

ELDRS Update

Winter Edition 2015, Volume IV, Issue 4

This is a publication of the Elder Law & Disability Rights Section of the State Bar of Michigan. All opinions are those of the respective authors and do not represent official positions of the Elder Law & Disability Rights Section or the State Bar of Michigan. Comments or submissions should be directed to Christine Caswell, Managing Editor, at christine@caswellpllc.com.

Sign up for ELDRS' Spring Conference

March 6, 2014

The 13th Annual Spring Elder Law and Disability Rights Section Conference will be held at the Inn at St. John's in Plymouth, Michigan, on Friday, March 6, 2015, from 8:30 a.m. to 4:30 p.m. Topics include tax uncapping, Veterans' benefits, Community Mental Health, advanced directives, nursing homes, and the probate court. For more information or to register, click [here](#). The deadline for on-line registration is February 27. After that, registration will be on-site.

Legislative Update: Looking Ahead to the 2015-16 Session

By Todd Tennis, Capitol Services, Inc.

The Michigan legislature has been sworn in, committees have been named, and the governor has presented his State of the State Address. In the coming weeks, the budget process will kick off with Gov. Snyder's Budget Presentation, and the House and Senate Appropriations Subcommittees will begin their work. At the same time, a host of new legislation (much of it recycled from bills that failed to pass last year) will be introduced, and the House and Senate standing committees will begin holding hearings and moving bills to the House and Senate floors. Over the next several weeks, Elder Law and Disability Rights Section members will have no shortage of legislative and budget issues to review, embrace, or on which to express concern.

Governor Seeks "River of Opportunity" in State of the State Address

Gov. Snyder's fifth State of the State address was, as one would expect from a governor who just won a second term, filled with highlights from previous successes. He spent a little time pitching the May ballot proposal to increase taxes to fund roads and education but dedicated the majority of his speech to a concept he called the "river of opportunity," outlining his desire

to switch the emphasis of state government to help people break away from a cycle of dependency. Part of his plan included a proposal to combine the Department of Community Health and the Department of Human Services into one large entity. He also called on the legislature to put more focus on skilled trades programs. Lastly, the governor spoke about the 10 Prosperity Regions that will be a focus for his administration in the coming year. By using the prosperity regions, he hopes to better determine and target the specific needs of a region on several topics, such as economic development.

Things to look forward to in the upcoming year:

- Governor's Executive Budget Release on Feb. 11
- Energy Special Message, March
- Criminal Justice Special Message, June
- Comprehensive Substance Abuse Policy, October

Budget Woes Beset General Fund

The first item of business for the new legislature will be dealing with the projected revenue shortfall in Michigan's general fund. In mid-January, the Revenue Estimating Conference (made up of representatives from the House and Senate Fiscal Offices and the Department of Treasury) met to lay out projections for state revenues over the first part of 2015. The latest forecast is bad news as they are projecting a shortfall of between \$330-\$380 million in the general fund if no action is taken.

Reaction from the Snyder administration was that the deficit was caused by an unforeseen number of businesses taking advantage of tax credits contained within the Michigan Business Tax. The economists who participated in the Revenue Estimating Conference contend that the overall economy is still strong in Michigan, and that the shortfall stems from an underestimation of how many businesses would apply for and qualify for the tax credits. This view is bolstered by the School Aid Fund—which is not affected by the Michigan Business Tax—showing a slight surplus.

If the legislature plans to balance the budget solely through cuts that don't affect education that will signal potential dire reductions to health and human services programs. The governor made a point of increasing funding in this year's budget for programs to help seniors, such as the Home and Community Based Waiver, PACE, and an expansion of services provided through Area Agencies on Aging and Community Action Agencies. These could all be in jeopardy. Elder advocates will need to make their voices heard early and often if these programs are to be protected from the budget axe.

