

# ELDER LAW PRE-PLANNING

# What is Medicaid and Who Does it Help?

- Medicaid
  - In-home Care (PACE & MI Waiver)
  - Nursing Home
- Misconceptions
- Asset Level Test
- Income Level Test



# What is Medicaid and Who Does it Help?

- Exemptions
- 5 Year Look Back
- **2007 Estate Recovery** - Michigan is one of the few states where they don't automatically place a lien on your home when you apply for Medicaid. Estate Recovery **ONLY** happens when you go through Probate.

# When Do You Need Long-Term Care Planning?

- 3 ADLs (Activities of Daily Living) – Personal Care Needs
  - Bathing
  - Dressing
  - Using the toilet
  - Transferring (to or from bed or chair)
  - Ambulation
  - Eating

# When Do You Need Long-Term Care Planning?

- How to pay for Long-Term Care?
  - Private Pay
  - Friends/Family
  - Long-Term Care Insurance
  - Medicaid



# How Asset Protection Planning Can Protect You

## What is a Trust?

- Two Types of Trusts
  - Testamentary Trusts
  - Living Trusts
    - Revocable
    - Irrevocable
      - Protection
      - Tax-Motivated



# How Asset Protection Planning Can Protect You

## Revocable Living Trust

- Avoid Probate
- Private Matter
- Planning Flexibility
- \*\*Asset Protection for Beneficiaries



# How Asset Protection Planning Can Protect You

## Asset Protection Trust

- Avoid Probate
- Private Matter
- Planning Flexibility
- Asset Protection for **YOU** & Beneficiaries
  - Long-Term Care Costs
  - Law Suits
  - Creditors & Bankruptcy



# How Asset Protection Planning Can Protect You

## Asset Protection Trust

- Grantor gives up no management control over the assets and Trust assets included in the Grantor's estate at death receive a full step-up in basis to beneficiaries.
- All income and expenses of the trust will pass through the Grantor during their lifetime.

# How Asset Protection Planning Can Protect You

## Asset Protection Trust

- The Grantors can be the trustees of their trust during their lifetime.
- Until the Grantors pass away, the trustee is authorized, but not required, to use the income from the trust for the best interests of the Grantor, and the income and principal of the trust for the best interests of their beneficiaries, and their issue, in the trustee's discretion.

# How Asset Protection Planning Can Protect You

## Asset Protection Trust

- Each Grantor shall have the lifetime power effective at any time to: (1) appoint the entire principal and any accrued and undistributed net income of the trust, and (2) change the beneficiaries, amount, bequests and/or the timing, manner or method of distribution as they may wish.

## Mr. & Mrs. Richards: Protection Plan

### Meet Mr. & Mrs. Richards (Age 75)

- Assets

– House	\$ 150,000	
– Cash	\$ 152,000	
– Car/Misc.	\$ 25,000	<b>\$577,000</b>
– Stocks/Inv.	\$ 250,000	

If they give assets away now, how long will it be until they could qualify for Medicaid?

Could they protect their assets sooner?

## Mr. & Mrs. Richards: Protection Plan

**Total assets at risk (no plan) \$577,000**

- With plan
  - Immediately Protect **\$449,000**
  - Balance at risk... **\$128,000** *only 37* months
  - After **37** months (still healthy)  
protect **\$3,459/mo.** until month 60 when it's...

**All Safe!**

**We all have our OWN Numbers!**