a relative as a dependent, the relative's medical expenses paid by you may be deductible, if you (or in certain cases, you and others) provided over 50% of the relative's total support for the calendar year. The availability of this deduction is not dependent on the income received by the relative in that calendar year.

Dependent Care Credit

If a parent is dependent upon his or her child for support, regardless of the parent's income, the child may be entitled to this credit, if the parent is incapable (physically or mentally) of providing his or her own personal care. However, please note it is often more beneficial to claim the medical expenses as deductions than to use the credit.

Tax Basis

To properly prepare your income tax return, you or your tax preparer will need to know the "tax basis" for each capital asset (e.g. stock, real estate, etc.) sold within that tax year. The tax basis of an asset is critical to accurately computing the capital gain or loss resulting from the sale of an asset. The maximum current capital gains rate for long term investments is now generally 15%. It can be lower, depending on your income level. Typically, tax basis in property is the initial purchase price of that property, increased in certain instances for major improvements made over the years to such property. For instance, if person A purchases a house for $200,000 and later puts a deck on the house at a cost of $20,000, person A’s tax basis in the property is $220,000.

Transfers (Gifts vs. Inheritance)

Using the example above, if person A makes a gift of the house to his son, his son's tax basis in the house will be the same as person A's tax basis. Son receives a "carryover" basis of $220,000. If son then sells the house for $400,000, son will be taxed on $180,000 of capital gain [$400,000-220,000 = 180,000].

If, instead, person A does not give the house to his son during his lifetime but at A's death his son inherits this house and immediately sells it for $400,000, the son's basis in the house "steps up" to $400,000 (value at time of death) and as such, there is no capital gain recognized upon the sale. An individual's tax basis in inherited property is typically the fair market value of such property on the decedent's date of death. Tax basis consequences, as well as other tax considerations, need to be analyzed when determining which assets should be transferred, if any, and which should be retained. As the tax consequences of such transfers can be significant, it is prudent to seek the advice of a tax professional before undertaking such transfers. Understanding and carefully documenting tax basis can result in significant tax savings to an individual.

There are other non-tax consequences that can follow transfer of a residence or other property to family members or others including some severe penalties associated with the Medicaid program if skilled nursing care is later required. To determine whether these issues apply, you should obtain both tax and benefits advice before deciding to transfer assets.

Sale of Residence (Exclusion of Gain from Income)

Much of the capital gain arising from the sale of a personal residence may be excluded from taxation. Under the current federal law, you may be able to exclude up to $250,000 of capital gain on the sale of your principal residence ($500,000 on a joint return in most cases). In fact, if all of the gain can be excluded, the sale need not even be reported on your tax return.

This exclusion can be used more than once, and does not require the purchase of a replacement residence. However, this exclusion is only available if all the following are true each time:

- You (or your spouse) have owned the residence for at least two of the five years preceding the sale;
- You have used the home as your main residence for at least two of the five years preceding the sale; and
- During the two year period ending on the date of sale, you have not excluded gain from the sale of another home.

There are special exceptions that may apply if you did not reside in the home for a portion of this period because your care demanded that you live in a nursing home.

If you are married and wish to use the $500,000 exclusion, you must file a joint return with your spouse for the tax year of the sale, both of you must fulfill the residency requirement, and neither of you may have used the exclusion within the past two years.

ESTATE PLANNING

Many people think the term "estate planning" applies only to very wealthy people. Nothing is further from the truth. An estate is simply what you own. If you own property, you need to plan ahead in order to make sure the desired people or institutions inherit your property after your death.

If you die without a Will, your assets, including your home, money and other property will be distributed to your heirs according to the Pennsylvania Intestacy laws. Without a Will, you have no control over the manner in which your property is distributed upon your death.

The existence of a well-considered estate plan, most importantly a will, can help avoid disputes among your heirs and will give you the peace of mind that comes with knowing that your final wishes will be carried out.

It is best to consult with a local attorney whose practice includes or concentrates in estate planning to discuss your needs and wishes. You should select an individual with whom you feel comfortable and who will help you in designing a plan to suit your needs, wishes and budget. The cost will certainly be less than the much greater amounts that may be wasted if you do not have a professionally prepared will and other documents.

It is generally not wise to use forms downloaded from the internet or software to prepare your will, as these shortcuts will deprive you of the advice and expertise of an experienced attorney who is trained to assist you in making the best decisions as to how to accomplish your goals.

The Will

A will is an important legal document and the cornerstone of most estate plans. In a will you direct how your property is to be distributed and you also name a personal representative to administer your estate.

The personal representative named in a will is commonly referred to as the "executor." An executor collects the estate assets, pays the estate debts and makes distributions to the beneficiaries you have designated in your will.

It is generally advisable to nominate one executor and an alternate in your will rather than naming two individuals to serve as your co-executors. Co-executors frequently have difficulty getting paperwork signed in a timely manner and can delay estate administration. Moreover, disagreements between co-executors can increase the time and costs of administration.

If you already have a Will, take it out and reread it. Do you understand what it says? Do you agree now with the arrangements you made earlier? Update your Will if circumstances have changed. Marriage, death, divorce, birth, asset growth, moving to a different state or a change in estate tax laws are events that may trigger the need for you to revise your will. A good rule-of-thumb is to review your Will at least once every five years. Significant changes in the federal tax law were made with the passage of the Economic Growth and Tax Relief Reconciliation Act of 2001 and in every year since then.

Keep your original Will in a secure place such as a fire-proof box, a safe deposit box at your bank or with your attorney. If your lawyer is holding your will, ask whether it is being held in a fire-proof vault or other protected location.

If you are afraid that somebody might tamper with or destroy your Will if they were to read it, leave it with your lawyer or place it in a safe deposit box where its contents will be kept private. In Pennsylvania, a safe deposit box is accessible upon death of the owner for the limited purposes of retrieving the decedent's Will and cemetery deed. Under Pennsylvania law, the safe deposit box is not frozen, i.e. sealed, if the co-owner of the box is the surviving spouse.

You have the right to request your original estate planning documents from your attorney at any time. The documents belong to you, not your lawyer. You also have the right to revoke your Will and write a new one at any time you choose, providing you have the mental capacity to do so.

Ownership of Property

Your will only controls property which you hold in your name alone. It does not control property which is subject to beneficiary designations, or property held jointly with others with rights of survivorship, or "Transfer on Death" accounts. So a Will giving everything equally to your children may not accomplish this if accounts are in joint name with one of the children "for convenience". Often people do not understand the legal consequences of the way their property is titled, and they make serious errors by placing the names of others on their accounts or on the deed to their houses. You should consult with an attorney experienced in Estate Planning before changing the title to bank accounts, brokerage accounts or deeds. Is it very important to you and to those that you wish to benefit that your intentions are not frustrated by account designations which are inconsistent with the way you want your property distributed at your death.

Friends, bank employees, and brokers should not be relied upon to make estate planning decisions. Improper titling of property, accounts and beneficiary designations frequently result in unintended unequal divisions, insufficient funds to pay taxes and expenses, and bitterness among heirs. Placing a child's name on an account could also expose the account to the creditors of the child and involve you in litigation over the true ownership of your assets.

Non-Probate Property

Just as you need to review your Will periodically, you should check the beneficiary designations on your life insurance policies and retirement accounts to make sure they are up-to-date. Many people select beneficiaries when purchasing a life insurance policy or opening their accounts but never recheck these decisions. It is particularly important to do so as families change over the years.

Jointly-held property, accounts held "in trust for <name>" (ITF), accounts "payable on death to <name>" (POD or TOD), and annuities do not pass according to the provisions of your will, but pass by law to the designated beneficiaries or to the survivors listed in the title. Be sure to review these carefully when developing your estate plan.

Trusts

Your attorney might recommend the use of a "trust" in larger estates, estates with young beneficiaries and in situations with special circumstances. What is a trust? Many estate planners explain that a trust is like a box where you can place your property. A person places money in the box, the trust, and designates a manager, known as the "trustee," to safeguard the contents of the box. The trustee then distributes trust assets to the beneficiaries you select, in such amounts and at such times as you direct. Of course the money is not really put in a box. The "box" is usually a brokerage account or a bank account where the funds are invested by your trustee.

For example, a grandparent may wish to set aside money for a disabled grandchild, but may be afraid to do so for fear of disqualifying that grandchild from certain government benefits. A grandparent could place the money in a carefully drafted trust which may be referred to as a Special Needs Trust or Supplemental Needs Trust, designate a trustee to invest and safeguard the funds and enable the disabled child to benefit from the trust while maintaining eligibility for government benefits such as Medicaid or Supplemental Security Income (SSI) payments.

There are many other types of trusts. Credit shelter trusts, also called "bypass trusts," are commonly used to help protect large estates from federal estate taxes. Support trusts typically make payments to beneficiaries based on a standard of providing for health, education, maintenance and support. Trusts can also be used to set aside money for designated purposes, such as for education. Discretionary trusts

and "income only" trusts can be written to protect spendthrift beneficiaries from squandering their inheritance through wasteful spending habits.

Trusts usually cost more money to create than a simple will because they are more complicated and must be customized for each particular situation. In addition to the costs of drafting a trust, there are continuing attorneys' fees and trustees' commissions over the years as a trust is administered. Many trusts require the filing of fiduciary income tax returns; accordingly, an accountant's services are often needed to help prepare and file these tax returns. Obviously you need to consider the ongoing administrative costs as you decide whether it makes sense to create a trust. Generally, however, if you are in a situation where the use of a trust would be advisable, the benefits of the trust will far outweigh the administrative costs.

Revocable Living Trusts

Before preparing a living trust, you must determine whether it will be useful for your situation. Generally, in Pennsylvania, there is no substantial benefit of the use of a revocable living trust over a properly drafted will.

Although revocable living trusts, when properly drafted, and when used in the appropriate situation, can be valuable parts of a client's overall estate plan, in recent years living trust scams have become increasingly common. Promoters of such scams frequently target seniors through "free" seminars and mail solicitations because they know that seniors are concerned about making sure their "affairs are in order" and can be susceptible to high pressure sales techniques. Living trust scam promoters emphasize the allegedly high fees, delays and damaging psychological impact of the probate process, and suggest that you can avoid all these fees by using a revocable living trust. Living trust scam promoters also sometimes promise that a revocable living trust will allow you to avoid death taxes and the possibility of a challenge by disgruntled heirs or that they will "save money from the nursing home. The truth is that the costs, taxes and time commitment involved in administering a trust are, in most areas, virtually identical to those involved with probating and administering an estate. Revocable living trusts do not avoid payment of Pennsylvania inheritance or other taxes and do not insulate funds from being spent down for Medicaid.

If you wish to get a low-cost second opinion from an estate planning attorney before proceeding with a living trust, call the Bucks County Bar Association Lawyer Referral Service at (888) 991-9922. Tell the service representative that you would like to meet with an estate planning attorney before going forward with the preparation of a living trust to make sure that it is right for you. A half-hour consultation may cost only $25; this meeting might save your money and your peace of mind by making you aware of options not mentioned by the salesperson.

If you are contacted by anyone trying to sell you a revocable living trust, here are some of the warning signs that may indicate that this is a scam:

- high-pressure sales tactics, or unsolicited sales visits;
- suggestion that the Living Trust is the "only document you'll ever need";
- suggestion that "attorneys don't want you to know this information";
- use of "one-size-fits-all" pre-printed forms;
- excessive prices for forms.

Some people are confused by the complexity of revocable trusts and may experience or feel a loss of control over the assets in the trust. Moreover, many feel the benefits of a costly trust can be obtained through less expensive alternatives, such as through the use of a general durable power of attorney.

A living trust is appropriate and may be the best choice if you own real estate in another state, for example, if you own a second home in Florida. Property transferred to your trust will not be subject to an ancillary probate in that state, which will save considerable cost and simplify the administration of your estate. You might consider a living trust for the management of your assets if you become incapacitated, as the successor trustee of your trust will then be able to step in to continue in your place.

Joint Property

There are several ways of owning property with another person: Tenants in Common, Tenancy by the Entireties, and Joint Tenancy with Right of Survivorship. You should not transfer your property into joint names with another without obtaining legal advice from an attorney who is able to explain the tax and other consequences. When you transfer your property so that you own it with another, you are exposing your property to the creditors of that person. There may be income tax, federal estate and gift tax, and also Pennsylvania Inheritance Tax issues. There are several types of jointly owned property, and people often transfer their property into joint name with family members, or even friends, with the mistaken belief that this will reduce estate administration costs, avoid probate, avoid taxes, and generally "make things easier." This often results in unexpected outcomes, bad feelings, and hardships. Titling property in joint names is easy to do. Banks and other financial institutions may provide forms but are not capable of advising of the potential dangers. How you end up owning your property may depend upon the forms you are given to sign by an employee who does not know anything about your situation, or understand anything about the various types of joint property. If your goal is to provide for the management of your affairs if you become incapacitated, you should discuss the merits using a revocable living trust or a general power of attorney depending on your circumstances with your lawyer. If you want certain property to go to a particular person after your passing, this should be addressed in your estate plan which may be done by Will or by beneficiary designation depending on the property involved.

Inheritance. Estate and Gift Taxes

Over the years, senior citizens have watched tax regulations at all levels grow more and more complicated. Guideline information is offered below with the advice to consult with a professional if you have questions.

Pennsylvania Inheritance Tax

Pennsylvania's Inheritance Tax is a tax imposed upon the transfer of property at the time of an individual's death. Generally, assets located within the Commonwealth of Pennsylvania and in which the decedent had an interest name, such as bank accounts and real estate, are subject to the tax. The rate of tax is determined by the relationship of the beneficiary to the decedent. For example, transfers to a grandparent, parent, child or other lineal descendant are taxed at 4 1/2%, while property passing to a sibling is taxed at 12%. Property passing to a surviving spouse, or from a child under the age of 21 to a parent is not subject to tax. All other transfers are taxed at a rate of 15%. There is no Pennsylvania Inheritance Tax on life insurance proceeds received by a beneficiary. The tax must be paid within nine months of the date of death to avoid a penalty. If you pay all or part of the tax within three months of death, you will receive a small discount.

Federal Estate and Gift Taxes

The federal government imposes a tax "on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States." The tentative tax is computed on the amount of the taxable estate and the amount of the adjusted taxable gifts.

Due to the recent changes in the tax law, the maximum estate tax rate will be steadily decreasing to 45% in 2009, and will be completely abated in 2010. A tax credit, known as the "unified credit", allows smaller estates to pass without being subject to the Federal Estate Tax. This amount is set at $2,000,000 for the year 2006

Technically, under present law, the total repeal of the estate tax will be effective only for decedents dying between January 1, 2010 and December 31, 2010. If the repeal is not renewed by Congress by December 31, 2010, the estate tax will revert to the 2002 rules. The federal taxation is not a concern for estates with assets under the amount covered by the unified credit, but you should check with your lawyer for other specific concerns. For married couples with assets in excess of what is covered by the unified credit, taxes can be avoided with appropriate planning, such as by the creation of a "bypass trust." Estates where combined assets are more than the unified credit protected amount for married couples require complex planning by a professional estate planner. Again, it is always wise to check with your lawyer.

Taxable gifts are the total amount of gifts made during the calendar year, less deductions. Annual gifts less than $12,000 per person per donee are not taxed. Thus a husband and wife combined may transfer up to $24,000 to each donee (e.g. $24,000 to each of their children) per year without being subject to federal taxation. The government provides for an increase of this $12,000 amount for gifts made after 1998 by using a cost-of-living adjustment.

Planning For Gifts

As you plan to make gifts in your elder years, you need to know about federal estate and gift taxes, income taxes, real estate law, estate law, wills and divorce law. Your first step may be to consult an attorney.

Your attorney will ask you to gather copies of all federal income tax and gift tax returns, gift checks, recorded and unrecorded deeds, copies of gift letters and trust agreements. After a review of all the documents and a discussion of your goals, you will be ready to select the property to be gifted, with your attorney's assistance as you make your decisions.

You may want to consider a gift to charity. Many not-for-profit institutions have resources to aid you in making gifts, particularly in setting up a charitable gift annuity which allows you to give cash or securities while providing you with a guaranteed, lifelong income. Under certain conditions, you could enjoy a significant charitable tax deduction without incurring a capital gains tax if you give appreciated securities with a low cost basis. Again, you need to see your attorney to help you to review all your options. You need to keep in mind that the federal government taxes some gifts. The Internal Revenue Service defines a gift as any voluntary transfer of property from a donor to a donee without what is called full and adequate consideration. A gift will be computed when the donor gives up control over the transferred asset. Your gift to anyone during a calendar year will be a "taxable gift" to the extent it exceeds $12,000.