Governor Snyder Proposes Combination of DCH and DHS

This move was telegraphed late last year when DCH Director Nick Lyon was named interim director of DHS to replace outgoing director Maura Corrigan. Details were few, but reactions from state legislators to the announced change were generally positive. However, while most legislators, when asked, agreed that merging the departments would create efficiencies, they were not clear on how those efficiencies would be achieved. In one case, a state lawmaker apparently was unaware of the difference between the Michigan Department of Community Health and county health departments. This indicates that, if nothing else, state legislators will get an education on how various state and local agencies work together. For employees at DHS and DCH, the merger combined with a major budget shortfall will create a very tense environment. It also will make efforts to increase the number of Adult Protective Services workers more difficult.

Rep. Heise Reintroduces Pooled Trust Bill

Legislation to allow persons age 65 and older to utilize special needs trusts was introduced last session but failed to win enough support to move it to the governor's desk. Rep. Heise has reintroduced the legislation this year, with a new bill number: House Bill 4034. The bill was referred to the Families, Children and Seniors, chaired by Representative Tom Hooker.

Senate Judiciary Committee Taking up Elder Abuse Bills

A two-bill package sponsored by Sen. Virgil Smith (D-Detroit) seeks to increase penalties on perpetrators of crimes against individuals aged 65 or older. The bills create automatic penalties against those who assault or commit fraud against an elder adult or vulnerable adult. The penalties range from misdemeanors for simple assault and increase to felonies for assaults that cause injury or death. Similarly, fraud that constitutes less than \$1,000 is a misdemeanor (unless the perpetrator has previously committed similar crimes, in which case it becomes a felony). Fraud against an elder or vulnerable adult of more than \$1,000 would be a felony. The Senate Judiciary Committee will have a hearing on these bills on February 10 at 3pm.

Legislation Creating "Continuing Care Communities" Signed into Law

A package of legislation aimed at allowing and regulating "continuing care communities" was signed into law by Gov. Snyder on December 31 of last year. The package of bills seek to make it easier for one umbrella organization to operate several different types of long-term care facilities (e.g. nursing home, home for the aged, independent living, etc.) on the same site. The bills would also ease the transition of an individual from one level of care to another. The legislation passed unanimously in both chambers.

Key Committees for ELDRS Named

House and Senate leadership has completed their first major task of 2015: naming legislative committees and subcommittees. What used to be the House Families, Children and Seniors Committee has been shortened to the House Families Committee, but it is expected that legislation relating to the elderly will still be sent there. The counterpart Senate committee is the Senate Families, Seniors and Human Services Committee. In addition, both the House and Senate Judiciary Committees and the House and Senate Health Policy Committees often take up legislation of importance to ELDRS' members.

On the Appropriations side, the majority of our interaction is with the House and Senate Subcommittees on the Department of Community Health and the Department of Human Services. As of this writing, the Legislature plans to do the two departments' budgets separately for at least the next fiscal year. The following is a listing of these committees:

Senate Health Policy

- Mike Shirkey (R) Committee Chair
- Joe Hune (R) Vice Chair
- Margaret O'Brien (R)
- Jim Marleau (R)
- Rick Jones (R)
- Jim Stamas (R)
- David Robertson (R)
- Curtis Hertel Jr. (D) Minority Vice Chair
- David Knezek (D)
- Hoon-Yung Hopgood (D)

Senate Families, Seniors and Human Services Committee

- Judy K Emmons (R) Committee Chair
- Phil Pavlov (R) Vice Chair
- Rick Jones (R)
- Tom Casperson (R)
- Bert Johnson (D) Minority Vice Chair

Senate Judiciary

- Rick Jones (R) Committee Chair
- Tonya Schuitmaker (R) Vice Chair
- Tory Rocca (R) (cont. below left)
- Patrick Colbeck (R)
- Steven M Bieda (D) Minority Committee Chair

Senate Appropriations Subcommittee on DCH

- James Marleau (R), Chair
- Mike Shirkey (R), Vice Chair
- Geoff Hansen (R)
- Curtis Hertel (D), Minority Vice Chair

