



Andrew Byers, Michigan Elder Law Attorney

Estate & Longevity Planning, Veteran's Benefits, Medicaid Planning and Qualification

Home	
Practice Areas	
Medicaid Qualification	
<b>Veterans Benefits</b>	
The Benefits	
<b>Avoid Annuity Scams</b>	
2009 VA Report	
Estate Planning	
Trust Settlement	
Probate and Estates	
Guardianship	
Articles	
Receive our Newsletter	
Consumers Guides	
Upcoming Events	
Michigan Elder Law Today	
About Andrew Byers	
Map and Directions	
Contact Us	
Site Map	
Legal Advisory	

The popularity of the Department of Veterans Affairs Improved Pension program is due in part to certain financial services organizations promoting their products with assisted living facilities. At first glance, it seems to be a great partnership, in that both the financial service organizations and the facilities are helping veterans obtain a benefit that helps pay for their care at the facility, care they might not otherwise be able to avoid. Unfortunately, these organizations may fail to take into account (or don't care about) the probable long-term Medicaid issues of veterans, as well as the tax and investment-related issues associated with obtaining Veterans benefits. This could result in an assisted living facility having some liability to a resident for future loss of eligibility for Medicaid benefits.

It is common for financial service organizations, under the guise of "supporting aged veterans," to suggest that excess assets be given away to the veteran's adult children and then placed in annuities. This is done under the guise of meeting the Improved Pension program's asset requirements. Unfortunately, if within the next five years the veteran or his spouse should require long-term skilled care in a nursing home, he or she soon discovers that the rules for obtaining Medicaid benefits are quite different than the rules for obtaining VA benefits. The veteran and/or their spouse can be denied Medicaid benefits and penalized for a period of time, largely due to the gifting of money to their children or the purchase of an annuity that does not comply with the Medicaid requirements.

How can the Medicaid penalty situation be resolved? The only cure is to have the annuities cashed in and returned to the veteran or their spouse. Unfortunately, cashing in an annuity often triggers substantial early-withdrawal penalties, due to the high commissions paid to the financial services organization when they sell the annuity. Due to these early-withdrawal charges, even if the gifted annuity is cashed in, the family will not have enough money from the annuity to cure the Medicaid penalty. This means that the nursing home resident can be discharged from the facility for nonpayment or the family will have to pay the nursing home bill themselves. When a veteran's family realizes that the veteran has lost money and may still be ineligible for Medicaid benefits, they are upset at the loss of both assets and Medicaid benefits.

If someone advises you to purchase an annuity to obtain Veterans benefits, you should have the annuity contract and entire situation reviewed by an Elder Law attorney who is also accredited by the Department of Veterans Affairs.

These financial services organizations often do business under official sounding names that make them sound like a benevolent, non-profit organization for Veterans. If they truly believe that an annuity or their other financial services are important, then why don't they use their real names? If you have been approached by such an organization, you can check with the State of Michigan's to confirm who you are actually dealing with. Often, you will find a document called "assumed name." If you click on the assumed name, you will find the organization's real name (these crooks are sneaky). You will then need to run the search again using the real name. You can then click on the organization's articles of incorporation, where you will most likely find "financial planning" or "annuity sales" listed. Click this link to the State of Michigan's business entity search:

[http://www.dleg.state.mi.us/bcs\\_corp/sr\\_corp.asp](http://www.dleg.state.mi.us/bcs_corp/sr_corp.asp)

Remember, you do not have to purchase an annuity in order to obtain Veterans benefits.

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