



Elder Law Guys: Home for the holidays; inflation abounds

FRANK PETRICH AND JULIAN GRAY

DEC 26, 2021

7:00 AM

Home for the holidays

We've written in past columns around the holidays about the need for parents and older loved ones to use this time to discuss with their kids and trusted family members their health care wishes, financial matters, their "dispositive" scheme (how and to whom they want their stuff to be distributed at their death), and where their important documents are located.

With the increase in vaccinations against the ongoing COVID-19 pandemic, more people have been willing to travel to see older loved ones — many of whom have been living in various degrees of isolation.

If you are one of these travelers home for the holidays, use this as an opportunity to be proactive to check on both the physical and mental condition of your loved ones.

This would be a good time to also check on their financial health. Why? Well, because of the increasing amount of financial fraud against the elderly, the Department of Justice and the FBI created the Elder Justice Initiative to deal with "elder fraud" (a financial fraud scheme which targets

or disproportionately affects people over the age of 60). In 2000, the FBI also created the Internet Crime Complaint Center to help people dealing with financial fraud.

In 2020, the center reported receiving 105,301 complaints from victims over the age of 60 with total losses in excess of \$966 million. And these were just the ones that were reported.

These victims become prime targets as they are thought to have significant financial resources, are generally more trusting of others than those who are younger and may be embarrassed to tell anyone they were duped.

Yes, having this type of discussion initiated by a child is difficult, if not downright onerous. But it is certainly better to be proactive and have it while they are competent and not declining.

This is especially true if the child is normally living at a distance. The conversations (yes, it may take more than one) could be centered around helping the family member plan for future needs before a crisis occurs.

Ask some basic questions such as:

- whether they know how much money they have,
- where the money is,
- where their estate planning documents are located,
- who their financial adviser and attorney are,
- who their physician is,
- the medications they are taking,
- what planning have they done for potential long-term care needs and
- what close friends they think they can depend upon.

These are just some questions that can give the child better insight into the parents' life and to see some possible area for assistance. Also take the visit as an opportunity to check with the parents' neighbors, friends and others with whom they may have contact to see if they notice any changes in your parents to compare with your own observations.

Not necessarily the rosier of holiday joy, but one with some increased peace of mind perhaps for both the child and the parent. Not too bad of a holiday present in our minds.

Inflation abounds and in all the wrong places!

So you think inflation is now an issue. Well, hold on to your hats and everything else. The following should chill the cockles of your heart.

For medical assistance purposes, one of the leading phrases is the "penalty divisor," which is a dollar amount that determines the "penalty period."

This is used to determine the penalty for violating Medicaid's look-back rule.

The "penalty period" is based on the amount of assets gifted within the look-back period of five years for nursing home care divided by the "average daily private pay rate" for nursing home care in the state in which one resides.

As a simple example, take an average cost of such care of \$10,000 per month. You gave away \$100,000, and thus this amount is divided by \$10,000, which equals a penalty period of 10 months ($\$100,000 \div \$10,000 = 10$ months). During this timeframe, an individual, or their family, will have to pay privately for such care.

Well folks, here is where it gets wildly complicated.

The Pennsylvania Department of Human Services recently announced new average private pay rates for Pennsylvania nursing homes. The average daily pay rate went from \$364.90 per day (\$11,099.04 per month or \$133,188 per year) in 2021 to \$482.50 per day (\$14,676.04 per month or \$176,113 per year) for 2022, a whopping 32.2% increase in one year!

Most of us thought this was a misprint and we confirmed that it was not.

How in the world did this occur? We've seen no reasonable explanation for a rate increase of this amount in such a short period of time. One heck of a holiday gift for our most fragile population, eh. Stay tuned on this one.

Julian Gray and Frank Petrich are certified elder law attorneys who practice in the Pittsburgh area at Gray Elder Law. Send questions to elderlawguys@grayelderlaw.com or visit grayelderlaw.com.

First Published December 26, 2021, 7:00am