Senate Appropriations Subcommittee on DHS

- Peter MacGregor (R), Chair
- John Proos (R), Vice Chair
- Gregory (D), Minority Vice Chair

House Health Policy

- Mike Callton (R), Chair
- Henry Vaupel (R), Vice Chair
- John Bizon (R)
- Lee Chatfield (R)
- Kathy Crawford (R)
- Daniela Garcia (R)
- Joe Graves (R)
- Thomas Hooker (R)
- Holly Hughes (R)
- Klint Kesto (R)
- Jim Tedder (R)
- Rob VerHeulen (R) (cont. below left)
- Ken Yonker (R)

- George Darany (D), Minority Vice Chair
- Winnie Brinks (D)
- Tom Cochran (D)
- Erika Geiss (D)
- Frank Liberati (D)
- Sheldon Neeley (D)
- Phil Phelps (D)
- Robert Wittenberg (D)

House Families

- Thomas Hooker (R), Chair
- Jim Runestad (R), Vice Chair
- Kathy Crawford (R)
- Anthony Forlini (R)
- Henry Vaupel (R)
- Marcia Hovey-Wright (D), Minority Vice Chair
- Frank Liberati (D)
- Alberta Talabi (D)

House Judiciary

- Klint Kesto (R), Chair
- Peter Lucido (R), Vice Chair
- Tristan Cole (R)
- Kurt Heise (R)
- Martin Howrylak (R)
- Joel Johnson (R) (cont. above right)

- Jim Runestad (R)
- Jeff Irwin (D), Minority Vice Chair
- Stephanie Chang (D)
- Vanessa Guerra (D)
- Rose Mary Robinson (D)

House Appropriations Subcommittee on DCH

- Rob VerHeulen (R), Chair
- John Bizon (R), Vice Chair
- Chris Afendoulis (R)
- Jon Bumstead (R)
- Edward Canfield (R)
- Laura Cox (R)
- Brandon Dillon (D), Minority Vice Chair
- Pam Faris (D)
- Kristy Pagan (D)

House Appropriations Subcommittee on DHS

- Earl Poleski (R), Chair
- Michael McCready (R), Vice Chair
- Tim Kelly (R)
- Rob VerHeulen (R)
- Brian Banks (D), Minority Vice Chair
- Henry Yanez (D)

Editor's Note: At the federal level, the Special Needs Trust Fairness Act was reintroduced in the House. Reps. Glenn Thompson (R-PA) and Frank Pallone (D-NJ) reintroduced the Special Needs Trust Fairness Act (H.R. 670) to allow individuals with disabilities, who have the mental capacity, to create their own special needs trusts. Under current law, only a parent, grandparent, legal guardian of the individual, or a court can establish a 42 U.S.C. § 1396p(d)(4)(A) special needs trust. Those who do not have a parent, grandparent, or legal guardian must petition the court causing unnecessary legal fees.

Source: National Academy of Elder Law Attorneys

VA's Proposed Rule Changes Every Elder Law Attorney Must Know

By Michele P. Fuller, Michigan Law Center PLLC, Sterling Heights

The Veterans Administration (VA) recently published rule changes that will drastically affect those whose practice involves protecting assets and accessing enhanced pension benefits, known as Aid and Attendance. Aid and Attendance is a benefit for wartime veterans and their surviving dependents that provides income to offset the cost of medical expenses for those who meet the medical needs, income, and asset thresholds. Unlike the Medicaid Assistance programs, there is currently no penalty or disclosure requirement for gifting prior to the application for benefits.

However, on January 23, 2015, the VA introduced an amendment to 38 CFR Part 3 which will change the requirements and disclosures regarding net worth, transfers, medical expenses, and income deductions. These changes are the result of recommendations made by the Governmental Accounting Office (GAO).