The value of a gift for federal gift tax purposes is the "fair market value" of the property transferred. Fair market value is generally defined as the "price which would probably be agreed upon by a seller willing to sell and a buyer willing to buy where both have knowledge of the facts." Gift tax returns, which list the gifts made in that year, must be filed annually when you file your personal income tax return if you exceed the $12,000 per person limit in the prior year. Although filing is required, in many cases unless the gifts were sizeable, no tax may be due at that time.

Meeting With Your Lawyer

Perhaps the most difficult part of the estate planning process is overcoming procrastination and scheduling that initial consultation. For the best results, you need to deal with an attorney who provides estate planning services on a regular basis. When you call to schedule your appointment, be sure to ask whether there is a fee for the

initial consultation. At your first conference, be sure to ask about the total cost to have your documents prepared. Some lawyers charge for documents on a flat fee basis, while others bill at an hourly rate. In either case, reputable lawyers always discuss fees up-front at the initial consultation and they will put the agreement in writing.

Before you visit your lawyer, you can make the initial meeting more productive by bringing the following information:

- a list of what you own and how it is currently titled;
- a list of your intended
- beneficiaries with their names, ages and addresses;
- your choice of executor and at least one alternate; and
- a list of all the questions you have about estate planning.

Your lawyer will thus be able to spend more time developing a plan with you and less time writing down basic information. If you suspect trouble in the family, mention this to your attorney so the issues can be addressed in a way that minimizes conflict. Remember that anything you discuss with your attorney is confidential client information. After working with you to develop your plan, your lawyer will then prepare the necessary documents. You may wish to ask him/her to forward drafts of complicated documents, such as trusts, for your review in advance of the final appointment. It is very important that you understand all papers you sign. Then, once signed, make sure everything is kept in a secure, fire-proof location.

DO-IT-YOURSELF DOCUMENTS

Enterprising software designers have written "family lawyer" computer programs, which usually include wills, trusts, powers of attorney and advance directives. These come with all sorts of broad disclaimers telling users to consult their lawyers. However, many people decide to disregard the warnings and draft their own estate planning documents. This is analogous to the do-it-yourself appendectomy featured in a current television ad.

The forms included in the typical "family lawyer" program have been prepared by attorneys and, if properly executed, almost always create binding legal documents. But, there's a catch: First, they do have to be validly executed; and, second, they might not do what the persons signing them think they do.

Executing a will can be tricky. If the person executing the will says the wrong thing, or if a witness does not actually see the person sign, or if one witness does not see another witness sign, the will can be invalidated. In addition, different states have different requirements and, sometimes, the laws of more than one state can apply to the same will. So, without having an attorney supervise the signing of a will, there is a significant risk that the will may be void.

However, the biggest risk is not with the execution of the form will, it is with its content. It's not that there is anything wrong with the typical computer-generated form, per se; rather, the problem is that the person who prepares the will may not know or appreciate the legal or tax problems that affect his or her estate. The federal and state taxes that apply to estates are extremely complicated and someone who does not deal with them daily cannot spot all the issues that would affect an estate. State laws dealing with adopted children, disabled dependents, common law marriage, estranged spouses, creditors, and excluded heirs are varied and complex. Those, combined with the complex dynamics of multiple marriages and intertwined family relationships, can create a legal minefield that only a trained expert can navigate without incendiary results. So, an attorney who is familiar with estate planning is necessary, not necessarily because only an attorney can write a valid will, but because a trained attorney has the skill to spot the tax and legal issues that the will must deal with to avoid problems when the estate is settled. The costs of hiring an attorney to review or draft a will are always less than the costs of hiring an attorney to defend litigation among family members or with the taxing authorities. That, combined with the peace of mind in knowing that you have explored all the options available to you with a trained expert, should more than justify the expense of hiring a lawyer in every case.

POWERS OF ATTORNEY

A Power of Attorney is simply a document that enables another person to act on behalf of the maker. The person creating the document is called the principal and the person carrying out the wishes of the principal is called the agent. The principal must be mentally competent when he or she signs the document, but the document may remain valid even if the maker becomes incapacitated. This continuing validity is known at law as durability. In Pennsylvania, all powers of attorney are durable unless the document specifies otherwise. This is why the term durable power of attorney is often used.

The law regarding powers of attorney was substantially revised in 1999. Since then, all new documents must carry a large NOTICE provision that warns the maker of the significant breadth and scope of the powers being granted to the agent. Additionally, in order for the power of attorney to be legally binding, the agent must sign an ACKNOWLEDGMENT. The agent affirms that he or she will act prudently, only in the best interests of the principal, keep good records and keep the Principal's money in a separate account - separate from the Agent's funds. Consequently, THE SELECTION OF AGENT IS CRITICAL.

A power of attorney becomes particularly important should the maker become incapacitated - whether this incapacity is short lived or of longer duration. Importantly, the agent may be empowered to make estate planning decisions - to minimize estate taxes and/or to take Medicaid planning steps. These steps may involve giving monies or assets to the principal's heirs now, rather than at the principal's death. In a power of

attorney, this act is called gifting. Not surprisingly, gifting is sometimes abused by an agent. Since 1999, if gifting is to be permitted at all, the power of attorney document must contain specific language. If you want your Agent to have your authority to make any gifts, please contact an elder law or estate planning attorney.

In essence, a power of attorney may grant the agent the power to do anything financially that the principal could do. Therefore, it is important to consider to what extent to empower your agent. It might be appropriate to grant an agent limited, closely defined gifting authority or very far reaching powers. An attorney can review these and other details to create an appropriate document for your particular circumstances and needs. For example, you may wish to specifically authorize your agent to use your funds to consult with an attorney or other professional for legal, accounting or investment advice - all to better serve you as your agent.

A power of attorney may be effective immediately or only when a specific, future event has occurred. Such a triggering event might be when your doctor certifies that you are disabled either physically or mentally. This type of triggering mechanism is often called a springing clause. However, the need to formally certify a future event could cause a significant delay in the ability of your agent to act for you. Therefore, you should carefully consider the pros and cons of this feature.

To avoid or minimize family squabbles, you should consider advising your family of your plans for incapacity (power of attorney) as well as your estate. Additionally, it is much more efficient to have *one* agent rather than a group of agents. Obviously, some children might be disappointed to not be the one chosen to act. If you communicate with your children - particularly your chosen agent - during the initial incapacity planning process and beyond, you will be able to forestall many disputes.

Your signature (execution) of your power of attorney should be witnessed by two adults (who are not members of your family) and a Notary because this formality is required for some agent's acts (for example a real estate transaction) and it may improve the ready acceptance of your power of attorney document(s) in other states or countries.

Copies of your power of attorney can be as valid as the original. Additionally, a notarized power of attorney may be recorded (for a fee) in our County Recorder of Deeds Office or with the Clerk of the Orphans' Court. Once recorded, certified copies may be purchased and are more readily accepted by financial institutions.

Advance Health Care Directives (Living Wills)

Please note: This area of the law has been recently significantly changed by our legislature. Under the new Act 169, if you fail to appoint a Health Care Agent the law now designates who may act as your Health Care Representative under circumstances

where you are unable to act yourself. Because this is a substantial change in our law, it is particularly important that you review the following information with your attorney before taking any action based upon the information contained in this section.

In 1992, Pennsylvania became the last of our fifty states to pass a "Living Will" statute. In 1994, these laws were again revised to enable anatomical gifts (organ donation).

You might be familiar with the old Living Will form (the so-called "check the box" form) if you or a family member has been a patient in a Hospital. When you are admitted as a patient, you are asked if you have a Living Will or Advance Directive. This question is required by federal patient rights law. The PA Statutory Living Will form is composed of a series of yes or no questions related to your care at end of life.

The PA Statutory Living Will can be acted upon by your agent *only* if your attending physician certifies that you are near death. Here are a few abbreviated definitions of terms contained in the new PA Statutes.

Incompetent: The Patient lacks sufficient capacity to make or communicate decisions concerning himself or herself or the options for treatment.

Life-Sustaining Treatment: Any medical procedure or intervention that serves only to prolong the process of dying or to maintain the patient in a state of permanent unconsciousness. If your document so provides, this treatment may include nutrition and hydration administered intravenously or by stomach or nose tube or other artificial, surgical or invasive means.

Permanently Unconscious: A medical condition diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity of interaction with the environment; includes a persistent vegetative state or irreversible coma.

Who May Execute a Living Will

In Pennsylvania, anyone of sound mind and aged at least 18 years or married or graduated from High School may execute a Living Will. The PA Statutory Living Will only requires two witnesses aged 18 or older. However, each state has a similar law with unique requirements. Therefore, you may wish to improve the acceptance of the document in other states by having your and your witnesses' signatures notarized.

It is very important to discuss with your physician the kinds of treatments you might wish to withhold under certain circumstances. Certainly, you would want to understand what effect certain treatments would have on your body. A copy of your Living Will should be given to your primary care physician who will safeguard it in your medical records. Your doctor will appreciate this communication because by following your

written instructions the doctor will be protected from liability. However, you might find that your doctor is not comfortable with your expressed preferences, because your choices might not be compatible with the physician's moral or religious beliefs. It is much better to discover this difference before a crisis occurs. You can then find a doctor whose beliefs are more compatible with your own.

Additionally, you might wish to name a surrogate (agent) to carry out your wishes should you be unable to communicate. Also, you may specifically prohibit certain persons from acting as a surrogate. For example, you might not want an estranged spouse interacting with your doctor regarding your care.

By law, hospitals and nursing homes must provide patients with information concerning Living Wills. However, information concerning Health Care Declarations is optional. Hospitals and nursing homes may not charge different fees dependent upon whether or not a patient has a Living Will. The PA Statutory Living Will becomes operable (or empowers your agent) ONLY when the attending physician is provided with a copy AND the attending physician determines that the patient is incompetent AND that the patient has an end-stage condition OR is permanently unconsciousness. The attending doctor must certify this diagnosis in writing and this diagnosis must be confirmed by a second physician. ONLY WHEN AND ONLY IF ALL of these steps are followed is the PA Statutory Living Will able to give your agent legal authority to make end-of-life decisions for you.

Absence of a Living Will

If a patient has not executed an advance directive (Living Will, Health Care Power of Attorney or similar document), there is no presumption of the patient's intentions to consent to or to refuse life-sustaining treatment. However, the Pennsylvania Supreme Court has held that when there is no advance directive, a close relative, with the consent of two physicians and without Court involvement, may remove life-sustaining treatment from an adult relative who is in a persistent vegetative state.

Durable Health Care Power of Attorney - Possibly a better Choice

Sometimes, an event, condition or circumstance might make it impossible for a patient to interact with the doctor. Perhaps, for example, he or she has been in an accident or has been given medicine to control her pain. He or she may have undergone surgery and still be feeling the effects of anesthesia. Under such circumstances, the patient's ability to listen to the doctor's explanation of treatment choices and to reasonably evaluate the alternatives can be significantly impaired. Similarly, a person suffering from Alzheimer's or other dementia may not be able to interact with his or her health care providers sufficiently to give informed consent to a proposed form of treatment.

Many people choose to anticipate this type of incapacity and name an agent (or surrogate) to act for them regarding ALL health care decisions. The document that formally records this choice is called a Durable Health Care Power of Attorney (DHCPOA).

Similar to a power of attorney that enables your agent to attend to your financial and property decisions, the DHCPOA can enable your agent to make your health care decisions for you if you are too ill to make them for yourself. Your agent for health care decisions may be the same person who is your agent for your financial and property decisions or it may be someone else. This is because the skills, capabilities and knowledge needed for each of these tasks are distinctive.

Additionally, because we are living longer than ever before, many people now recognize that the possibility is that much greater that they will suffer some period of incapacity - whether temporary (for an operation) or longer (with a progressive or cognitive illness like Alzheimer's disease).

Remember, a Living Will only comes into use at the end of life. A DHCPOA can cover the much larger gap of time between incapacity and end of life. An agent empowered by a well crafted DHCPOA can help insure that your individual preferences, desires, and wishes regarding your health care are honored and enforced.

This freedom to name a person who is not your spouse as your agent of choice for a DHCPOA was affirmed by a Pennsylvania Superior Court case called Duran. Because this area of the law has received a lot of notice in the press and because additional legislation is currently pending in this area of law, please contact your attorney to initiate incapacity planning.

Out-of-Hospital Do Not Resuscitate Orders

This specialized medical instruction is now portable or enforceable outside of the walls of a medical facility. Should medical circumstances warrant, a physician may, upon consultation with her patient or the patient's agent, write a DNR or Do Not Resuscitate Order. This instruction in a patient's chart means that should the heart stop beating on its own or should breathing cease, no CPR (cardiopulmonary resuscitation) should be preformed. For example, a DNR order might be appropriate for a terminally ill cancer patient who has been admitted to Hospice care or a very frail and very elderly person who lacks the physical vitality to respond to or fully or significantly recover from CPR medical treatment.

Until 2002 in Pennsylvania, a DNR was only enforceable within a medical facility. This meant that a person with a DNR could not enforce it outside the hospital. Thus, if they were well enough to travel and then be in an accident, emergency medical service (EMS) responders would be required by law to perform CPR even though this act was

against the patient's wishes and doctor's orders, because the EMS technicians' job, and very important public duty is to save lives if at all possible.

Now, Pennsylvania has joined most other states that have procedures to protect patient's rights, ensure EMS compliance and still protect the professional integrity of our Police, Fire, EMS and invaluable emergency responders. Now a person can have a *"mobile* DNR" and wear a special bracelet to safely and readily advise the emergency responder of the existence of the DNR order. The official advisory on the bracelet enables the emergency responder to both do their job and respect the patient's choice.

You can find more information regarding the Pennsylvania Mobile DNR at the Pennsylvania Department of Health Website: http://www.dsf.health.state.pa.us/health.

GUA*R*DIAN*SHIPS*

Sometimes people are unable to make decisions about their health or finances and can no longer manage for themselves. Dementia or other progressive mental, emotional or physical illnesses can rob people of the ability to keep themselves safe. In the worst cases, individuals can become victims of others who see opportunities to take cash and possessions while "helping" or doing favors. The impaired person may even be pressed to make important decisions about medical care or living arrangements.

To provide a decisions-maker for people in these situations, Pennsylvania law allows the Orphans' Court to appoint a guardian of the person (for living arrangements) and/or a guardian of the estate (for financial matters). Anyone interested in the person's welfare can file the petition seeking a guardian, but a guardian must be identified and be willing to serve. The court will not produce one and there is no public guardian service in Bucks County at this time. There are, however, private guardian services. Additionally, the Orphans' Court Guardianship Volunteer Program provides assistance to guardians who have been appointed by the court. The Program provides visiting and auditing services for the court as well.

To qualify for a guardian, a person must be found impaired in such a way that she or he is partially or totally unable to manage financial resources or meet essential requirements for physical health and safety. Because a ruling of "incapacity" and appointment of a guardian involves the curtailing of many important legal rights, stringent standards must be met. Notice must be given to the alleged incapacitated person and there is a right to request counsel.

Hearing Before the Court

The incapacitated person is required to attend a hearing before the Bucks County Orphans' Court unless excused, for example, by a doctor. An attorney for the incapacitated person is not required unless ordered by the court, as in cases involving family conflict. When testimony by a qualified person such as a psychiatrist or other

health care provider establishes clear and convincing evidence that the person is incapacitated, a guardian will be appointed. It is important to note however, that just because an individual has periods of confusion does not mean that he or she will be found incapacitated under the law.

If incapacity is established, the court will appoint a guardian of the estate and/or person with full or limited powers. It is the duty of the guardian to assert the rights and best interests and to respect the expressed wishes and preferences of the incapacitated person to the greatest possible extent. The guardian must also encourage the incapacitated person to participate in all decisions which affect him or her to the maximum extent of his or her abilities. However, the guardian does not have to follow the wishes of that person if they are in conflict with his or her best interests. For example, many times an incapacitated person wants to continue to live in his or her home; if the guardian determines that assisted living or skilled nursing care is necessary, the guardian is fully authorized to admit the person to a facility even over that person's objections.

Duties of Guardian After Court Appointment

The appointed guardian has all powers set forth in the court order, usually including making every kind of decision with the exception of admitting to inpatient psychiatric facilities or consenting to relinquishment of parental rights. Court approval is needed for consent to abortion, sterilization, psychosurgery, shock therapy, removal of a health organ, or to prohibit marriage, consent to divorce or to consent to experimental procedures.

