

LWP CONNECTION AUGUST 2015

THE WISDOM OF NEVER GIVING ASSETS TO THE KIDS

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Invariably, in every workshop I have presented to clients over the last 10 years, I've been asked the question, "When should I give my house (or other assets) to the kids?" My answer is quick, swift and with a smile: "Never. In fact, you never want to give anything to anyone you love."

That usually gets their attention and draws a frown – until I explain. Giving assets to your children defeats the very thing the client is often attempting to accomplish. When I ask why they want to give their assets to the kids, the response 99 percent of the time is that they want to protect the assets. I respond, so the way you protect your assets from your creditors and predators is to give it to your kids so those assets are subject to all their creditors and predators? Who has more creditors and predators, you or your kids? And then I get the blank stare.

The key element when doing asset protection planning from general creditors and predators, or for Medicaid eligibility and long-term care, is to be properly informed of the options available. Not only can transfers in assets to the kids subject your assets to risk by the kids' bankruptcy, divorce, lawsuits, and even your child's death, but it could have adverse income tax consequences.

Transfers to children are at a "carry over" tax basis to them; that is, they inherit the asset at what you paid for it. This could be extremely detrimental in the case of highly appreciated assets. In fact, it creates an income tax on sale that would not otherwise have been due, had the client held it to death and then transferred it to the children. The key point is to know how to get the best of both worlds.

That's where the IPUG™ protection trust is so essential. The Irrevocable Pure Grantor Trust™ allows the grantor to be the trustee, to benefit from the trust (to the extent they so desire while understanding the impact) and to be able to change their beneficiaries or any other provisions they desire. This is very empowering to clients who traditionally believe once

you create an irrevocable trust, you can't change it, you can't benefit from it, and you can't control it.

In fact, you can do all three; it's just in how you do it. The core distinction in an IPUG™ trust is that you must give up only what you want to protect. For example, if you want to protect your assets, you must give up, forever, the right to own those assets. But you do not have to give up the right to control those assets, manage those assets or even get the beneficial interest and use of those assets! The most common way grantors benefit from their assets that they no longer can reach is by living in the house they have transferred to an IPUG trust, or by continuing to maintain receipt of the income and dividends from any cash investments or brokerage accounts in which they have put inside the IPUG™. Most people realize they don't really need the assets; they just need the income produced from them and want to maintain control.

For those who do need access to their assets, they are not candidates for the use of the IPUG™, or any other protection trust. They would use a typical revocable living trust, which accomplishes their estate planning needs and can provide asset protection after death. That's why you never want to give the money to the kids after you die either. One of the greatest advantages seniors have is, after death, the ability to transfer their assets to their children in a trust that the children can control and benefit from any time they want – but creditors or predators can never invade those assets, for the life of the child! This includes the government, lawsuits, divorces, bankruptcies, and even nursing homes.

The money is flat-out safe.

Why would anyone give anything to anyone they love when they can give it to an IPUG trust that protects it for them while they're alive and for their children for their lifetimes after they're gone.

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Tri-Annual Practice Enhancement Retreat Attendee, St. Louis, MO

VA APPROVAL – NOW WHAT?

Sabrina Scott, Director of VA Services, Lawyers With Purpose, LLC

Congratulations! You received approval of your VA Pension with Aid and Attendance claim. Your job is done, right? Well, not quite. Once you receive an approval letter, there are three steps your firm should follow: Review for accuracy, identify next action, and then inform your client of the results and what to do next.

Review for accuracy

Just because you have an approval does not mean there are no errors in the decision. The two main issues to check are (1) the effective date (payment start date) and (2) the monthly benefit amount. You should already have a pretty clear understanding of the eligibility date and the expected amount when you file the formal claim. The payment start date should be the first day of the month following the month in which you submitted the informal claim/intent to file or formal claim. For example, if an intent to file was submitted and received by the VA on May 20, 2015, then the eligibility date would be June 1, 2015. The monthly benefit amount, assuming that the financial information you had was accurate, is the Maximum Annual Pension Rate (divided by 12) minus Income for VA Purposes (IVAP). For example, the Maximum Annual Pension Rate (MAPR) for a married veteran who needs the aid and attendance of another person with activities of daily living is \$2,120 per month. The gross income of the veteran and the spouse is \$4,500 per month. After deducting the veteran's assisted living facility costs of \$5,000, the IVAP is \$0. Thus, the difference between the monthly MAPR of \$2,120 and \$0 is \$2,120 and the veteran would be paid the maximum.

When using the Lawyers with Purpose copyrighted VA Benefits Qualification Worksheet, these figures are automatically calculated for you. On the approval letter from the VA, this information is generally found on the first page in the form of a table. This table will have at least three columns for "Monthly Entitlement Amount," "Payment Start Date," and "Reason for Change," and as many rows as there are changes in rate.