The proposed rule changes are summarized as follows:

1. The proposed rule 38 CFR Sec. 3.274 places limits on the net worth equal to the maximum community spouse resource allowance. Annual income would now be added to the calculation of net worth. This is a significant change.
2. A dependent child must also meet this new net worth limit in order to qualify for benefits. Significantly, a dependent child's net worth is calculated by the addition of the child's income, the child's assets, AND the income and asset of the veteran or his or her surviving spouse. 38 CFR Sec. 274(d)(2)-(4).
3. Net worth is calculated at the time of the original pension application, re-application after a period of ineligibility, upon request to qualify a new dependent, or upon report of a change of circumstances. 38 CFR Sec. 2.74(e)
4. Allowable income exclusions, such as expenses for food, shelter, clothing, health care, education, and rehabilitation, may be deducted when calculating net worth. 38 CFR Sec. 3.274(f)(1)-(5).
5. Assets in excess of the allowable net worth limits are subject to penalty if transferred for less than fair market value. This includes the purchase of an annuity. 38 CFR Sec. 3.276(a)
6. There will be a 36-month look back period. 38 CFR Sec. 3.276(a)(7).
7. A transfer to a trust for the benefit of a child, which the VA has rated as incapable of self-support pursuant to 38 CFR Sec. 3.36, and the veteran, the veteran's spouse, or surviving spouse can benefit. 38 CFR Sec. 3.276(d).
8. The penalty period is calculated by dividing the maximum allowable enhanced pension rate by the amount of the transfer, and the penalty begins the month following the transfer. 38 CFR Sec. 3.76(a)(7)(e)(3).

Keep in mind these are only proposed changes. There should be a time for public comment before they are implemented. However, now that there is more clarity regarding the proposed regulation changes in a new look-back period, amount of the penalty, and how the penalty will be assessed, attorneys can properly counsel their clients. Further, as members of ELDRS, using this information, we can inform our referral sources, colleagues, and the community as to the need for implementation of planning opportunities pre-need.

ABLE Act Overview

By Michele P. Fuller, Michigan Law Center PLLC

The long awaited Achieving a Better Life Experience (ABLE) Act was signed into law on December 19, 2014. Modeled after a 529 Plan to offset the cost of higher education, this Act gives individuals with disabilities another way to set aside funds to improve their quality of life by providing for goods and services otherwise unavailable through governmental programs. Also, like a 529 Plan, earnings in ABLE accounts are not taxed, and contributions are made with after-tax dollars and are not deductible.

Additionally, the account is state-sponsored and offers tax-free savings as long as the funds are used for allowable purposes. In the case of the ABLE Act, the funds must be used for “qualified disability expenses.” Just what those expenses will be has yet to be determined. However, for those on Supplemental Security Income (SSI), any distributions from the account for food or shelter will be counted as income up to the maximum allowable deduction of one-third (1/3) for In-Kind Support and Maintenance (ISM).

Eligibility to establish an ABLE account is different from traditional special needs planning. An individual must have “significant disabilities” with an onset prior to age 26. Proof of disability and the age of onset are easiest for someone on SSI prior to age 26. For someone establishing the account without having first been on SSI, he or she must prove having severe functional limitations. What proof will be required to be submitted and who will be evaluating the information is not known yet.

Like 529 plans, each state must implement and administer its own ABLE account regulations once the Treasury Department has issued regulations. Specific rules and procedures are expected this year. Of particular interest is the definition of “qualified disabilities expenses.” Also like 529 plans, each state will set its own lifetime contribution limits, and annual contributions are limited to the annual gift tax exclusion, which was \$14,000 in 2014. However, in addition to the \$2,000 asset limit, individuals on SSI will be limited to a \$100,000 balance in an ABLE account for it to be considered an exempt resource. Also, if the individual is a Medicaid recipient, upon his or

her death, any remaining assets must be used to reimburse the state Medicaid agency, just like a (d)(4)(A) special needs trust.

The ABLE account is another tool in the special needs planner's toolbox, but the limitations and payback still make the third-party special needs trust a much better planning option. There are no contribution limits, no restrictions on use, no age limits, no proof of disability, and no state payback requirement. However, for the individual who wants control over his or her own funds and is able to use them within the proscribed guidelines, it may be a preferable option.