Typical decisions made by guardians of the person include arranging medical care and consenting to surgery or other treatments, determining where an incapacitated person is to live and contracting for admission to nursing facilities. A guardian for the estate has the same duties as a personal representative, executor or administrator with specific requirements and limitations. Every guardian must file a detailed annual report with the Orphans' Court.

It must be remembered, that a guardianship is subject to review at any time. The court, on its own, may set a date for a review hearing to see whether there is a significant change in the person's capacity, or to see if there is a change in the need for guardianship services. Additionally, the court may need to review a guardian's failure to perform his duties in accordance with the law or to act in the best interests of the incapacitated person. A guardian may use any and all income received by the guardian of the estate, but must petition this court if she or he wishes to invade principal. The court may also, after a petition and notice to all parties interested, allow for payment from the principal of the estate for the care, maintenance or education of the incapacitated person, his spouse, children or those for whom he was making such provisions before his incapacity. Finally, the court, upon petition and with notice to all

parties in interest, and for good cause shown, shall have the power to substitute its judgment for that of the incapacitated person with respect to the estate and affairs of the incapacitated person for the benefit of the incapacitated person, his family, members of his household, his friends and charities in which he was interested. This may involve many estate planning strategies which the court has the power to oversee.

Working out a comprehensive power of attorney may make guardianship proceedings unnecessary will be less expensive and stressful than the court process. Any person could, of course, name in advance a preferred guardian of the estate or person for consideration by the court in case an incapacitation proceeding becomes necessary.

SOCIAL SECURITY

The Social Security Administration operates a variety of programs and benefits including retirement and survivor benefits, Social Security disability insurance benefits, Medicare health insurance, and Supplemental Security Income benefits. In Bucks County the new Social Security office is located at:

444 Lincoln Highway, Fairless Hills, PA 19030
1-800-772-1213
TTY 1-800-325-0778

The Social Security office also has several helpful and informative publications available free of charge.

Additional Information and services from the Social Security Administration (SSA) are available from the following sources:

The SSA toll free number at (800) 772-1213. The "TTY" number for the hearing impaired is (800) 325-0778.

Please note that information received through the toll-free number may not always be accurate or complete. When in doubt, call your local Social Security office to make an appointment to meet with their staff in person so they can review your file with you. Anyone who has access to the Internet can check the Social Security Administration's official website at www.socialsecurity.gov (also, www.ssa.gov) which offers comprehensive information about all of its programs and benefits. You can perform a variety of tasks at this website: request a copy of your earnings record and an estimate of the benefits you and your family will receive when eligible; find out how to file a claim for retirement or disability benefits; find out how to replace a lost Social Security card or change the name on your Social Security records; locate the nearest Social Security office, and get a statement verifying the amount of Social Security benefits you receive. You can also download copies of booklets and fact sheets about Social Security disability, retirement and survivor benefits and SSI benefits. You can get an estimate of

your future benefits by visiting the site at www.socialsecurity.gov/planners and then clicking "calculators." You can apply for benefits using the web link www.socialsecurity.gov/applyforbenefits.

Applying for Benefits from the Social Security Office

Do not delay in applying for benefits for which you may be eligible. Any delay on your part could result in fewer benefits if you are ultimately found eligible for certain benefit programs operated by Social Security. When in doubt, contact Social Security to begin the application process as soon as you may be eligible.

To get an estimate of your benefits without using a computer, you can submit a completed form SSA-7004-SM to the Social Security Administration. It takes about six weeks to receive the information.

Deadlines

Keep in mind that Social Security will give you a deadline to finish certain tasks (i.e., file a written application after you call them, file a written appeal if you are dissatisfied with their decision, etc.). You must comply within their timelines or you will lose your right to potential benefits. Typically, their deadlines are within 60 days. However some deadlines may be shorter for special circumstances so you must check this carefully.

Written Explanation for Denial of Benefits

If Social Security denies your claim for any benefits, you are entitled to a written explanation giving the reasons for the denial. If you do not receive a written explanation, ask Social Security to provide you with this documentation.

Correcting Records with Social Security If you are receiving benefits or applying for benefits from Social Security, it is important that you contact the Social Security Administration to inform them of any changes or corrections in your records. For example, if you move, change bank accounts, or disagree with the earnings records that they have posted to your Social Security account, you should take immediate steps to inform Social Security of any changes or additions.

It has been estimated that a small percentage of Social Security participants have incorrect Social Security retirement accounts. As a result, the SSA may not be aware of all of your lifetime earnings, a fact which could lower the retirement benefits you receive.

It is important to check your records every couple of years, at least until you are receiving benefits, to verify your earnings records on file with Social Security. In addition, Social Security is required by law to provide a Statement of Estimated Benefits for

those persons who are not currently receiving benefits and have worked in Social Security covered employment or self-employment. You can expect to receive such a Statement each year a few months before your birthday.

Legal Assistance

If you have a problem with a Social Security claim and desire legal advice, a good contact is the National Organization of Social Security Claimants' Representatives: (800) 431-2804. This organization maintains a national listing of attorneys who concentrate their law practice in Social Security matters. You may also wish to contact Legal Aid of Southeastern Pennsylvania, Bucks County Division at (215) 781-1111; or the Bucks County Bar Association Lawyer Referral Service, 135 East State Street, Doylestown, PA 18901, (215) 348-9413 ext. 102 or (888) 991-9922.

Social Security Benefits

Most consumers think of Social Security as applying to retirement benefits. Other programs are also available through Social Security.

The system provides benefits not only during retirement but also for survivors and dependents in case of death or disability.

While retirement and Social Security Disability benefits are based on having worked in the Social Security system and do not require a showing of need, another program, Supplemental Security Income (SSI), is a needs-based program. To qualify for SSI, an applicant, in addition to being aged, disabled or blind, must have no more than $2,000 in "countable" assets, basically cash and liquid assets, and very limited income. Social Security retirement benefits and Social Security Disability benefits are not reduced if the applicant has other sources of income. SSI benefits are almost always reduced if other income is received.

Keep in mind that this is not a description of all of the eligibility requirements for each of these programs and benefits. Some of the eligibility requirements are complicated and cannot be fully addressed in this handbook. As such, we encourage you to contact the SSA and set up an appointment to ask about your eligibility for benefits.

Social Security Retirement Benefits Determining Full Retirement Age

Anyone born before 1938 is eligible for full Social Security retirement benefits at the age of 65. However, beginning in the year 2003, the age at which full benefits are payable has been increasing in gradual steps from 65 to 67 depending on the year of your birth. Persons born from 1943-1954, for instance, will reach Full Retirement Age at age 66. Persons born 1960 or later will reach Full Retirement Age at age 67. For more

details concerning your Full Retirement Age, you may consult the Social Security website at www.socialsecurity.gov.

Early Retirement

No matter what your "full" retirement age is, you may start receiving benefits as early as age 62. However, if you start your retirement benefits before Full Retirement Age, benefits are reduced five-ninths of 1% for each month before your full retirement age for the first 36 months and five-twelfths of 1 % for each month thereafter until full retirement age. There are disadvantages and advantages to taking your retirement benefits before your full retirement age. One disadvantage is that your monthly benefits are permanently reduced. The advantage is that you collect benefits for a longer period of time. The decision to retire early and collect Social Security benefits may depend on your health at the time of retirement, other available sources of income, and personal factors such as whether you desire to continue to work.

Effect of Taking Social Security Before Full Retirement Age and Continuing to Work

Persons who decide to take early retirement payments from Social Security but continue to work should realize that the amount of monthly benefit that they receive during the "early retirement" time until full retirement age will be reduced unless their monthly earnings are lower than a given amount. Currently a recipient can earn about $1,000 per month ($12,480 per year) without penalty. This should be projected in advance. Therefore, another consideration before deciding to take early retirement benefits for those who work is whether you are willing to take the lower benefit until your full retirement age is reached. Each person's situation is different, so you should explore alternatives and possibly contact Social Security before you make any decisions.

Effect of Delaying Receipt of Social Security Benefits Up to Age 70

Up to age 70, a delayed Social Security retirement benefits claim increases monthly benefits when received. The increase varies from a 6.5% increase per year of delay for those born 1937-1938 to 8% for those born in 1943 or later. Therefore, especially for healthy persons who continue to work after their full retirement age, consideration should be given whether to delay in taking the Social Security benefit as well in order to receive a higher benefit.

How Social Security Retirement Benefits Are Calculated

Social Security calculates your retirement benefits based on your average earnings during a lifetime of work under the Social Security system. For most current and future retirees, SSA averages the 35 highest years of earnings using indexes. If you did not work for 35 years, years in which you did not work will be counted as zero. Therefore,

remaining in the system and working at least 35 years may be significant in determining the amount of your benefit.

Retirement Benefits for a Spouse

Social Security benefits may be received based on your own record of contributions to the Social Security system or on the record of your spouse or former spouse if you fit certain criteria. Benefits received on another person's earnings record are referred to as derivative benefits. A spouse of a wage earner can, when he or she reaches retirement age, choose to collect benefits based upon his or her own record at 100% or the record of his or her spouse based on 50%. If 50% of your spouse's benefit would be higher than 100% of your own benefit, then retirement benefits based on your spouse's benefit should be elected. This provision allows primarily for women who did not work outside the home while raising their families.

Retirement Benefits Received by a Widow/Widower

At the time of death of the spouse who was the higher wage-earner, his widow (or her widower) may "bump up" to her spouse's higher Social Security retirement benefit and receive those benefits as her own instead of continuing to receive her own Social Security benefit. She cannot receive both. There is also a lump sum death benefit of $255.

Benefits For a Divorced Spouse

After divorce, one can receive benefits based on the contributions of a former spouse if the marriage was at least ten years in duration. Derivative benefits for divorced spouses do not affect the benefits of the contributing spouse and family allowance does not apply. If a divorced spouse seeks benefits based on an eligible former spouse's earning record, and the former spouse is not collecting benefits, the divorced spouse can collect benefits only after two years have elapsed from the date of the divorce. In addition, the spouse from whom benefits are derived must be eligible for benefits; that is, at least 62 years of age and fully insured, even if he/she is not actually receiving benefits. The dependent spouse must be at least 62 years of age and unmarried. If the dependent spouse remarries, he/she will not be eligible for derivative benefits from a contributing spouse. However, if such remarriage terminates, the dependent spouse becomes eligible for derivative benefits once again from the former contributing spouse. If a dependent spouse has been married more than once and each time for at least ten years, derivative benefits can come from the former spouse's contributions providing the higher benefits.

Considerations Regarding Remarriage Under Social Security

If a widow or widower was married to a spouse with a higher earnings record under Social Security and is considering remarriage, a remarriage after age 60 will permit the widow(er) to choose between the derivative benefits that would have been received from his or her deceased spouse's earnings and benefits that would be received with the new spouse. If the widow(er) remarries before age 60, benefits are limited to the derivative benefits of the more recent spouse.

Benefits for Widow(ers). Dependent Children and Dependent Parents

On your death, certain members of your family may be eligible for benefits on your Social Security earnings record if you have earned enough credits while you were working. Family members who can collect benefits include:

- A widow or widower who is 60 or older;
- A widow or widower who is 50 or older and disabled;
- A widow or widower at any age if he/she is caring for a child under 16 or for a disabled child;
- A child who is receiving Social Security benefits;
- Children if they are unmarried and under age 18;
- Under age 19 but a full-time student in elementary or secondary school;
- Children 18 or older and severely disabled (the disability must have started prior to age 22)
- Parents, if dependent on you for at least half of their support.

Benefits to Divorced Widow(er)s

To receive retirement benefits based on the earnings record of a deceased ex-spouse, the deceased wage earner must have been fully insured at the time of death, and the dependent surviving ex-spouse must:

- Be least 60 years of age (or 50 years of age if disabled) and have been married to you for at least ten years
- Be any age if caring for a child who is eligible for benefits on your earnings record;
- Not be eligible for an equal or higher benefit on his/her own earnings record; and
- Not be currently married, unless the remarriage occurred after age 60, or age 50 for disabled widow(er)s.

The surviving divorced widow receives 100% of the benefits instead of the 50% received if the former spouse is alive.

Income Tax on Social Security Benefits

Some Social Security retirement benefits are now taxable. The test is whether the individual's adjusted gross income combined with 50% of his/her Social Security benefits plus any tax-exempt interest exceeds a base amount. For individuals, that base amount is $25,000; for married couples, the amount is $32,000. The amount of benefits that will then be included in taxable income is the lesser of half of the benefits or half of the excess of the taxpayer's combined income (modified adjusted gross income plus half of the benefits) over the base amount.

For individuals whose combined income exceeds a higher adjusted base amount ($34,000 for single individuals, $44,000 for a married couple filing a joint return), the amount of benefits that will be included in taxable income is the lesser of 85% of the benefits, or 85% of the excess of the taxpayer's combined income over the adjusted base amount plus the lesser of half the benefits or $4,500 for a single person, $6,000 for married couples. Because these issues are so complex you may wish to consult a tax attorney for guidance.

Social Security Disability Insurance Benefits (SSDIB)

If you have worked long enough and earned enough Social Security "credits" to qualify for disability on your own work record, and if you are medically determined to be unable to do "substantial gainful" work for at least one year, you may qualify for Social Security disability insurance benefits on your own account. It is a complicated program and you should visit your local Social Security office in order to apply. Some lawyers specialize in SSDI cases. The program is not intended for a temporary condition and there is no "partial" disability benefit program from Social Security. For a disabled person, Social Security Disability benefits will be received as retirement benefits at retirement age.

Supplemental Security Income Benefits (SSI)

The SSI program is based on means. To qualify, you must be "poor" (low income and few assets) and be either medically disabled, blind, or 65 or older. It is not a benefit program to "supplement" the income you may already receive in the form of retirement benefits, SSDIB, or a pension. You must meet strict income guidelines in order to receive this benefit. For example, if you are a single person in Pennsylvania who is medically disabled and you receive more than about $610.40 per month from another benefit such as SSDIB, retirement, or a pension, you will not be eligible for SSI benefits, based on the income you receive. The primary benefit to receiving SSI in Pennsylvania is that SSI recipients at this time automatically qualify to receive Medical Assistance (Medicaid) medical coverage.

Resources

The Social Security Administration has multiple resources including the Internet site listed above and written materials. Pamphlets that can be obtained from the SSA include:

- "Basic Facts"
  -SSA-05-10080
- "Understanding the Benefits"
  -SSA-05-10024
- "Retirement Benefits"
  -SSA-05-10035
- "Disability Benefits"
  -SSA-05-10029
- "Supplementary Security Income"
  -SSA-05-11008
- "A Guide For Representative Payees"
  -SSA-05-10076

These are available by calling the Social Security toll-free number (800) 772-1213 or through their website at www. socialsecurity.gov.

MEDICARE

Instituted in 1965, Medicare is a health insurance program administered by the federal government Centers for Medicare and Medicaid Services (CMS) to assist Americans, age 65 and older, some disabled persons under age 65, and persons with end stage renal disease of any age, with payment of medical costs. The Medicare program has traditionally had two parts. Part A consists of coverage for most of the costs involved in a hospital stay; Part B is medical insurance which pays a portion of the cost for doctor and outpatient medical care.

An individual is entitled to Medicare because he/she or his/her spouse paid for it through Social Security taxes. It is not a means based program. The program for seniors is provided to assist senior citizens whose medical bills, as a group, are typically higher than the rest of the population.

Application should be made within a few months before your 65th birthday regardless when you are taking Social Security retirement benefits. Eligibility and enrollment are handled by the Social Security Administration office at 444 Lincoln Highway, Fairless Hills, PA 19030. 1-800-772-1213 or TTY 1-800-325-0778.

Beginning November 15, 2005, Medicare participants are also eligible to apply for a new program, Medicare Part "D" which applies to prescription drugs. (See Medicare "D" Section.)

Eligibility

Part A - Hospital Insurance Part A has two types of eligibility. Most persons age 65 or older are covered, for free, based on their work records or on their spouse's work records. People over 65 who are not eligible for free Part A coverage can enroll and pay a monthly fee for the same coverage.

Part B -Medical Insurance Anyone who is age 65 or older and a citizen of the United States or a resident of the United States who has been here lawfully for five consecutive years is eligible to enroll in Medicare Part B medical insurance. This is true whether or not they are eligible for Part A hospital insurance. Everyone enrolled must pay a monthly premium and in the year 2011 the premium is $115.40 per month. For most persons, their premium is deducted from their monthly Social Security check.

