

LAW OFFICE OF STEPHANIE L. SCHNEIDER, P.A.

CERTIFIED ELDER LAW ATTORNEY BY THE FLORIDA BAR

1860 N. PINE ISLAND ROAD, SUITE 111

PLANTATION, FLORIDA 33322

TELEPHONE (954) 382-1997

FACSIMILE (954) 382-9997



PROPER PLANNING MAY CREATE PEACE OF MIND



August 2004

BEWARE STRUCTURES FOR SSI CLIENTS

A structured settlement can be beneficial for clients under certain circumstances. Sometimes, a structure is used for plaintiffs who do not receive any government assistance and do not have the maturity or financial knowledge to properly manage their proceeds. We may also consider using a structure for a Medicaid plaintiff who does not want to lose their public assistance. If the amount of the monthly structure payment, when added to other sources of income, is within qualifying limits the client can continue to receive Medicaid.

However, if the client is receiving SSI benefits through the Social Security Administration there are additional concerns that must be addressed before purchasing a structure. **SSI rules are more restrictive than Medicaid rules so one can not assume that just because a structure may work for Medicaid that it will also work for SSI.**

An annuity, whether deferred or immediate, is a countable resource under SSI rules.

There is currently a case on appeal involving a child whose special needs trust receives monthly pay-

ments from a structure. The settlement benefits were irrevocably assigned to the trustee. The SSA has taken the position that the monthly payments are countable income to the SSI recipient. Consequently, the SSI recipient's income exceeds the legal limit and he lost both his SSI and Medicaid benefits (Medicaid was terminated because in Florida a person receiving SSI automatically is approved for Medicaid). While the appeal is pending, the trustee will need to use trust assets to pay for the medical care that was previously covered by Medicaid. This is unfortunate because a trust beneficiary has no ownership interest in the structure and has no legal right to liquidate it.

Until there is a written SSA policy stating that SSA will not count a structured settlement annuity that pays to a special needs trust as a resource or as income, we may want to caution our clients to act conservatively. If our client chooses to use some settlement proceeds to purchase a structure that pays into an annuity, they need to be prepared that SSA may count that monthly payment as income resulting in the possible loss of their SSI and Medicaid benefits. In that event, the special needs trust will become the

source of payment for all of the individual's needs.

ANNOUNCEMENTS:

Stephanie is the Past Chair of The Florida Bar Elder Law Section

Our firm is a proud Business Patron of the Eagle Program of the Academy of Florida Trial Lawyers.

Meet The Staff

Bonnie Hale-Legal Assistant

- Special Needs Trusts
- Medicaid & SSI
- Nursing Home/ALF Resident Rights
- Estate Planning

Flo Koplo - CLA

- Guardianship
- Probate
- Trust Administration
- Court Appointments

Myrna Hambro-Secretary

Regina Walsh-Assistant

Andrea Pinsonneault-

Marketing/Public Relations Coordinator