A helpful guide (see the next two pages) to compare and contrast the different special needs planning tools was created by Kevin Urbatsch, who will be our keynote speaker at the 2015 fall ELDRS conference. For members of the Academy of Special Needs Planners, the tools will be available for their use as well.

See the chart on the next two pages. This chart is courtesy of:



Issue	(d)(4)(A) SNT	Pooled SNT	Third-Party SNT	ABLE Account
Purpose of Establishment	Enhances quality of life of person with a disability by paying for goods and services without the loss of SSI or Medicaid	Enhances quality of life of person with a disability by paying for goods and services without the loss of SSI or Medicaid	Enhances quality of life of person with a disability by paying for goods and services without the loss of SSI or Medicaid	Allows individuals with disabilities to have a cash account to pay for certain expenses without loss of SSI or Medicaid
Primary Beneficiary	Person with a disability	Person with a disability	Person with a disability, but can be others	Person with a disability
Settlor/Maker	Person with a disability's parent, grandparent, legal guardian or the court	Person with a disability, plus their parent, grandparent, legal guardian or the court	Any person or entity except the person with a disability	Person with a disability or their agents, guardians, and maybe others
Trustee/Owner	Any individual or professional but not person with a disability	A non-profit agency but may outsource trusteeship to a professional	Any individual or professional but not the person with a disability	Any individual, including person with a disability
Number of Trusts/Accounts Allowed to have	Unlimited	Unlimited	Unlimited	One
Source of Funding	Person with a disability's assets	Person with a disability's assets	Assets of anyone but the person with a disability	Assets of anyone
Amount Allowed to Funded Into Trust/Account	Unlimited	Unlimited	Unlimited	Limited to annual gift tax exemption (currently \$14,000 per year)
Amount Trust/Account is allowed to hold	Unlimited, but no additional funding after age 65	Unlimited, but may incur penalty if funded after age 65	Unlimited	Currently \$100,000 for SSI recipients and up to state's 529-plan amount

Issue	(d)(4)(A) SNT	Pooled SNT	Third-Party SNT	ABLE Account
Use of Funds	Must be for “sole benefit” of person with a disability and certain disbursements may reduce or eliminate SSI or Medicaid eligibility	Must be for “sole benefit” of person with a disability and certain disbursements may reduce or eliminate SSI or Medicaid eligibility	No limitation, except for certain disbursements may reduce or eliminate SSI or Medicaid eligibility	Only “qualified disability expenses” as defined by government
Effect of Paying for Food or Shelter	Implementation of SSI ISM penalty	Implementation of SSI ISM penalty	Implementation of SSI ISM penalty	Implementation of SSI ISM penalty
Taxation of funds	Taxed as a grantor trust at person with a disability’s tax rate	Taxed as a grantor trust at person with a disability’s tax rate	Taxed as a non-grantor trust except to the extent funds are used on behalf of the beneficiary	Distributions for “qualified disability expenses” are not includable in Gross Income. All other distributions are included in GI, but reduced by “the same ratio to such amount as such expenses bear to such distributions.”
Receiver of assets from trust/account on death of person with a disability	Medicaid first, then can go to heirs or whomever is named in document	Medicaid first, then can go to heirs or whomever is named in document	Heirs or whomever is named in document	Medicaid first, then can go to heirs

Review of NAELA-Michigan Webinars:

Addressing Uncapping Issues

By Jennifer Ackroyd-Fabris, Michigan Estate Planning Law Center, Grand Blanc

The Michigan Chapter of the National Academy of Elder Law Attorneys (NAELA) has presented a series of informational webinars to the members of NAELA. The presentations have included Steve Riley and Mark Merenda speaking on marketing and websites; Bob Mannor on completing Veteran benefits' applications; and Chris Berry speaking on generating client leads. Upcoming webinars will include Doug Chalgian on SBO trusts, Chris Smith addressing Medicare benefits, and Raymond Harris on special needs planning.