Coverage

Part A of Medicare covers most of the costs incurred directly from a hospital as inpatient care. In addition, some of the costs of inpatient rehabilitation treatment in a skilled nursing facility may be covered for a limited time if there is admission to the facility following a qualifying hospital inpatient stay of at least three (3) days. To be eligible for Part A hospital insurance coverage, the care and treatment must be medically reasonable and necessary. Part A does not cover outpatient or elective and cosmetic procedures. Doctors' bills are not covered under Part A but may be covered under Part B.

During each benefit period, the individual must pay the hospital insurance deductible before Medicare will pay anything toward the incurred bill; in 2006, the deductible is $952. This amount may be covered under a person's Supplemental Health Insurance (see below).

For a stay in a skilled nursing facility to be covered by Medicare Part A, it must be preceded by a three (3) day or more hospital stay and the patient's doctor must verify that the individual requires the level of care. When the patient is considered to have "plateaued" in therapy, both the therapy and Medicare coverage typically stop.

Medicare may cover up to 100 days of inpatient care in a skilled nursing facility during any one spell of illness period and the first twenty of these days, if the patient is eligible, are covered 100%. For the balance of the days, the patient is responsible for the daily copayment, which in 2006 is $119 per day. Once a person has been in a skilled nursing facility for 100 days in a benefit period, there will be no further coverage from Medicare Part A and the patient will be totally responsible thereafter. Coverage

can and often does stop earlier than 100 days if the patient either does not cooperate with or is seen not to be benefiting by continued therapy.

Part B medical insurance requires that the services by the doctors, clinics and laboratories are medically necessary. Some preventive medical procedures are covered by Part B. These include an initial wellness exam and also tests to check for heart disease (cholesterol), diabetes, breast cancer mammography, cervical, vaginal, colorectal, and prostate cancers, osteoporosis and glaucoma. Flu shots and one pneumococcal pneumonia shot are also covered.

Normally Medicare Part B pays on average about one-half of an individual's total medical bills. Since there are often balances remaining, Pennsylvania has enacted the "MOM" law which forbids any doctor from billing patients for the balance of the bill above the approved Medicare amount. There is an annual deductible of $124 per year.

Your doctor can bill you for 20% of the approved fee which amount is not paid by Medicare. This is another reason for supplemental insurance. If you believe you have been overbilled above the Medicare amount, you can call the Pennsylvania State Department of Aging at (717) 783-8975.

Appeals in Denials of Benefits

If you are denied Medicare benefits either in a hospital or a skilled nursing facility, you have the right to an appeal. Pennsylvania has a program called "APPRISE" where trained volunteer counselors provide free one-on-one assistance or telephone assistance with eligibility and benefits questions for all people over the age of 60, their families or their caregivers. You can call them toll free at (800) 783-7067. Also in Pennsylvania, you may call Quality Insights of Pennsylvania (the QIO) which protects the rights of Medicare beneficiaries receiving care. For example, if you are denied admission to a hospital, are asked to leave the hospital before you feel well enough, if your nursing facility requires you to leave, or you are dissatisfied with the quality of care, the QIO reviews your complaints, free of charge to Medicare beneficiaries including those enrolled in HMOs. Call 800-322-1914 or www.qipa.org. You can also contact the Medicare Hotline at 800-Medicare (800-633-4227) or TTY/TDD at 877-486-2048 or www.medicare.gov. Questions concerning Medicare Part B should be addressed to Xact Medicare Services, P.O. Box 890065, Camp Hill, PA 17089-0065; Telephone 800-6334227.

Program Changes

Medicare has been undergoing substantial change. Therefore, you should keep yourself informed. One way to get answers is to keep for reference the Medicare handbook which is periodically mailed to every person covered under the Pennsylvania program or to check the website at www.medicare.gov. Call (800) 633-4227 to get help

with your Medicare questions or to request the handbook on audio-tape, in large type or in Braille.

Supplemental Health Insurance - Medigap and Medicare Advantage Plans

Even after Medicare pays its portion of an individual's medical bills, sizeable co-pays and deductibles often remain. Therefore, it is recommended that seniors purchase some type of private insurance to pay all or part of that balance. Because such insurance policies are designed to fill the gaps in Medicare payments, the term "Medigap" has developed. There are a wide variety of plans available depending on the amount of coverage sought but two types are most commonly used.

The Medigap coverage, also referred to as a traditional indemnity plan such as Blue Cross/Blue Shield coverage or AARP, is typically more expensive but does not require referrals and pays up to its agreed upon share after Medicare pays its portion of the bill. It does not require members to use a "provider network." Medigap policies, following the passage of Medicare D are no longer permitted to write new prescription coverage and persons with Medigap plans who participate in Medicare "D" will need to get a "stand alone" prescription plan. The Medicare Advantage coverage is typically less expensive than Medigap and is managed care, usually an HMO type plan, that require members to obtain referrals and use a provider network. These include Aetna Golden and Keystone 65. These may also have prescription drug plans that come with the health insurance coverage.

***S**ince **M**edicare **P**art "**D**" prescription coverage has taken effect, it can be critical to coordinate your health insurance coverage with your prescription coverage since some health insurances have their own prescription coverages and some health insurance plans have none. **I**f your health insurance is not consistent with your prescription drug coverage, it is possible that you can be dropped because of the inconsistency. **A**sk questions of the insurance companies and agents if you are not sure.*

Insurance companies must offer "open enrollment" which means that they are forbidden to deny a Medigap policy to anyone who buys it within the first six months after enrolling in Medicare Part B. Medigap policies offer a choice of one of ten plans, "A-J," and must meet certain standards such as guaranteed renewability. The costs for the different Medigap plans vary widely.

As a general rule, Medicare coverage is available only inside the USA with the exception that a citizen of the USA would be covered in Canada if he or she were en route to Alaska.

Questions concerning Medicare Part B should be addressed to Xact Medicare Services, P.O. Box 890065, Camp Hill, PA 17089-0065; telephone (800) 382-1274.

Medicare Prescription Benefit - Part "D"

The first federally subsidized drug program for seniors took effect January 1, 2006. Under Medicare "D" private health insurers offer limited insurance coverage for prescription drugs to those persons who are Medicare recipients. Keep in mind the following points:

If you currently have what is referred to as "creditable" coverage for prescription drugs through your employer, former employer, union, or otherwise, you should consider staying with that plan since, if you move to a private Medicare "D" plan, you could lose your retiree or other coverage;

If you are in a Medicare HMO or PPO which offers prescription coverage then you must stay with that plan. Do not choose a different plan unless you wish to disenroll from your Medicare HMO or PPO.

If you are receiving Medicaid, then you were automatically enrolled in a Medicare Part D plan. If you do not like that plan, unlike other Medicare D participants, you can change the plan in the following month and do not have to wait for the open enrollment period.

If you are in PACE or PACENET, Pennsylvania now has a program PACE PLUS MEDICARE that offers "wrap around" coverage for prescription drugs and coordinates federal and state benefits. See the PACE and PACENET Section in this book. More information can be obtained by calling 800-225-PACE.

Participation in Medicare "D" is voluntary. There is a penalty for persons who sign late. However, it is important to assure that you receive the right coverage.

When choosing a plan under Medicare "D, be careful. In addition to the issue of losing prior retiree coverage described in 1) above, normally you can switch plans only once a year during the enrollment period.

There is a monthly premium beginning as low as $11 a month for Medicare "D" and a wide variety of plans. If you are exploring coverages, begin by seeing whether the plan covers the drugs you take. One way to do this is by checking the internet at www.medicare.gov.

If you have limited income you may qualify for additional assistance. Call or contact the Social Security Administration at 800-772-1213 or (TTY) 800-325-0778 or www.socialsecurity.gov.

MEDICAID

Medicaid is a joint Federal/State program operated by the Department of Public Welfare through its local County Assistance offices that helps to pay for long term care for persons in skilled nursing homes. The Medicaid Waiver program has limited slots to provide services in the home. Application for Medicaid to pay for skilled nursing care in Bucks County must be made to the Bucks County Assistance Office, 1214 New Rodgers Road, Bristol, PA 19007. Telephone number (215) 781-3300. At home services under the Medicaid Waiver program must be approved both through the County Assistance Office and the Bucks County Department of Aging Services. Detailed supporting documentation must be submitted in each case for applications to be granted.

In order for a nursing home resident to qualify, he or she must be both medically and financially qualified and the nursing home in which he or she resides must be Medicaid certified. There is no Medicaid for residents of Assisted Living in Pennsylvania at this time. The Medicaid program applies after personal liquid assets have been spent down to about $2,400 but for persons with monthly income of less than $1,869 (2007 figure), a disregard is allowed so that the actual amount that may be kept by the applicant in that case is $8,000. Special rules known as the spousal impoverishment rules apply to married couples, which may allow the spouse remaining at home (the community spouse) to keep much more in assets and income under complicated rules. (See below). The individual receiving benefits under Medicaid must contribute all of his or her own monthly income (including social security benefits, pension) less a small allowance (now $40) for personal needs.

Eligibility

Medical:

An applicant for nursing home Medicaid benefits must actually need long term care in a skilled nursing facility (or, if at home, require a similar level of care). A Medical assessment, an MA-51, or Options Assessment should be requested by the nursing facility where the applicant resides.

Financial and General:

- The Applicant must be 65 years or older or disabled
- The Applicant must be a citizen of the United States as defined
- To apply in Pennsylvania, the applicant must be a resident of Pennsylvania but there is no waiting period as such
- The applicant's available and countable assets (generally, liquid assets such as cash, stocks, bonds and similar assets) must be worth less then

$2,400 unless the disregard applies in which case the amount is $8,000. (See, however, below, for married couples.)

For married couples, the applicant's spouse may keep approximately one-half of the combined countable assets of both spouses ranging from a minimum, in 2007, of $20,328 up to a maximum of $101,640 (the CSRA or "spousal share"). The actual amount depends on countable assets as of date of admission to the nursing home. Available or countable assets consist of assets owned by the applicant in his/her own name and also assets titled jointly and assets titled in the name of the applicant's spouse. In Pennsylvania, the community spouse's IRA, 401 (k) or other pension funds are completely exempt.

This is a significant difference between Pennsylvania and neighboring states including Delaware, Maryland and New Jersey where the community spouse's IRA and 401 (k) must be spent down. The rule follows the facility where the services are being provided. The value of assets to determine the CSRA is calculated based on completion of a Resource Assessment Form. Assets that are not counted for purposes of the above calculation and which may be protected include, but are not limited to, the family residence (however, special rules apply as to possible estate recovery), one motor vehicle, property used in a trade or business, term insurance, life insurance with a face value of a maximum of $1,500, an irrevocable burial reserve, household goods and personal effects.

Disqualification

Any gifts or transfers for less than fair market value, can potentially make the applicant ineligible to receive Medicaid benefits even if all of the stated criteria have been satisfied. For this reason, individuals should be cautious and should seek guidance regarding transfers or re-titling of assets during the 5 year period prior to applying for benefits. This includes transfers into the name of other family members, gifts to family and other persons, and charitable contributions.

WARNING: Please note that both the Commonwealth of Pennsylvania and the federal government have recently enacted substantial changes to the Medicaid eligibility rules. The implementation of these changes will require further modifications to the Pennsylvania Medicaid rules. The information contained here should be used only as a general guide and, if Medicaid is an issue, you should immediately consult with an attorney who is an experienced elder law practitioner knowledgeable in Medicaid to be sure that the rules are correctly applied to your situation.

As part of the Deficit Reduction Act of 2005 (effective February 8, 2006), many Medicaid rules were changed. Therefore, it is critically important that information relied upon by the Applicant is current information and not commentary written before passage of the Act Support by Children - In addition to the above, in July, 2005, the

Pennsylvania State Legislature by Act 43 moved into the Support Law a rarely used law that could indicate that adult children might be responsible in support actions relative to their parents. The Pennsylvania Bar Association has taken a formal position in opposition to this Act and is currently attempting to secure its repeal.

"Look Back" Period and Effective Date of Ineligibility

Under the prior gifting rules, The County Assistance Office in administering Medicaid would consider gifts made within 36 months, or 60 months if a trust is involved, prior to the date when the applicant nursing home resident applied for Medicaid. Under the new gifting rules, under federal law, any gift made since February 8, 2006 has the potential to cause a period of ineligibility during the 5 year period (60 months) after it is made. Administratively the Commonwealth has issued regulations effective March 3, 2007 that they will not consider gifts that when taken together *total* less than $500 in a given month. This includes contributions to charity and gifts to children and other family members.

Under the prior gifting rules, depending on the size of a gift, its effect on eligibility would expire based on a formula. Under the new gifting rules, the period during which the applicant will be unable to receive Medicaid runs from the date he or she would otherwise qualify, that is from the date when assets are down to $2,400 or $8,000 if there is a disregard. This means that when the applicant has no funds or minimal funds remaining, he will be expected to pay back gifted funds to use them for his care. The issue of what will happen if the funds cannot be recovered as, for instance, when assets or funds have been given to charity or when funds given to children have been spent or children refuse to return assets given to them is not addressed. There is a procedure for a Waiver for Undue Hardship but it is possible that the Commonwealth will proceed against anyone who received gifts during the affected period. It is therefore, critically important that families receive knowledgeable advice concerning likely risks before transferring residences, bank accounts, and other assets to any other person or entity.

Proof of Citizenship

A new federal law requires not only citizenship, as defined, but also documentary proof of citizenship using certain specific documents ranked in order of preference such as U.S. Passports or birth certificates to obtain Medicaid benefits.

Medicaid Planning

Medicaid planning is still a viable option for some persons under some circumstances. As one example, a person who has resided with parents and cared for them in the parents' home might, if certain requirements are satisfied, qualify under the "Caretaker Child" exemption to have the family home transferred into the caretaker's

name without any period of disqualification and without any estate recovery. Knowledgeable legal assistance should be sought if this is believed to apply to assure that the criteria are satisfied, because if the person does not qualify as a "Caretaker Child," then the parent could be disqualified from Medicaid

Pennsylvania now has specific rules affecting loans to adult children, mortgages, annuities, purchases of life estates, excess equity in residences over $500,000 and others. Therefore, assistance should be sought if there is any reasonable likelihood that Medicaid will be under consideration as a source for payment.

Estate Recovery

On the death of a person over age 55 who has received Medicaid benefits in a nursing home, the government must seek recovery of the amounts paid to a nursing home from the deceased's estate. In Pennsylvania such recovery can only be made from the probate estate, that is, any assets titled in the individual's name alone at the time of death that are or could have been transferred by a Will.

VETERANS' BENEFITS

There are a variety of federal benefits available to veterans and their dependents. Basic eligibility is available to any person who served in the armed forces during a designated wartime period and received an honorable discharge.

The Office of Veterans' Affairs for Bucks County is located at Route 611 and Almshouse Road, Doylestown, PA 18901. Additionally the Office may be contacted by telephone at (215) 345-3307.

Services

The Office offers assistance in applying for federal, state and county benefits, such as pension, compensation, burial, grave markers, education, loan guarantees, insurance, emergency assistance, recording of burial records and honorable discharges, and replacement of records related to service, birth, death, marriage and divorce. The Office also extends personal visits to veterans and their survivors who are shut-ins.

Health Care Benefits

Health Benefits must be applied for at the local VA Medical Center, which in Bucks County is located at 2 Canal’s End Road, Suite 201B, Bristol, PA 19007. To obtain an application form (VA Form 10-10EZ) and an appointment telephone (215) 823-4590, or apply on-line at: vetcenter.va.gov. A copy of the veteran's discharge must accompany the application.

Once enrolled, a veteran is eligible to receive services anywhere in the United States. VA medical centers provide a full range of medical care, both physical and mental. The cost of such care will depend on the income of the veteran and upon whether or not the disability was "service-related". Nursing home benefits may also be available and the cost is determined by these same standards although the tendency, for long term care services, has been to provide a supplement known as Aid and Attendance instead of expanding existing residential Veterans facilities. Aid and Attendance is available in some cases for war time Veterans and widows/ widowers of Veterans to be applied to the cost of Assisted Living and in-home care. Prescription benefits under the VA are generous especially where other coverage is not readily available. VA prescription benefits do count as "creditable coverage" under Medicare Part "D."

To qualify for prescription benefits, a veteran must:

- Have been a member of the uniformed services
- Be age 65 or older
- Be registered in the Defense Enrollment Eligibility Reporting System (phone 800-538-9552)
- Be enrolled (with his beneficiaries) in Medicare Part B.