Identify next action

If there are errors, then you should identify the deadline for your response. Responses may include a Request for Reconsideration (RFR) and/or a Notice of Disagreement (NOD). You should also identify what further information you may need in order to document the grounds for your RFR or NOD. The NOD must be filed within one year of the date on the decision letter."

In contrast, there is no real deadline for the request for reconsideration, as it is not a formal VA adjudication process. The RFR is essentially the request that the original adjudicator reconsider his/her original decision because you can provide new information or enlightenment regarding previously submitted information that the VA failed to interpret per their regulations. It is always worth filing a request for reconsideration, even if you plan to file a Notice of Disagreement, because the former process is much quicker than the NOD route. If there are no errors in the approval, the next action may be simply to inform the client. However, the VA may propose a finding of incompetency on the basis of the physician's statement (VA form 21-2680) provided with the claim. You will immediately know if there is an incompetency proposal because there will be two extra columns in the table already mentioned, titled "Amount Withheld" and "Amount Paid." There is also an additional section in the letter called, "We Have Withheld Benefits." Sometimes the VA includes a simple response form to complete and return, but even if it does not, you should respond by returning a 21-4138 Statement in Support of Claim that acknowledges and accepts the finding of incompetency and nominates a fiduciary, usually a family member.

Inform the client

Once you identify the next action, you must inform the client – preferably in writing – of the accuracy of the approval letter and explain the next step(s), if any. This can be as simple as confirming the approval and the monthly benefit amount. It should also explain when to expect the first monthly deposit as well as the receipt of any lump sum retroactive benefits. If applicable, you would also describe what to expect during the fiduciary process or appeal. Finally, be sure to be specific in any requests for further documentation to expedite data collection and your responsiveness to the VA. Getting an approved VA claim can be a challenge. You should celebrate each one! However, don't overlook these three essential steps. Incorporate them into your firm's processes. Congratulations!

OCTOBER 19-24, 2014 PRACTICE ENHANCEMENT RETREAT WEEK

- Practice With Purpose – October 19th – October 21st
- Tri-Annual Practice Enhancement Retreat – Wednesday October 21st – Friday October 23rd
 - How to bring an Associate into your Practice With Purpose and maintain standards
 - Writing Your Way to Success
 - How to Hire and How to Fire with Confidence
 - Gun Trusts
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 - ...and many more!

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MEMBER OF THE MONTH

Peggy Timmel
New Albany, IN

What is the greatest success you've had since joining LWP?

Streamlining processes which ultimately led to increased revenue. Following the system and using the forms have helped us to define processes and roles, and our processes (including follow-ups) have led us to higher client retention rates and increased revenue. We actually strategize

and plan on increasing revenue (such as establishing a fee schedule), and this is a big change from how we operated 2-3 years ago.

What is your favorite LWP tool?

The team answer is Actionstep! Moving to this system has truly had the biggest impact, and it's been great being able to streamline so much through the cloud-based software. The way it leads us through processes and follow-ups has truly revolutionized our practice, and we continue to be excited with each new development and learning curves on how the software can be tailored to our needs. My (Peggy's) response is I'm still learning it as I take most of the meetings and do all the workshops.

How has being part of LWP impacted your team and your practice?

We are a united team who is supported through LWP and the processes within. We have had no need to market (okay, very little) because we have such great networking relationships with nursing homes and clients. The community loves our workshop. We are closer as a team because we are part of LWP through the retreats, through lifelong learning, and being a part of the overall LWP system. We are able to support each other more, we have been able to network with other firms, and we have an actual tangible system through LWP. You've seen us refer to team, I have to say that ultimately it is the guidance from Molly, Roz, Nedra, Susan and Candace were all instrumental in helping me get the team together. We've added a seat or two to the bus, but no one has gotten off it.

EVENTS NOT TO BE MISSED

Member Events

Every Monday - 4:00 PM EDT - **Live Case Study Review**

Every Wednesday - 2:00 PM EDT - **Actionstep Training**

August 14 - 12:00 PM EDT - **Marketing Roundtable** - Marketing In "Rural" Communities

August 19 - 12:00 PM EDT - **VA Marketing Moments** - Knowing and Using Military Holidays to Connect with New Clients

Public Events

August 6 - 3:00 PM EDT - **Protecting IRAs After Clark v. Rameker**

August 25 - 4:00 PM EDT - **iPug Business Planning**



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OPERATIONS AND HOW TO OPTIMIZE THE NATURAL TALENTS
AND ABILITIES OF YOUR TEAM.”** CSILLA SMITH

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