In the webinar, "Get Ready for Michigan's New Uncapping Law - PA 310," Robert C. Anderson gave a presentation addressing how Public Act 310 of 2014 created new exemptions from the "uncapping" of property values for property tax purposes on transfers of ownership of residential property. PA 310 extends the exemption for transfers made between eligible relatives during the lifetime of the property owner that PA 497 of 2012 created. The extension will allow a property owner to leave residential property to eligible relatives in a trust or a will, which effectively transfers ownership on the death of the current owner without uncapping the property tax. PA 310 will only apply to transfers that took place on or after December 31, 2014.

The act is restricted to residential property and not to property that is used for commercial purposes for any reason. Another clarification is who qualifies as a "relative." Under PA 310, a transfer will not result in uncapping if the property is transferred to the owner's spouse, mother, father, brother, sister, son, daughter, adopted children, or grandchildren. However, the eligibility class does not apply to son-in-law, daughter-in-law, niece, or nephew. One could use a serial transfer for transferring property to in-laws, nieces, or nephews that would satisfy the act.

However, one transfer that remained the same is using an Enhanced Life Estate or "Lady Bird" deed. Under a Lady Bird deed, the creation of a life estate is exempt, 27a(7)(c). However, the death of the life estate holder will cause an uncapping event. Therefore, the deed can be used as an exempt transfer, but there will be an uncapping event on the death of the original owner.

One positive planning technique that has come under PA 310 is that transfers to an irrevocable trust can now be exempt as uncapping. However, a drafter must watch out, because without proper language in the trust, the property may lose its principal residence exemption (PRE) when it comes to taxes. Therefore, the trust must specifically spell out that a residence will be allowed to claim the PRE of that property. Under the act, the transfer to a trust is exempt even if the beneficiary changes inside the trust, provided the new beneficiary is within the eligible

class. PA 310 also establishes that transfers to one or more beneficiaries of a probate estate via will or intestacy must be in the permitted class of family members.

Later Marriages and Estates

Protection for the Widow or Widower “Left Out” of Older Wills

By Richard Rooney, Bradley Vauter & Associates PC, Grand Ledge

As people are living longer, it is not uncommon for seniors to enter into late-life marriages. While it good to find relationships in the later years, without proper planning, these marriages can lead to legal complications after a spouse dies. Usually these parties have children with a major stake in the estate plan from a previous marriage, and costly probate litigation can result if wills or trusts and beneficiary designations haven't been revised. But even if these aren't done, the “omitted” surviving spouse still has options in Michigan.

Some of these options are limited to just the deceased spouse's probate assets, meaning only the assets held solely in the deceased spouse's name at the time he or she passed. Others are able to reach revocable trust assets. And, in some circumstances, the protections are subject to an “offset,” referring to the amounts the surviving spouse may have received outside of probate, such as a life insurance policy or jointly held assets.

Spousal Election ([MCL 700.2201-2206](#))

The first major statutory protection for surviving spouses omitted in a will is the spousal election. Unless the right has been waived in writing, every surviving spouse has the option to abide by the terms of the will or take an “elective share.” An elective share is half the “intestate share” reduced by half the value of assets the surviving spouse received outside of the probate estate. The intestate share, which is the amount a spouse would receive if his/her spouse died with no will, can range from the whole probate estate up to \$145,000 (2014 inflation adjusted numbers) plus half of the remainder of the probate estate, depending upon what other heirs the deceased spouse left.

An example is Spouse A dies, leaving adult children and a \$400,000 probate estate. New Spouse B was never added to the estate plan or mentioned in the will but received \$100,000 from a “payable on death” or joint bank account. Spouse B's intestate share under EPIC would be \$272,500 (\$145,000 plus half of the remaining \$255,000 of the probate estate). That means Spouse B can elect half of that amount (\$136,250) reduced by half of the non-probate bank account payout (\$50,000). Spouse B is entitled to \$86,250 as a spousal elective share. This is available to either a widow or a widower. Note that a deadline is involved in making the spousal election, and the election cannot reach trust assets.