There are several publications which may help in understanding the ins-and-outs of Veterans' benefits. Two of these are Veterans' Benefits, The Complete Guide by Keith Snyder and Federal Benefits for Veterans and Dependents, a publication of the U.S. Department of Veterans Affairs, Washington DC 20420.

PACE AND PACENET

(Pharmaceutical Assistance Contract
for the Elderly) and PACE PLUS MEDICARE (2006)

Pennsylvania provides pharmaceutical assistance for qualified seniors (age 65 and over) under the PACE and PACENET programs. These programs may be the only pharmaceutical plan for covered seniors or may coordinate coverage with private plans in appropriate cases. PACE and PACENET are continuing even following implementation of the federal pharmaceutical program, Medicare Part "D." The resulting coverage which "wraps around" some Medicare "D" plans is called PACE Plus Medicare and began for some seniors on September 1, 2006. PACE Plus is intended to eliminate coverage gaps and deductibles and to lower copayments. Pennsylvania seniors with limited income and no coverage under either retiree or employer sponsored plans should probably first explore PACE and PACENET to see whether they are eligible, since Pennsylvania has promised to coordinate coverages and to supplement in areas such as the "donut hole" described under Part "D" that Medicare will not cover. Citizens are eligible for PACE if their annual income for the preceding year is not higher than $14,500 for a single person or $17,700 for a married couple

living together. PACENET income limitations are $23,500 for a single and $31,500 for a married couple living together.

You must have lived in Pennsylvania for at least ninety days prior to the date of your application and you must not be eligible for pharmaceutical benefits under medical assistance (Medicaid).

The PACE and PACENET programs are based on income only and not on assets. The basic PACE plan has no deductible but there is a co-pay of $6 per generic prescription and $9 for brand name medications. PACENET requires a $500 per person deductible. Thereafter, you pay the first $40 per month on prescriptions and an $8 co-pay for generic drugs and $15 for brand name drugs.

Eligibility is subject to annual renewal, and eligibility could be terminated if you move out of state or are found guilty of fraud or abuse or if you are covered by another plan which pays the full costs of your prescriptions.

Applications are available from your local area Agency for the Aging (Bucks County Department of Aging Services), pharmacy, senior citizen center, or your local legislator's office. Your completed application must be accompanied by proof of age and residency. You may apply thirty days prior to your sixty-fifth birthday.

Pennsylvania's prescription program requires the use of generic drugs, unless there are no generic drugs available for the prescription you require or if there are certain medical restrictions which require the use of a brand-name drug. Participating pharmacies display a PACE emblem in their windows; out-of-state pharmacies cannot participate in this program.

If you have other questions about PACE or PACENET, you can call toll-free (800) 225-PACE or in Bucks County you can call the Department of Aging Services at (215) 348-0510 or (215) 348-6116. The same application form can be used for both PACE and PACENET enrollment.

PENNSYLVANIA LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

The Pennsylvania Department of Public Welfare administers a low income home energy assistance program to help low income families with their winter heating bills. LIHEAP is not a welfare program or loan and no lien is placed on the home. Consumers do not have to pay the money back.

LIHEAP consists of three components: cash benefits to help eligible low income households pay for their home-heating fuel; crisis payments, if needed, to resolve weather-related supply shortage, and other household energy-related emergencies; and energy conservation and weatherization measures to address long-range solutions

to the home heating problems of low income households. Application to LIHEAP in crisis may also assist in preventing disconnection or termination of heating service by a utility.

Payments under LIHEAP can be dependent on available funding for the year. The maximum crisis benefit for the year 2006 was projected at $300. Income limits depend on household size. In 2006, the income limit for cash and for crisis assistance for a single person household was $12,920 and for a two person household was $17,321. Applicants are to be treated equitably whether they are homeowners or renters. Weatherization assistance income limits are somewhat higher. Applications for cash and emergency assistance are accepted for a given heating season at the beginning of November.

For information on eligibility guidelines call Bucks County Department of Aging (267) 880-5700 or the Bucks County Assistance Office in Bristol at (215) 781-3300 or toll free at (800) 362-1291.

LONG-TERM CARE FACILITIES

Long-term care facilities can be thought of as housing with integrated supportive services. The level of service varies with the type of facility. This section outlines important aspects of the most common types: nursing homes, assisted living facilities and continuing care retirement communities. For lists of these facilities contact the Bucks County Department of Aging Services: Telephone (267-880-5700), email: aging@buckscounty.org, website: www.buckscounty.org/aging. The offices are located at 30 East Oakland Avenue, Doylestown, PA 18901.

Nursing Homes - Skilled or Intermediate Care Nursing Facilities

A nursing home is a facility where residents receive around-the-clock nursing care designed to help them with the activities and needs of daily living and health care. Residents do not need the kind of acute health care provided in a hospital. However, they do need more supportive care than is available in either independent living or assisted living. A person usually enters a nursing home after all other long-term care options, such as an assisted living facility or living at home with supportive services, are found to be inadequate.

Medicare does not provide substantial coverage for long term nursing home care. Medicare may pay for a portion of the cost for the first 100 days of a nursing home stay, under very limited circumstances that are considered to be rehabilitative. Those circumstances are:

- Skilled nursing or rehabilitation services are provided within 30 days of a Medicare-covered hospital stay of at least 3 days;

- A doctor certifies the resident's need for skilled care on a daily basis;
- Skilled care is actually received on a daily basis;
- The facility is Medicare approved.

If these requirements are met, Medicare may fully cover up to the first 20 days of skilled care and a portion of the cost for the next 80 days of skilled care. It may and often does cover less time than a full 100 days. Note that continued receipt of Medicare benefits depends on progress in therapy. Medicare does not cover custodial care.

Medicaid is the only public benefit program that covers intermediate or skilled care provided in a nursing home after Medicare benefits are exhausted. In order to be eligible for Medicaid, an individual must not have "countable" assets of more than $2,400 (or $8,000 if a "disregard" applies. See Medicaid section of this Handbook.) "Countable" assets are all assets available to the individual, except for:

- the individual's residence and personal belongings;
- one car;
- an irrevocable prepaid burial fund;
- $1,500 of life insurance.

When a nursing home resident's assets have been reduced to $2,400 (or $8,000), Medicaid will cover the resident's stay in the nursing home. Keep in mind, once eligible for this Medicaid nursing home assistance, the resident's income is considered available to pay for his or her nursing home care while Medicaid pays the difference. The resident may keep from his or her income $40 per month for personal needs. In the case of a married couple, the spouse remaining at home is allowed to keep at least $20,328 of the couple's countable assets and as much as one-half of the assets, up to $101,640 (2007 rates). Also, there are very complicated Medicaid rules which take into account the amount of each spouse's individual income and the amount of the couple's countable assets that the spouse remaining at home is allowed to keep. This may allow the spouse remaining at home to retain a minimum maintenance allowance of up to $1,650 per month or additional to cover excess shelter costs.

Because of the extremely complex rules governing Medicaid eligibility, it is advisable to seek the counsel of an elder law attorney to guide you through this maze. Your particular situation may lend itself to legitimate and legal ways to "spend down" your countable assets to the $2,400 threshold while preserving some portion of such assets for your spouse staying at home or for other family members. Also, under certain circumstances, particularly where income of both spouses combined is below the monthly minimum, Medicaid rules allow for asset protection designed to let the spouse staying at home retain more than the designated spousal share.

Residents' Rights

Upon admission to a nursing home, a resident or his/her family will be required to sign an admission contract. Entering into a nursing home can thrust a family into emotional turmoil. A prospective resident or the family member or members responsible for the resident might feel pressure under emergency circumstances to sign a nursing home admission contract without a careful review of its terms. Do not be pressured Read the contract and have it reviewed by an elder law attorney before signing. Federal and state laws have been enacted to protect individuals entering nursing homes and an experienced advisor can make sure that you get the benefit of these protections. For example:

- A nursing home cannot require a resident to waive his/her right to apply for Medicaid. Furthermore, a nursing home cannot discriminate against a resident who is receiving Medicaid. Nursing homes must establish and maintain identical policies and practices regarding transfer, discharge and covered services for all residents regardless of source of payment.
- A nursing home cannot require a third party guaranty of payment as a condition of admission or continued stay.
- A nursing home is allowed to require that an individual having legal access to a resident's income and assets, such as an agent under a power of attorney, sign a contract, without the agent incurring any personal liability, promising to pay for a resident's care from the resident's funds.
- A nursing home cannot require a resident to agree to pay privately for a specified period of time before the nursing home will allow the resident to convert to Medicaid.

Once admitted to a nursing home, a resident enjoys certain rights mandated by both federal and Pennsylvania law. For example:

- A nursing home must conduct a comprehensive assessment of every resident's functional capacity within 14 days of admission. The assessment must be used to develop, review and periodically revise, as necessary, an individualized plan of care for each resident. The resident, the resident's family and, if desired, the resident's legal representative must be given full opportunity to participate in the development of the plan of care.
- A resident has the right to choose a personal attending physician and to be kept fully informed about care and treatment.
- A resident has the right to remain free of physical and chemical restraints which are not required to treat the resident's medical condition.
- A resident has the right to privacy with regard to communications in writing and by telephone and with regard to visits of family and meetings of

resident groups. A resident must be provided with reasonable access to the use of a telephone where calls can be made without being overheard.

- A resident has the right to access to clinical records upon request by the resident or the resident's legal representative.
- A resident has the right to voice grievances with respect to treatment or care without fear of reprisal.
- A resident can only be transferred or discharged from a nursing home under limited circumstances which are spelled out in the law, upon 30 days advance written notice.
- A nursing home must inform every resident of his/her legal rights, orally and in writing, at the time of admission. Pennsylvania maintains an ombudsman program to investigate and resolve complaints made by or on behalf of residents of nursing homes and other long term care facilities.

The Pennsylvania Department of Aging has designated the Area Agency on Aging for each county to be the local providers of these ombudsman services. The Bucks County Department of Aging Services telephone number is (267) 880-5700.

Assisted Living Facilities

Assisted living is housing for older individuals who need some assistance with the activities and needs of daily living and perhaps some medical help, but who do not need the degree of care provided in a nursing home. The goal of an assisted living facility is to help people live as independently as possible.

An important benefit of residency in an assisted living facility is help with medication. A resident can be reminded when to take medication and a nurse can assist the resident in taking medications.

Payment for residency in an assisted living facility is almost exclusively through private arrangements with the resident. Neither Medicare nor Medicaid covers residency in an assisted living facility. If a resident needs some sort of skilled medical or nursing care, Medicare may cover such care under the same rules that would apply to home health care in general. Long-term care insurance will pay benefits for residency in an assisted living facility if the policy's "benefit triggers" requirements are met by a resident's need for assistance with activities of daily living or by a resident's cognitive impairment. Most long term care insurance policies define "activities of daily living" as including dressing, eating, bathing, toileting and transferring from a bed to a chair, and usually require that an individual needs assistance with a certain number of these activities of daily living.

Contract Questions

Upon entrance to an assisted living facility, a prospective resident should carefully review the admission contract. Significant issues to consider in evaluating an admission contract include:

- What personal care services are to be provided? Who delivers these services? Is the service provider licensed or certified?
- What are the monthly or other charges for such services? Are housekeeping services included? How can fees be increased and what happens if fees are increased and a resident cannot afford the higher fee?
- In the case of a married couple, what happens upon the death of a spouse? Is a change of living unit required? How would fees be affected?
- What recreation or cultural activities are available and are they included with the monthly fee?
- Is transportation provided to such things as doctor appointments, shopping and community activities? Is a separate fee charged?
- Are nursing services available at the site? What happens if a resident's health declines? Is the facility responsible for coordinating medical care?
- How does the facility determine the point at which a resident cannot be served by the facility? What recourse does a resident have to challenge the facility's decision? Is there a grievance process?

Residents' Rights

Under Pennsylvania law, residents of an assisted living facility have the following rights:

- the right to privacy, including the right to have access in reasonable privacy to a telephone and the right to have uncensored access to the mail;
- the right to receive visitors;
- the right to leave and return to the home;
- the right to participate in religious activities;
- the right to exercise the rights of a citizen and to voice grievances;
- the right to be provided with 30 days advance written notice of the facility's intent to terminate a resident's stay and the reason for termination;
- the right to be free of chemical and physical restraints.

As with nursing homes, the Bucks County Department of Aging Services ombudsman program applies to residents of assisted living facilities. The telephone number is (267) 880-5700.

Continuing Care Retirement Communities

These facilities provide different levels of care based on the particular needs of the individual resident. New residents usually move into independent living units. As they age and become physically disabled and need assistance with the activities and needs of daily living, residents move to an assisted living facility located on the grounds of the continuing care retirement community. Some continuing care retirement communities provide assisted living services in the independent living units so that a resident does not have to move. If physical decline continues and more intensive care is needed, nursing home care is also available within the confines of the continuing care retirement community. Upon entrance into a continuing care retirement community, a resident enters into a contract whereby the continuing care retirement community agrees to provide housing, a certain level of activities and health care support as needed in return for the resident's payment of an entrance fee and monthly occupancy fees. In most cases, residents do not own their living unit. The services offered can vary; most provide house-cleaning, laundry facilities and at least some meals. The monthly fee for residents who move into the assisted living or nursing home facilities may be higher than if they had remained in an independent living unit.

A careful review of the contract, preferably by an attorney, is advised to make sure the resident understands what he or she is buying. Some continuing care retirement communities offer unlimited health services in exchange for the entrance fee, while others provide that residents pay an additional fee for health care services as they are needed. Still others offer a combination of the two. The fee-for-services arrangement is becoming increasingly more common. Other important issues to be reviewed in a continuing care retirement community contract are:

- Who determines when a resident must change living arrangements due to a decline in health?
- What are a resident's rights and responsibilities with regard to furnishing and altering his/her living unit?
- Under what circumstances would the entrance fee be refundable?
- Under what circumstances can the monthly service fee be increased?
- What services are not covered by the monthly service fee?

Pennsylvania law mandates that all continuing care retirement community contracts:

- provide for continuing care;
- specify all services to be provided and provide that a resident cannot be liable to a health care provider for services that the continuing care retirement community promises to furnish;
- describe any exclusions or limitations on coverage for preexisting conditions;

- provide for termination by either party upon 30 days written notice and the terms for refund upon termination;
- contain notice of rescission rights before moving in.

The advantages of living in a continuing care retirement community are:

- An individual whose health declines can move into an assisted living unit or, if necessary, to a nursing home within the same residential community.
- Payment of the entrance fee locks in a fixed price for continuing care at an amount that is usually less than the market rate for nursing home care. For this reason, some people consider a continuing care retirement community as a form of long term care insurance. However, if there will be a substantial increase in the monthly service fee upon moving into the assisted living or the nursing home portion of the continuing care retirement community, there could still be a need for long term care insurance.
- A couple who moves into a continuing care retirement community is assured that if one spouse must enter the nursing home, the other spouse will be living on-site and can easily visit.

Because a continuing care retirement community comprises both assisted living and nursing home care, different activities within the continuing care retirement community can be governed by different laws and regulations. Residents would be protected by the laws that apply to assisted living facilities while they are receiving assisted living services and they would be protected by the laws that apply to nursing homes when residing in the nursing home component of the continuing care retirement community. See previous sections covering assisted living facilities and nursing homes for a description of these protections.

Nursing Home Licenses: Problems-Sanctions and Revocations

Although nursing home placement is a difficult decision, there are people to help you to verify that you are placing your loved one in a secure environment. One contact person is the long-term care ombudsman who responds to care issues for all the licensed facilities in Bucks County. The telephone number is (267) 880-5700.

Any employee or administrator of a licensed facility who has reasonable cause to believe that a resident of the facility is a victim of abuse is required under Pennsylvania law to report the abuse immediately. The law does not require that the reporter be a direct eyewitness; having more than a suspicion obligates them to make an oral report at once, followed up by a written report to law enforcement officials. This reporting requirement protects a care-dependent person and applies to all caretakers. Civil and criminal fines and imprisonment for up to one year can be imposed upon the person or facility that commits the violation or abuse.

Pennsylvania law protects nursing home residents by requiring criminal history background checks by the Pennsylvania State Police of all employees of public or private nursing homes, personal care facilities, adult daycare and home healthcare providers. Employees with certain felony and misdemeanor convictions are precluded from working in these facilities.

The final sanction under Pennsylvania state law is that a facility can have its license revoked or its licensing withheld in the first place for any one of the following reasons: gross incompetence, negligence, misconduct in operating the facility or mistreating or abusing an individual cared for in the facility. This sanction applies to both physical and mental abuse of a patient. This law serves as a deterrent to such abuse since the facility cannot do business without a license. Court cases in Pennsylvania have upheld the decision to revoke the license of homes for abuse of patients. To investigate licensed personal care homes, contact the Department of Public Welfare Facilities at (215) 781-3300. To find out about nursing homes, check with the Bucks County Department of Health at (215) 345-3318.

Resources

"How To Select Long Term Care in Pennsylvania"; "A Guide for Selecting a Nursing Home in Pennsylvania," and "Know Your Rights as a Nursing Home Resident"; Pennsylvania Department of Aging, (717) 783-7247.

"Home Away From Home: A Consumer Guide to Board and Care Homes and Assisted Living"; American Association of Retired Persons, (800) 424-3410, www.aarp.org.

Center for Medicare and Medicaid Services (CMS). For information on long-term care options, including continuing care retirement communities and choosing skilled nursing facilities and nursing home go directly to www.cms.gov.

LONG-TERM CARE INSURANCE

The term "long-term care" is generally understood to mean the kind of care needed by the old and frail who are, for example, suffering from a dementia such as Alzheimer's disease or other disabilities of old age. Long-term care mostly consists of custodial care, i.e., care designed to assist an individual to perform the activities and meet the needs of daily living. Such activities and needs include eating, bathing, dressing, toileting and transferring from a bed to a chair. Supervision or assistance to assure the safety of those with cognitive impairments is also considered custodial care. Long-term care can be provided in the home or in a long term care facility, such as a nursing home or an assisted living community.

Neither Medicare nor supplemental Medigap insurance covers long-term custodial care. Long-term care insurance sold by commercial insurance companies can be purchased to cover long-term care.

Long-Term Care Costs

The average cost of nursing home care in Pennsylvania is currently more than $81,000 a year. Home health care may cost up to one-half this amount depending on the intensity of the care services provided. In fact, around-the-clock nursing care can exceed the cost of a nursing home. Assisted living facilities can run from $60 to $150 a day or $38,000 a year.

Services Covered

When you purchase a long term care insurance policy, it is critical that you understand the types of services that will be covered. Some policies only cover care provided in a nursing home, while others also cover services provided in assisted living facilities, adult day care centers or other community facilities. A policy should be carefully reviewed so you understand exactly the kinds of services that it will cover.

If you want to remain at home as long as possible, consider a policy that includes home care coverage. Policies differ widely in how home care coverage is provided, so a very careful review of this type of coverage is strongly advised. Some policies limit home care coverage to skilled services, i.e., those performed by registered nurses, licensed practical nurses and occupational, speech or physical therapists. Some policies offer a broad range of home care benefits which include services of home health aides who can assist with custodial care. Some policies will also cover homemaker or chore worker services which would pay for aides who cook meals and do housework. Most policies will not pay benefits to family members who perform home care services.

Coverage Needed

Most policies express benefits in terms of a daily amount. In order to make an informed decision as to the amount of coverage that you will need, you must have an idea of the amount of long term care costs that you anticipate. If your ideal long term care facility charges $180 a day, you will need a policy that pays a daily benefit of $180 less the amount of your income. For example, if your income consists solely of Social Security benefits of $1,500 a month ($50 a day, based on a 30-day month), you will need, at the bare minimum, a policy with a daily benefit amount of $130.

Factors Affecting Costs

Most policies include a waiting period, sometimes called an "elimination period," before benefits can begin. This means that you can choose to have benefits begin 20,

30, 60, 90 or 100 days after you enter a long term care facility. The longer the waiting period, the lower the cost of the policy. Of course, you will have to have resources to cover the cost of long term care during the waiting period.

An important feature to consider in any long-term care insurance policy is inflation protection. Long-term care that costs $3,300 a month now will cost $5,375 a month in 10 years and $8,756 a month in 20 years, assuming an annual inflation rate of 5%. The younger you are when you purchase the policy, the more important it is to consider adding inflation protection. Obviously, this protection adds to the cost of the policy.

Benefit Triggers

When the benefits are payable under a long term care insurance policy is determined by what are commonly called "benefit triggers." A benefit trigger is a medical condition or a degree of physical or mental disability that an individual must meet before qualifying for benefits.

For a person with a physical, as opposed to a mental disability, policies usually provide for benefits to begin when that person cannot perform a specified number of "activities of daily living," i.e., eating, bathing, dressing, toileting and transferring from a bed to a chair. Policies can differ on the number of activities of daily living that a person must need assistance with before benefits can be triggered. Also, it is important to understand how a policy defines the inability to perform a particular activity of daily living. Does the policy require the need for "hands-on" assistance or does it only call for the need for someone to supervise the activity? The more clearly a policy defines its benefit triggers, the easier it will be to make a claim when necessary.

For a person with a mental or a cognitive disability, some policies provide that benefits are triggered by a diagnosis of "cognitive impairment," such as Alzheimer's disease or Parkinson's disease. This is an important feature to look for in a policy. A person can have a cognitive impairment and need long term care services because it would be unsafe to leave him or her alone but, if such a person could perform the activities of daily living without assistance, benefits would not be payable without the cognitive impairment trigger.

Cost Considerations

Long term care insurance is most appropriate for individuals under age 65 whose assets are between $200,000 and $1,000,000. Premiums are usually set for life, based on your age when you buy the policy; each premium is lower, therefore, if you buy at an earlier age. If you have more than $1,000,000 in assets, it may not be worth paying the premiums over a long period of time to protect an estate of that size against the risk of long term care costs. The chances that you will need any sort of long term care is minimal until you reach your eighties. At current interest rates, it takes about $770,000 in investment assets to produce funds necessary to meet annual long-term care costs

for 10 years; therefore, a person with assets of this magnitude can essentially self-insure against the risk of long term care costs.

Consumer Tips

- Ask questions.
- Take your time.
- Get the actual policy and read it before you buy it.
- Ask the insurance agent for a thorough explanation of what degree of disability triggers benefits.
- Do not let the attractiveness of a lower premium push you into a policy that provides less coverage than you really need. A cheap policy that leaves you underinsured is no bargain and a waste of money.
- Consider policies from at least three companies. No two long term care insurance policies are alike.
- Do not spend more than 5% or 6% of your annual income on long term care insurance premiums.
- Check the financial stability of the insurance company you are considering.
- Do not be pressured. Once you receive a policy that you have purchased, you have 30 days to review it and return it if you change your mind.

Independent Advice

Examining long term care insurance policies is fraught with difficulty for the consumer. This section has outlined the more important provisions of such policies and has tried to convey a sense of the complexity of the issues raised. Other similarly complex provisions not covered in this chapter are duration of coverage, exclusions from coverage and various optional coverages. Once you start shopping for long term care insurance, it would not be unusual for you to be confronted with six or seven policies, each with different provisions, different definitions of the same terms (such as "benefits triggers") and, of course, different prices. Comparison shopping is very difficult because you are never comparing "oranges to oranges."

An independent advisor, such as an attorney, can be invaluable in providing the following services:

- Determining the financial suitability of an individual for long term care insurance.
- Reviewing the financial soundness of prospective insurance companies.
- Understanding, explaining and comparing policy features.
- Pinpointing uncertain terms in the policy and obtaining written clarification from insurance companies.

- Recommending a policy that serves the individual's needs over the long term.

Resources

"A Shopper's Guide to Long Term Care Insurance"; The National Association of Insurance Commissioners, 1(816) 842-3600.

"Overview of Long Term Care Insurance"; Pennsylvania Department of Aging, 1(800)783-7067. Long Term Care Planning Guide, by Phyllis A. Skelton; 9th Edition, 1999. Elderweb, http://www.elderweb.com for a collection of informative articles on long term care insurance. American Health Care Association, http://www.ahca.org. Long-Term Care Insurance National Advisory Council http://www.longtermcare-insurance.org.

Health Insurance Association of America, http://www.hiaa.org.

HOUSING OPTIONS

The Pennsylvania Department of Aging outlines several types of housing options for all levels of independence.

- Services For Individuals Who Remain in Their Homes
- Homemaker assistance for daily household activities.
- Personal care for those who cannot manage alone.
- Home delivered meals.
- Family caregiver support which includes one-time grants for home modifications to help with mobility problems.
- Transportation services.
- Senior community centers where older people can get together for social activities, recreation, education, creative arts, physical health programs, and nutritious meals.
- Adult day care centers which provide personal care and medication management for individuals who cannot be left alone during the day.

Independent Housing Options

A Continuing Care Retirement Community (CCRC) offers independent living, usually in an apartment or cottage, and access to a higher level of care such as personal care or a nursing facility. Residents move between levels of care as their needs change. Services, such as meals, medical care, social and recreational activities, are provided through a contractual arrangement for the lifetime of the resident. Residents usually pay an entrance fee and a monthly charge. Retirement Communities offer independent living in an apartment or cottage. They are intended for

healthy, mobile older people and generally offer no special services. Units may be rented or purchased. Many retirement communities offer recreational amenities such as golf, swimming or tennis.

Subsidized Housing is made available by the federal government providing rental assistance to low income elderly people. Income eligibility is 50% of the median income for the county of residence; individuals must be age 62 or older. Assistance is determined by an individual's income with tenants paying 30% of their income toward the rent.

Housing Options for Individuals Who May Require Assistance or Supervision

Domiciliary Care Services for adults are supervised living arrangements in a homelike environment for adults who are unable to live alone because of demonstrated difficulties in accomplishing daily activities, social or personal adjustment, or resulting from disabilities. The Bucks County Department of Aging Services is responsible for assessment and placement of residents in domiciliary care homes. Residents are eligible for a domiciliary care supplement payment if they are eligible for SSI or have an income less than the combined federal/ state payment for domiciliary care and are not related to the provider.

Nursing Facilities provide medical care, rehabilitation, or other health services to individuals who do not require the care and treatment of an acute-care hospital. Most nursing facility residents are unable to take care of themselves on their own and may have chronic illnesses or have been transferred from a hospital following a serious illness, accident or operation.

Personal Care Homes, sometimes called "assisted living facilities" offer room and board and assistance with activities of daily living (such as bathing, grooming, meal preparation, taking prescription medication but do not provide the level of care offered by a hospital or nursing home.

Family Caregiver Support Programs

There are State and National Family Caregiver Support Programs which focus on reinforcing the care being given to frail family members in their own homes by reimbursing some of the costs of supplies, services, equipment and home modifications and by offering counseling, educational and financial information.

An initial assessment determines the package of benefits best suited to the needs of both the caregiver and the senior receiving the care. Eligibility is based on household income on a sliding scale, but there are differences between the state program and the national.

Geriatric Care Managers

In this day of many options for seniors, a Geriatric Care Manager can help connect families with services that are appropriate for their physical, financial, and emotional needs Such a Manager can evaluate housing options, select suitable placement, assist with the admission and moving processes, or arrange for services that will permit the senior to remain safely at home. Great care should be taken in selecting a Care Manager with whom you wish to work and on whom you expect to rely.

Resources

For more information regarding these services, contact the Bucks County Department of Aging Services - phone: (267) 880-5700, email: aging@buckscounty.org, website: www.buckscounty.org/aging.

Offices are located at 30 East Oakland Avenue, Doylestown, PA 18901.

ELDER ABUSE AND NEGLECT

Abuse or neglect occurs in all communities, all economic levels, among all races, all nationalities and people of all religions. When the victim is elderly it is known as "Elder Abuse." Federal and state laws make it clear that everyone has the right to be safe. No one should be too embarrassed to get help and no one has to tolerate abusive situations. Federal and state laws also protect older adults who lack the capacity to protect themselves and are at immediate risk of abuse, neglect, exploitation or abandonment.

Signs of Abuse or Neglect

Abuse can be any one or more of the following:

- Infliction of injury;
- Unreasonable confinement;
- Intimidation;
- Any punishment that results in physical harm;
- Infliction of mental anguish;
- Withholding food, necessary medication or medical services;
- Sexual harassment;
- Rape;
- Any physically or emotionally controlling behavior that restricts independence or activity.

Elder abuse and neglect is not always easy to identify; signs to consider include:

- Bruises and broken bones blamed on falls; the real cause may be pinching or beating;
- Weight loss which might be result of starvation or neglect, not just illness or lack of appetite;
- Dementia is not always a part of aging; malnutrition or the misuse of medications can also be causes.

If you know an elderly person who is being abused or neglected, call the Bucks County Area Agency on Aging at (800) 243-3767, the toll-free number for the elder abuse hot line; or call NOVA of Bucks County, at (215) 343-6543.

Don't be afraid to make the call. Do not confront the abuser yourself. Your call may help protect a neighbor, a friend, a loved one or you from further abuse. The call could mean the difference between life or death.

Protection From Abuse Orders (PFAs)

There is assistance available to get an order to keep the abuser away from the victim. In order to petition for a Protection From Abuse Order (PFA), one must be, or have been, in a relationship with, or a family member of, the abuser. A PFA can prohibit abusive conduct and can remove/exclude the abuser from the residence. Call the Bucks County Area Agency on Aging at (800) 243-3767 and ask for a legal advocate. You can also call the Bucks County Courthouse at (215) 348-6822 and ask for the Family Court Administrative Assistant. The Family Court Administrative Assistant is available during business hours only. For emergencies, call 911 any hour of the day or night.

Zero Tolerance for Abuse

There are many organizations in Bucks County working to prevent elder abuse. They have zero tolerance for abuse, but they can't help if they don't know about the abuse. Whenever you hear or see abusive behavior you should call 911. If you ignore the abuse or think it will get better without intervention, you may be risking your life or the life of someone you know. Abuse always gets worse without help; everyone should know that help is available.

AMERICANS WITH DISABILITIES ACT (ADA)

Upon finding that some 43,000,000 Americans have one or more physical or mental disabilities, and that this number is increasing as the population as a whole is growing older, Congress, in 1990, passed the Americans with Disabilities Act. The purpose of the ADA is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The ADA ensures that the Federal Government plays a central role in enforcing standards to address

discrimination faced by those with disabilities in employment, public services, public accommodations, and telecommunications. At the core of the ADA is the prevention of job discrimination against those with disabilities.

Definition of Disability

The Act defines disability as follows:

- A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- A record of such an impairment; or
- Being regarded as having such an impairment.

What the definition means is that if an individual, when compared to an average person, has a significant restriction on a major life activity (or is unable to perform a major life activity), that individual is considered disabled under the ADA. Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. It should also be remembered that the disabling condition must be permanent or long-term to come under the ADA. Therefore, even if a temporary condition, such as a broken bone, the flu, or pneumonia, limits a person's activities, it is not considered a disability under the ADA.

Employment

No covered entity shall discriminate against a qualified person with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training and other terms, conditions, and privileges of employment. The term "covered entity" means an employer, employment agency, labor organization or joint labor-management committee. The term "employer" means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person. The term "employer" does not include the United States, a corporation wholly owned by the government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from certain laws. The ADA also does not prohibit religious corporations, associations, educational institutions, or societies from giving preference in employment to individuals of a particular religion.

Reasonable Accommodations

Under the terms of the ADA, an employer must make "reasonable accommodations" to an employee, or potential employee, who has a disability. If an employee can perform the essential functions of a job, i.e. the primary duties of a job position, with a reasonable accommodation being made by an employer, then the employer cannot fire,

or refuse to hire, the employee because of a disability. If an employer does refuse to hire a person, or fires a current employee solely because of a disability or to avoid having to accommodate that disability, then that employer has discriminated against that person, according to the ADA.

The term "discriminate" includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity. There are other ways in which a covered entity may improperly discriminate, such as excluding or denying equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association; and utilizing standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control.

The term "reasonable accommodation" means any change in the work environment or in the way things are normally done on the job so that a person with a disability can perform the essential functions of the job safely and adequately. This may include making existing facilities used by employees readily accessible to and usable by individuals with disabilities (such as providing a ramp) and may include job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training material, or policies, the provision of qualified readers or interpreters, etc.

No employer is required to lower production standards or eliminate an essential job function or duty as a reasonable accommodation. Furthermore, an employer may argue that making a certain necessary accommodation will cause an "undue hardship" to their business and thus they should be relieved of that obligation. The term "undue hardship" means an action requiring significant difficulty or expense. In evaluating an "undue hardship", consideration is given to the overall size and financial resources of the company as well as to the type of operation or operations of the covered entity. It is also a defense to a charge of discrimination that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation. The term "qualified standards" may include a requirement that an individual not pose a direct threat to the health or safety of other individuals in the workplace.