Pretermitted Spouse ([MCL 700.2301](#))

The second protection is the pretermitted spouse provision. When the deceased spouse had a will executed prior to the marriage, this provision allows the surviving spouse to claim the full intestate share of the probate estate. Unlike the elective share, the estate “pool” is reduced by anything devised to children of the deceased spouse who are not also children of the surviving spouse, whether devised directly or through a trust. Furthermore, if there is evidence that the surviving spouse was provided for outside of the probate assets, the probate court may disallow the provision’s applicability entirely. A surviving spouse can both make a spousal election and a claim as a pretermitted spouse. The probate court will grant the greater of the two amounts if the spouse qualifies for both. (See [In Re Estate of Sprenkle-Hill.](#))

Exemptions/Allowances ([MCL 700.2401-2405](#))

The final set of protections for surviving spouses are known as allowances or exemptions. The purpose is to allow the surviving family some financial stability and security during the period of readjustment after losing a family member. The three exemptions are known as the “Homestead Allowance,” “Exempt Personal Property,” and the “Family Allowance.” The allowances are set at a base statutory amount that is annually adjusted on Michigan Department of Treasury numbers. (See [MCL 700.1210.](#)) All the amounts discussed are 2014 numbers.

The homestead allowance of \$22,000 is granted to surviving spouses to insure they don’t end up out in the cold, so to speak. Despite the name, there does not have to be a homestead involved; the rate is just a cash amount to which any surviving spouse is entitled.

The surviving spouse is also entitled to claim up to \$14,000 worth of personal property that is “exempt” from other claims. The spouse may claim specific assets and even cash if there is not sufficient personal property to satisfy the exemption amount. All surviving spouses are entitled to this exemption.

The family allowance is intended to help the surviving family support the possible loss of income for up to a year. The amount allowable, without probate court approval, is \$26,000. However, this allowance is at the discretion of the personal representative, and the surviving spouse would typically have to show a financial need in order for a family allowance to be granted.

All three of the exemptions and allowances can be taken in addition to any elective share or pretermitted intestate share. The exemptions are taken before other claims, and, while they do

not reduce the elective share directly, they will reduce the size of the estate. Additionally, EPIC allows a surviving spouse to draw these claims from non-probate assets including revocable trusts, if the probate estate is not able to fully pay them. (See [MCL 700.3805.](#))

Conclusion

This group of overlapping protections is available to surviving spouses under Michigan's probate code, but there are important timeframes for claiming them. Ideally preventing election situations in the first place with an accurate estate plan is the best approach.

Restructuring Wayne County Probate Court: A Quick Reference ***By Charlene M. Tope, Probate Support Specialists, LLC***

Wayne County Probate Court recently announced changes in the nuts and bolts operation of the court. Mike McClory, Chief Deputy Probate Register of Wayne County Probate Court, in a letter to probate attorneys, outlined cost-saving reforms.

Effective December 26, 2014, the court restructured filing protocols. The intent was to improve workflow and McClory summarized the changes as follows:

- Court analysts are being eliminated. Court analysts are becoming service clerks.
- Counter clerks (6) will serve as cashiers and informational clerks and on case initiation.
- Service clerks (8) will accept petitions, motions, accounts, and other filings.
 - They will also adjudicate and grant small estates, applications for probate, inventories, set bonds as needed, process Notice of Continued Administration, Sworn Statements, and issue Certificates of Completion.
- After checking in at the Information Desk, you will be served at the counter in Room 1307 by a Counter or Service Clerk depending on need.
- A dropbox is still available.
- Designated appointment times are no longer available.
- The Attorney Line will be located at the Probate Counter.
- The legal news will be relocating to the prior Attorney Line across from the Cashier.
- **All petitions, motions, and ACCOUNTS will be set for hearing (even with waivers).** It is the judge's discretion if waivers may be adjudicated without hearing. The judge's courtroom is responsible for setting bond, based on filings.

McClory emphasized that the limited resources of the court motivated the streamlining but that the same amount of customer service staff are still available. The Court welcomes suggestions from practitioners.

Check off Support for Alzheimer's Disease on 2014 State Income Tax Return

As you complete your 2014 Michigan income taxes, please take an opportunity to make a gift to the Alzheimer's Association through Tax Form 4642. Check the box to donate \$5, \$10, or more from your Michigan return to the Alzheimer's Association Fund.

This fund supports the following programs and services provided by the Alzheimer's Association - Michigan Chapters:

- 24/7 Helpline available to provide reliable information and support to all those who need assistance at any time of the day or night
- Education and caregiver training ranging from introductory to in-depth programs
- Confidential consultations to help with decision-making support, crisis assistance, and education on issues families face daily
- Specialized support groups, facilitated by trained individuals, for caregivers and others dealing with the disease

The work of the Alzheimer's Association is critically important. Take action, and check off your support for the Alzheimer's Association on your annual income tax form. Your contribution makes a difference toward our vision of a world without Alzheimer's.

If you have questions about the tax check off, Alzheimer's disease, or the work of the Alzheimer's Association, please feel free to call our Helpline at 800-272-3900 or email MICheckOff@alz.org, or visit the Alzheimer's Association website at alz.org/gmc.

Calendar of Events

By Erma S. Yarbrough-Thomas, Neighborhood Legal Services Michigan Elder Law & Advocacy Center

NAELA – www.naela.org

May 13- May 16 2015 Annual Conference, JW Marriott Orlando Grande Lakes, Orlando, FL

ICLE/SBM – www.icle.org

Feb 12 24th Annual Drafting Estate Planning Documents, Plymouth - Live/Webcast
Feb. 26 Fundamentals of Estate Administration, Plymouth - Live/Webcast
March 10 Using Special Needs Trusts & the Future Effect of Achieving Better Life Experience (ABLE), On-Demand Webcast
March 11 Health Case Investigations - A Case Story Approach, Plymouth - Live
March 12- 15 Health Law Institute, 21st Annual, Plymouth - Live, Electronic Materials
April 2 Medicaid & Health Care Planning Update 2015, Grand Rapids - Live
April 8 ADA Accommodation Workshop, Plymouth - Live

April 22 Medicaid & Health Care Planning Update 2015, Plymouth - Live
April 30 Estate Planning for Retirement Assets, Detroit - Live/On-Demand Webcast
May 6 Experts in Estate Planning: The Role of the Attorney throughout the Life
Cycle of a Trust, ACME (Live)
May 7-9 Probate & Estate Planning Institute, 55th Annual, ACME - Live (Electronic
Materials); or
June 19-20 Probate & Estate Planning Institute, 55th Annual, Plymouth - Live

Other Events

March 6 ***ELDRS Spring Conference, Plymouth – Live***, michbar.org/elderlaw
March 7 ELDRS Council Meeting, Bond Estate Planning & Elder Law PC, 400 Maple
Park Avenue, Suite 402, St. Clair Shores @ 10:00 a.m.
March 26-28 The Academy of Special Needs Planners 9th annual conference, Charlotte,
North Carolina, www.specialneedsplanners.com.
April 4 ELDRS Council Meeting, Bond Estate Planning & Elder Law PC, 400 Maple
Park Avenue, Suite 402, St. Clair Shores @ 10:00 a.m.
May 2 Caroline Dellenbusch PLC, 2944 Fuller Avenue, NE, Suite 100, Grand
Rapids @ 10:00 a.m.
May 13-14 United Cerebral Palsy of Metropolitan Detroit, 8th Annual "Life without
Limits through Assistive Technology" Reception, Conference and Expo,
Detroit, ucpdetroit.org.
Sept. 30-Oct. 2 ELDRS Fall Conference, Boyne Mountain Resort