Reassignment

In order to qualify for protection under the ADA, an employee should be able to perform the essential functions of their job, with reasonable accommodation. However, the courts have found that if a person is unable to perform the essential job functions of their current position, the employer may still be obligated to reassign him or her to another position that he or she can perform, with or without accommodation. This obligation to reassign an employee arises under any of three different circumstances:

- If the employee cannot perform the essential functions of the present position, despite reasonable accommodations;
- If the employer claims the accommodation needed to keep the employee in their current position would cause undue hardship; or
- If no accommodation is practicable or possible for the person to perform the job duties of the current position.

Furthermore, if reassignment is appropriate, there has to be a position available; the employer need not create one. The position must be vacant and the employee must qualify for the new position. In the example where the employee has a speech impediment and cannot act as a telephone receptionist: if the employer has a vacant word processing position available and the employee can effectively use a word processor and perform the duties of that position, then reassignment is appropriate. Although reassignment seems like a great idea, it can be to a lower paying position, or outside the geographical area, in which case the employee pays the moving expenses. If the employee refuses the position because of lower pay or a move being required, he or she cannot later come back and make a claim against the employer under the ADA, since the employer satisfied the obligation.

Medical Examinations

The prohibition against discrimination shall include medical examinations and inquiries. Except in certain circumstances, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability. An examination must be shown to be job-related and consistent with business necessity. Also, if an examination is given after an offer has been made but prior to commencement of the employment duties it must be shown that all entering employees are subjected to such an examination regardless of disability. In such a situation, the employer may condition the offer on the results of the examination but must maintain the medical records in separate files and adhere to rules of confidentiality. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, and first aid and safety personnel may be informed if the disability might require emergency treatment. Government

officials investigating compliance with the ADA also shall be provided relevant information upon request.

A covered entity may also conduct voluntary medical examinations that are part of the employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

Illegal Use of Drugs and Alcohol

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs when the covered entity acts on the basis of such use. The ADA does not, however, exclude those who have completed or are participating in drug rehabilitation programs. Covered entities are allowed to adopt or administer reasonable policies such as drug testing to ensure that the individual is no longer engaging in the illegal use of drugs. A covered entity may also require that employees shall not be under the influence of alcohol at the workplace. A covered entity may also hold an employee who engages in the illegal use of drugs or is an alcoholic to the same qualification standards for employment and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

Posting Notices

Every covered entity as defined above shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of the ADA.

Receipt of Services

The term "qualified individual with a disability" also includes an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

The term "public entity" means any state or local government, any department, agency, special purpose district, or other instrumentality of a State or States or local government, and the National Railroad Passenger Corporation (as well as other certain commuter authorities).

Under the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity or be subjected to discrimination by any such entity.

After August 25,1990, it became unlawful discrimination for a public entity that operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle if said vehicle is not readily accessible to individuals with disabilities, including individuals who use wheelchairs. A public entity that operates a fixed route system (other than a system that provides only commuter bus service) must provide Paratransit and other special transportation services to individuals with disabilities, including those in wheelchairs, which are sufficient to provide these individuals a level of service that is comparable to the level of designated public transportation services provided to individuals without disabilities; or, in the case of response time, a level of service comparable, to the extent practicable, to the level of such public transportation services provided to individuals without disabilities.

Public Accommodations

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

A private entity is considered a "public accommodation" if the operation affects commerce. Included are inns, hotels, motels, restaurants, bars, motion picture houses, concert halls, stadiums, grocery stores, clothing stores, laundromats, libraries, zoos, parks, day care centers, senior citizen centers, golf courses, gymnasiums, etc. Making accommodations to individuals with disabilities must be "readily achievable." "Readily achievable" means able to be easily carried out without much difficulty or expense. Factors include the nature and cost of the action needed, as well as the overall financial resources of the facility or facilities involved.

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Who and what does the Act protect? The Age Discrimination in Employment Act protects people who are 40 and older from discrimination in the workplace. What is considered discrimination in the workplace?

Any act by an employer that treats persons unfairly because of their age is considered discrimination in the workplace. This includes not only being fired because of their age, but also, being treated differently or less favorably. For example, someone over 40 receives less pay than someone younger for doing the same work.

What must be proven in a discrimination claim? In order to be successful in a discrimination claim you must prove all of the following:

- You were qualified for the job,
- Someone younger and less qualified was hired in your place,

- Age was a determining factor in the decision, AND
- There is no other valid reason for the failure to hire you.

What if an employer tries to disguise age discrimination by claiming that the layoff or discharge is the result of downsizing or a reduction in the workforce? In such a case, the discharged employees may have a claim under the ADEA if they can demonstrate that they are as qualified for the positions as younger employees who were retained.

What do you do if you feel that you have a claim under the ADEA? Special agencies have been set up to assist you in discrimination cases. In Pennsylvania, the agency set up to assist in discrimination cases is the Pennsylvania Human Relations Commission (PHRC). The parallel agency for the federal government is the Equal Employment Opportunity Commission (EEOC). Be aware that, while these agencies are designed to assist you with a discrimination claim, each agency has deadlines for notification. The PHRC gives you 180 days after the discriminatory act to give them notice and to file the necessary paperwork. The EEOC gives you 300 days to do so. If you feel that you have been treated unfairly by your employer, notify these agencies immediately. Do not wait for your employer to resolve the issue. If the deadline passes, you may have lost your right to make a claim.

You may contact the PHRC at:

Uptown Shopping Plaza, 2971-E North 7th Street, Harrisburg, PA 17110-2123 Telephone: (717) 787-9780

The Philadelphia District Office of the EEOC is located at:
21 South 5th Street 4th Floor
Philadelphia, PA 19106
Telephone: (215) 440-2600

To be automatically connected to the nearest EEOC field office, call (800) 669-4000.

CONSUMER PROTECTION

For basic information on this subject the Bucks County Library System recommends the U.S. Government website at: http://www.consumer.gov. There you will find consumer information in the following areas: food, product safety, health, home and community, money, transportation, children, careers and education, and technology. Additionally, the Bucks County Department of Aging Services can be reached at (267) 880-5700. They can help you with your consumer complaints if you believe you have been defrauded by a business or door-to-door salesperson, illegally harassed by an unscrupulous debt collector, or victimized in deceptive sales practices by a home improvement contractor or mail order business. If you believe a crime has been

committed, the office of the Bucks County District Attorney can be reached at (215) 348-6344.

Suggestions For Resolving Complaints

The Pennsylvania Office of the Attorney General publishes consumer protection booklets which include these suggestions if you plan to resolve a complaint yourself:

- Decide on the specific complaint you wish to make;
- Have a clear statement of the specific action you want the person or business to take to remedy your complaint;
- Proceed without delay;
- If you are making the complaint in person, take along the purchase receipt, any guaranty or warranty, and if possible, the product;
- Be assertive! If you are told by a salesperson or company representative that they cannot deal with your complaint, ask to speak with a higher authority or supervisor;
- If you complain by mail, give the brand name, model number, size, color and other details needed for identifying the product. Include in your letter a specific explanation of the circumstances surrounding your complaint;
- Keep copies of your letter and all correspondence you receive. If you return the product, be sure to insure it.

If you are unable to resolve your consumer complaint, you can file a written complaint on pre-printed form with the Pennsylvania Bureau of Consumer Protection, Strawberry Square, Harrisburg, PA 17120. Their hotline number is (800)441-2555.

Avoiding Scams

The Pennsylvania Office of the Attorney General periodically publishes the "Consumer Reference Guide for Seniors," a pamphlet that can help you avoid scams and frauds. The pamphlet reiterates the phrase "If it sounds too good to be true, it probably is," and points out that scam artists typically use the "nice guy" approach. It also states that con artists often use words or expressions including:

"Cash only" - Why is cash necessary for a proposed transaction? Why not a check or credit card?

"Secret plans" - Why are you being asked not to tell anyone?

"Get rich quick" - Any scheme should be carefully investigated.

"Something for nothing" - A retired swindler once said that any time you are promised something for nothing, you usually get nothing.

"Contests" - Make sure they aren't a hoax to draw you into a money-losing scheme.

"Haste" - Be wary of any pressure to act immediately or lose out.

"Today only" - If something is worthwhile today, it is likely to be available tomorrow.

"Too good to be true" - Such a scheme is probably neither good nor true.

"Last chance" - If it is a chance worth taking, why is it offered on such short notice?

"Left-over material" - Left-over materials might also be stolen or defective.

If you are unable to obtain the relief that you expected from the Bureau of Consumer Protection, you should promptly seek legal advice from a qualified, reputable local attorney, because there are strict time limits in which you must pursue any legal actions for fraud. Typically a written civil complaint must be filed with the appropriate court within two years of the commission of the fraud.

Charitable Organizations

Senior citizens who are solicited by charitable organizations can call the Pennsylvania Department of State's Bureau of Charitable Organization's toll-free number at (800) 732-0999 to find out if the organizations are registered to solicit contributions; how much income the organizations received; how much the organizations spend on programs, services, administration and fundraising. Seniors can also call the toll-free number with any complaints they have about organizations which have solicited funds from them.

Some precautions when you are called for donations:

Ask for written information, including the charity's name, address and telephone number;

Ask for identification; if the solicitor refuses, hang up;

Call the charity to check whether they are aware of the solicitation. If they are not, please report the call to your local police department so they can investigate the possible fraud;

Watch out for organizational names which sound like established charities; some phony groups use titles that closely resemble respected legitimate organizations;

Know that "tax-exempt" is not the same as "tax-deductible." The exemption refers to the organization but your contribution may or may not be deductible and, if that is important to you, ask for a receipt for the amount of your contribution;

Be skeptical if someone thanks you for a pledge you do not remember making. Keep records of any pledges you make and check them before cutting a check;

Refuse high pressure appeals. No legitimate organization should pressure you for your gift.

Mail Fraud

Mail fraud is illegal but it nevertheless remains a popular means for a con artist to try and trick you. Do not respond to sweepstakes or contests that ask for money or your credit card. For additional information on mail fraud, call the U.S. Chief Postal Inspector at (202)268-2284 or your local postmaster. If you think you are a victim of mail fraud you can call the Postmaster General toll free at (877) 987-3728, write them at Know Fraud, P.O. Box 45600, Washington, DC 20026-5600, or visit their website at: http://www.consumer.gov/knowfraud.

Telemarketing

Telemarketing is another method commonly used to get your personal information such as credit card numbers, checking account numbers, Social Security number, driver's license number, etc. Do not give out this information unless you placed the call yourself to a well known, reputable company. Other tips include:

- Never pay for a prize over the phone;
- Never allow a caller to pressure you into acting immediately;
- Never agree to any offer until you have seen it in writing

The law prohibits telemarketers from calling consumers who have stated that they do not want to be called. Pennsylvania law permits telemarketers to make calls only between the hours of 8:00 a.m. and 9:00 p.m. If you want your name removed from telemarketing lists, send your name, telephone number (including area code) and address to the Telephone Preference Service, Direct Marketing Association, P.O. Box 9014, Farmingdale, New York 11735-9014. This action will help reduce the number of unsolicited calls even if it won't stop all the calls.

On-line Scams

On-line scams also are abundant in today's age of the information superhighway. For the most part, the same rules apply so beware of being misled. For additional information about on-line scams, contact the National Fraud Information Center,

Consumer Assistance Service at (800) 876-7060 or visit their website at: http://www.fraud.org.

Resources

The U. S. General Services Administration Consumer Information Center annually publishes a comprehensive "Consumers' Resource Handbook" which is available by writing the Consumer Information Center, Pueblo, CO 81009 or accessing the CIC website at: http://www.pueblo.gsa.gov.

This publication has two parts: "Buying Smart" contains general advice on shopping; information on how to shop for major items such as cars, credit or home improvement; suggestions on how to complain effectively, including a sample letter of complaint. The second part is a "Consumer Association Directory" with lists of offices of consumer organizations, corporations, trade associations and government agencies at all levels.

GRANDPARENTS' RIGHTS IN PENNSYLVANIA

The Declaration of Public Policy of the Pennsylvania General Assembly states that when it is in the best interest of the child it is the public policy of this Commonwealth to assure reasonable and continuing contact of the child with grandparents. There are three specific circumstances in the Domestic Relations Code that permit grandparents to seek visitation and/or partial custody:

- When a parent is deceased;
- When parents' marriage is dissolved or parents are separated for six months or more; and
- When a child has resided with grandparents for twelve months or more.

It is the grandparents' burden to prove to the court that his or her visitation and/ or partial custody would be in the best interest of the child and would not interfere with the parent-child relationship. The court will consider the amount of time spent between grandparents and the child prior to seeking visitation and/ or partial custody as well as the quality of the time spent between grandparents and the child.

In Pennsylvania, grandparents may seek physical and legal custody of a grandchild if it is in the best interest of the child not to be in the custody of either parent and if it is in the best interest of the child to be in the custody of the grandparent. The grandparent must prove to the court that he or she has genuine care and concern for the child; that the relationship between the child and grandparent began with the consent of a parent of the child or pursuant to a court order; and the grandparent must have assumed the role and responsibilities of the child's parent for at least the proceeding twelve months. The grandparent must have provided for the physical, emotional and social needs of

the child. If a child has been declared dependent by the state, the court may issue a temporary order granting custody of the child to the grandparent.

The grandparent bears the burden of persuasion when he or she seeks visitation, partial custody or custody. The grandparent has to prove that it is in the best interest of child and that the relationship won't interfere with the parent-child relationship.

Grandparents may not, however, be granted visitation, partial custody or custody of the grandchild when the parent of the child is not deceased, the parents are not separated or divorced and the child has never resided with the grandparent. If a grandchild has been adopted by a person other than a stepparent or another grandparent, any rights previously granted will be automatically terminated upon the adoption.

Procedure for Filing

In Bucks County a grandparent can begin the proceeding for visitation or custody by filing a Complaint in Custody with the Prothonotary in the courthouse in Doylestown, PA. Next, the parties schedule the mandatory mediation orientation with the court-approved custody mediator listed on the Complaint cover-sheet. The mediation occurs after all parties attend the parenting class which is also listed on the Complaint cover-sheet. The purpose of the mediation is to attempt to reach an agreement among the parties. If mediation is successful, the mediator will write the agreement and present it to the court. If the mediation is unsuccessful, the parties attend a custody conciliation conference.

The custody conciliator recommends a temporary order. Thereafter, the custody matter is heard before a judge of the Court of Common Pleas of Bucks County.

MEDIATION

Mediation is a process for resolving conflict with the help of an impartial third party. A trained mediator can give seniors, their families and their caregivers a neutral forum in which to deal with conflicts that arise in situations such as:

Senior Housing:

- Deciding whether to sell the family home
- Moving into a retirement community
- Moving in with a family member
- Reducing tensions caused by several generations living together

Health Care:

- Addressing disagreements between health care providers

- Long term care conflicts
- Inter-generational care-giver and family conflicts
- Health care delivery disputes

Legal Issues:

- Neighborhood disputes
- Guardianship
- Consumer disputes
- Americans with Disability Act access disputes
- Bio-ethical disputes

Mediation offers many benefits for resolving conflicts, including learning new ways to handle problems, maintaining a better sense of personal dignity and independence, improving communication between family members and avoiding costly litigation.

Seniors, their families or their attorneys in Bucks County may contact the Bucks County Bar Association at (215) 348-9413 for the names of mediators who handle elder law matters. They may also contact the following organizations for help:

Bucks County Office of Aging (267) 880-5700, www.buckscounty.org/aging

Bucks County Department of Human Services (215) 348-6201

Bucks County Health Department (215) 345-3318, www.buckscounty.org

Bucks County Community Foundation (215) 997-8566, www.buckscountyfoundation.org

United Way of Bucks County (215) 949-1660, www.uwbucks.org

The Commonwealth of Pennsylvania Department of Aging has an Ombudsman program. The purpose of the Ombudsman Program is to support and empower consumers by resolving individual complaints involving long-term care services. The Ombudsman Program also works to improve and enhance the long-term care system, its laws, regulations, policies, and administration through public education and empowerment. The Department of Aging administers the Ombudsman Program statewide for consumers 60 years of age or older through contracts with each of the 52 Area Agencies on Aging (AAA) in Pennsylvania. The State Long-Term Care Ombudsman can be reached at:

Pennsylvania Department of Aging Office of the State Long-Term Care Ombudsman, 555 Walnut Street, 5th Floor, Harrisburg, PA 17101-1919 Telephone: (717) 783-7247 e-mail RA-Ombudsman(S)state.pa.us

For general information, visit the website at: http://www.aaina.state.pa.us

AUTOMOBILE ISSUES

Drivers' Licenses

If you are a new resident of Pennsylvania you will have (15) days from the date you take up residency to become licensed in the Commonwealth. If you are currently licensed in another state and your license has not been suspended, revoked, etc., you will normally only have to take a written test and turn in your out-of-state license. You may get a handbook to study to take the test. It is advisable to at least review it prior to taking the test. It may have been a while since you last took a test and the laws, although consistent, may have changed just enough for you to miss too many questions. You can get the handbook from any licensing center or testing station. They are listed in the blue pages of the phone book. If you are currently licensed you must renew your license every four years. You should receive a notice in the mail from the Pennsylvania Department of Motor Vehicles. (PENNDOT) You may renew by mailing in the fee or going to the Internet and doing it through the government's website: http://www.dot.state.pa.us. You may also download many forms needed to conduct transactions concerning your license or vehicle.

If you appear to take your test and turn in your out-of-state license they will check the current status of that license. There are times when a person will have failed to appear for a minor traffic violation and their license be suspended until that violation is satisfied. If you fall into this category you should contact legal counsel prior to taking any action to correct a "fail to appear." It may be that you pay the ticket and then discover that it results in a conviction that requires a mandatory period of suspension or revocation. Have counsel investigate the charge and determine the consequences of what you should or should not do to remedy the adverse effect of failing to appear.

If you have never had a driver's license you should get a copy of the handbook and follow the directions on how to go about being licensed for the first time. You will be required to have a medical examination to determine if you are medically fit to drive safely. Your private doctor can do the examination. You will also have to produce a valid form of identification to get a learner's permit. This may require you to obtain a certified birth certificate. You, obviously, should make sure that you could drive a car. Unless someone you know is teaching you, you should hire a reputable driving school to teach you. You do not have to own a car in order to have a driver license. You do have to have insurance on any car that you drive, whether you own it or not.

Having a drivers' license is considered a privilege. Therefore your license may be recalled, suspended, cancelled or revoked. The reasons for these adverse actions are numerous.

The most typical reason for the suspension of your license is either failing to respond to a traffic ticket or acquiring sufficient points to be suspended. Just as suggested above, if you are suspended due to a fail to appear you should contact legal counsel to determine the extent of the consequences of that ticket.

Your privilege to drive an automobile may be recalled upon a determination of incompetence or a finding by a physician, psychologist or psychiatrist of a condition that prevents you from safely operating a motor vehicle. The report of a physician, psychologist, psychiatrist or even a police officer, to Penndot will result in such an inquiry. Penndot will send a letter to inform you of the adverse action concerning your license. The reason for the adverse action is generally explained in the letter. The mail date of the letter, expressly stated in the body of the notification letter, is very important. The notification will generally give you (30) days to appeal the adverse action of Penndot to the Court of Common Pleas. If you file a timely appeal this will, in most instances, stop the adverse action and you will still be able to drive legally. This is called a "supersedeas" in legal terms. In other situations you must take immediate action in order to prevent the loss of your driving privileges.

An appeal must be filed in the Court of Common Pleas of your residence. There are some minor differences of where the appeal must be filed, generally involving an arrest for driving under the influence with a refusal to take a test that occurs in another county rather than your county of residence. In almost all cases where you are legally licensed and there is a suspension or revocation, if you timely file your appeal within the (30) day limit, the suspension or revocation will not take place. A supersedeas is entered and Penndot will be prevented from taking the adverse action until there is a final resolution of the case before a judge of the Court of Common Pleas. These actions do not qualify for juries to decide the outcome.

The exception to the supersedeas being entered is when there is a recall of your driver's license due to a medical condition. Some medical conditions that may affect you are if you black out, have epileptic black outs, seizures, disqualifying eye conditions, drug addiction or alcohol addiction or have any medical condition that would prevent you from safely driving a vehicle. In this type of case you must file an appeal as quickly as possible. An expedited hearing will be held in court. The attorney for Penndot will argue that the license should be surrendered due to the safety of the general public. The Penndot attorney will use the medical evidence of the examining doctor or the statements of the psychologist to justify you’re not driving. You are presenting medical evidence and reports of other doctors that have determined that you are medically fit to drive can challenge that evidence. You may also be required to pass a road test given by a driving center. If you are successful, a letter is sent to Penndot and the license will be reinstated. If unsuccessful, you will have another court appearance beyond the expedited first hearing. At the next hearing you may again present additional evidence that you are medically fit to drive. However, during the break in time between the first

hearing and the second one, you will not be permitted to drive. If you are not successful in the second hearing you are permitted to appeal the Court of Common Pleas decision to the Commonwealth Court within (30) days. The filing of the second appeal will not reinstate the license until the next court decision is reached. If you are successful your license will be reinstated. If you lose, you may then petition the Supreme Court of Pennsylvania for an allowance to appeal. Your appeal is not automatic or guaranteed. If the Pennsylvania Supreme Court accepts your appeal and you are successful, you will be reinstated. If not, you will not be able to drive. However, if your medical condition is such that it may not be permanent, you will have the right to petition Penndot to be reinstated after your condition has reached a safe status.

Identification Cards

Most establishments require a driver's license for identification. Non-drivers at the Pennsylvania Department of Transportation Driver License Centers can obtain an ID card, similar in appearance to a driver's license. Any Pennsylvania driver who voluntarily surrenders his/her license for medical reasons can obtain this ID free of charge. All others, including those who have never had a driver's license, must pay a $9.00 fee. You must bring proof of identification such as a birth certificate, your old driver's license and your Social Security card. Even if your regular drivers license has been suspended or recalled, you are entitled to obtain an identification card. If you are in that category you will notice that your driver’s license number will be the same as the identification card number. The centers are listed in the blue pages of the phone book under State Government, Department of Transportation.

Handicap Parking

If you are disabled and need a special parking placard or parking place, you can contact the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104; (800) 932-4600.

Vehicle Registration

The annual fee for registration of a passenger car is $36. You may request a "Vanity Tag" from Penndot. There is an additional one time cost for the tag of $20. If you are bringing in your vehicle from out-of-state you will have to go through the process of proving ownership, proof of insurance, proof of residency and any other requirement that Penndot has in place. You should have your title; registration card and any other identifying information for your vehicle that is required in order to properly register your vehicle.

You are required to have your vehicle inspected at least once per year. The date is set at the time that you register your vehicle in the Commonwealth. It is staggered in order to spread out the number of inspections that are done in any one-month.

Inspections are done by authorized dealers and are strictly controlled by the Commonwealth. However, you should check with your neighbors to get their recommendations of local inspection stations that are reasonable. Also, there are some counties in Pennsylvania that require an additional inspection to determine whether or not your vehicle is burning fuel efficiently. These high rate counties will require two stickers instead of one.

Traffic Tickets

Pennsylvania has a point system where a few serious violations have points imposed as a result of being convicted. Since the point system is subject to change by the legislature it is wise to consult legal counsel to determine the detriment to your driving privileges if you are convicted or plead guilty to a traffic offense.

There are also a number of offenses that require mandatory periods of suspension or revocation. The recent change in the laws now provides a (6) month suspension for a conviction for Careless Driving. The previous penalty was an assignment of (3) points. This is a substantial change in the laws that many do not know. It is best to check first rather than risk the severe penalties that could be imposed by such a conviction.

PERSONAL RECORDS

It is important to keep complete written records so that your personal information is readily available when needed. In only one place record where the original of your will, power of attorney, and living will are kept. Also include information such as your Social Security number, bank accounts and other investments (including account numbers), real estate holdings, insurance policies, and other important legal and financial information. All of this is required by your agent or guardian in case of your disability or incapacity and is required by your executor or personal representative upon your death.

A Checklist for Your Personal Records

This checklist may be used to organize papers and documents that may be needed when you or members of your family are faced with legal issues. Keep original documents in a secure place such as a fire-proof box, a safe deposit box, or with your bank or attorney.

- ☐ Income tax returns (federal, state and local returns for the past 7 years)
- ☐ Birth, marriage, divorce, custody, adoption and death certificates Naturalization papers
- ☐ Military records
- ☐ Papers documenting real estate such as leases for apartments or home, real estate purchases, mortgages and home improvements
- ☐ Medical records
- ☐ Social Security records and communications
- ☐ Bank accounts:
  Name of Bank: _____
  Checking ___ Savings____ On-line Banking
- ☐ Brokerage and mutual fund statements: Name of Investment Advisor/Company:

  _____
- ☐ Business and partnership agreements
- ☐ Stock option and pension fund agreements
- ☐ Wills, trust agreements and powers of attorney
- ☐ Automobile titles, registration and insurance
- ☐ Credit card account information
- ☐ Insurance policies such as homeowners', health, accident, long term care and life
- ☐ Receipts, guarantees and warranties for major purchases

Bucks County Resource Directory for Older Adults

This information is a partial listing of resources for older adults and their families, compiled by the Bucks County Area Agency on Aging, 267-880-5700.

24-HR. EMERGENCY NUMBERS
To report elder abuse or neglect…800-243-3767

EMERGENCY RESPONSE SYSTEMS
AAC CommuniCare…….….800-829-8279
CENTROL…….…800-435-7628
Direct Link…….215-766-0556
Connect America……...800-906-0872
Delaware Valley Vital Link……...215-887-8600
……..800-338-4825
LIFELINE (Red Cross)……..800-959-6989
MedScope America Corp……...610-642-9881
Response Ability Systems……....800-685-5252

AARP
State Office……717-238-2277
Legal Information…….……..800-262-LAWS

ADULT DAY CARE
Call the Area Agency on Aging for a complete listing of providers……...…..267-880-5700

DRUG AND ALCOHOL
Information / Intervention…….....800-221-6333
PACE (Financial help for prescription drugs)…..
……..800-225-7223 / 267-880-5700
Project MEDS (**M**edication **E**ducation **D**esigned for **S**eniors)……267-880-5700
Drug and Alcohol Commission….215-773-9313

SERVICES FOR THE BLIND
Bucks County Association for the Blind……
…….800-472-8775……....215-968-9400
Blindness and Visual Services…...215-560-5700

CONSUMER INFORMATION
Better Business Bureau……..215-985-9313
Bureau of Consumer Protection….215-348-7442
Commonwealth information……..800-932-0784
Long Term Care Ombudsman..….267-880-5700

COOPERATIVE EXTENSION
Penn State Coop Extension……...215-345-3283
5/16

COUNSELING
Catholic Social Services……215-945-2550

Family Services Association….….215-538-1616
…….215-345-0550……..…..215-757-6916

FOOD, CLOTHING
Aid for Friends…215-464-2224 (Lower Bucks)
…..…215-348-5165 (Central and Upper Bucks)
FISH……215-348-7172….…..215-257-7616
Food Stamps…….215-781-3300 (Lower Bucks)
……...…..215-443-3200 (Warminster)
……..1-800-362-1291 (Central/Upper Bucks)

HOMELESS SHELTERS
Emergency Outreach Quakertown, Perkasie, Palisades (EQPP)…….…..215-536-5676
Homeless Link……...….…1-800-810-4434
American Red Cross……..…215-949-1727

EMPLOYMENT AND TRAINING
Career Link……215-781-1073
Experience Works (Subsidized Senior Training Program)…….……..267-880-5700

FINANCIAL ASSISTANCE
Social Security / SSI……1-800-772-1213
Bucks County Assistance Office (Low Income Home Energy Assistance Program, Healthy Horizons, Medicaid….215-781-3300 ……..
……1-800-362-1291……..…1-877-395-8930
Medicare Hotline……...1-800-633-4227
Credit Counseling Center……..215-348-8003
1-877-900-4222

GOVERNMENT SERVICES CENTER
7321 New Falls Rd., Levittown, PA 19055
Offices on site: Area Agency on Aging, Board of Assessment, Health Department, Military Affairs, W.I.C…….….267-580-3500

HEALTH
AIDS……..……215-345-3835
Alzheimer's……...….1-800-272-3900
Mental Health/Retardation…….215-442-0760
Bucks Co. Dept. of Health…….215-345-3318

HEALTH CARE – IN HOME
Call the Area Agency on Aging for a complete listing of providers…….267-880-5700
Reassurance CONTACT……....215-355-6000

HOSPITALS / HEALTH CENTERS
Doylestown Hospital…….215-345-2200
Aria Health/Bucks Co……...215-949-5000
Grandview Hospital……..215-453-4000
Lower Bucks Hospital…….. 215-785-9200
St. Lukes Quakertown Hospital….215-538-4500
Saint Mary Medical Center……215-710-2000
Abington Memorial Health Center –
Warminster Campus…….215-441-6600
Health and Wellness Center…..…215-918-5500

HOUSING
Bucks County housing Authority (Subsidized Housing)…215-757-0206…...…215-348-9469
…….215-721-0331
Weatherization Program (Bucks County Opportunity Council)……...215-345-3302
Housing Rehabilitation Program (Redevelopment Authority)……..215-781-8711

INFORMATION AND REFERRAL
Area Agency on Aging……..……267-880-5700
PA Department of Aging…..…..1-717-783-1549
Bucks County Free Library (Aging Collection)...
…….....….215-348-9081

LEGAL SERVICES
Legal Aid of Southeastern PA…...215-781-1111

NURSING FACILITY INFORMATION
Call the Area Agency on Aging for a complete listing of providers……..267-880-5700

Bucks County Area Agency on Aging
30 E. Oakland Ave., Doylestown, PA 18901
267-880-5700
Protective Services and TDD
1-800-243-3767
www.buckscounty.org

NUTRITIONAL SITES AND SENIOR CENTERS

Home Delivered Meals……267-880-5700

Congregate Meals / Senior Centers
Benjamin Wilson Senior Center…215-672-8380
Bensalem Senior Citizens Center..215-638-7720
Bristol Township Senior Center…215-785-6322
Central Bucks Senior Center…….215-348-0565
Falls Township Senior Center…...215-547-6563
Lower Bucks Senior Activity Ctr..215-788-9238
Middletown Senior Citizens Ctr…215-945-2920
Morrisville Senior Servicenter.…..215-295-0567
Neshaminy Senior Center….…….215-355-6967
Pennridge Community Senior Ctr.215-453-7027
Upper Bucks Senior Citizens Ctr..215-536-3066

Satellite Centers / No Meals Served
James Kinney Senior Center..215-357-8199
Eastern Upper Bucks Seniors…...610-847-8178

SUPPORT GROUPS
Alzheimer's...…….1-800-272-3900
Information on other groups…..…267-880-5700

TAX INFORMATION
Tax/Rent Rebate (PA Department of Revenue)...
…….215-443-2990……...….267-880-5700
Property Tax (Tax Claims Office).215-348-6274
State Tax Fact Line…….1-888-PA-TAXES

TRANSPORTATION
Bucks County Transport (BCT)….215-794-5554
……...….1-888-795-0740
Doylestown DART…….1-866-862-7433
SEPTA……..……..215-580-7800
National kidney Foundation Transportation Program…….….215-923-8611
Call HOSPITALS for information on limited transportation (listings on left)

VETERANS INFORMATION
County Military Affairs……...…..215-345-3307
……...……215-949-5800
National Association of Senior Veterans…….
1-800-352-2919.. www.veteransupportcenter.org

VOLUNTEER OPPORTUNITIES
Positively Aging Volunteer Program
Opportunities available throughout Bucks County…sponsored by Area Agency on Aging.
Doylestown office……..267-880-5700

NOTES

NEED A LAWYER ?

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Lawyer Referral & Information Service

1-888-991-9922 or 215-348-9413

Bucks County Bar Association
135 East State Street
Doylestown, PA 18901

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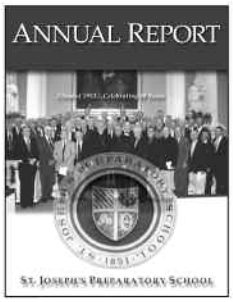

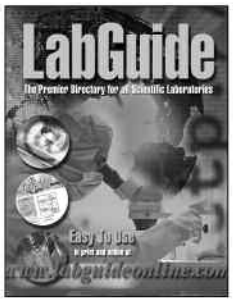

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leahyassoc@verizon.net

Bucks County Area Agency on Aging
30 E. Oakland Ave., Doylestown, PA 18901
267-880-5700 Protective Services
and TDD 1-800-243-3767
www.buckscounty.org/aging