

# BRUMBAUGH ELDERLAW REPORT

News and Helpful Information for Seniors and Those Who Love Them

February 23, 2017

Volume 7

## *There's been a lot of talk about President Trump's Wall, but have you thought about building your own Wall?*

Unless you have been living in a cave or are on a strict information diet (maybe you threw out your tv, turned off your radio, and stopped reading the news), you know that one of President Trump's goals is to build a wall between the U.S. and Mexico. His stated goal is to protect the country. Don't worry. I'm not going to start talking politics, at least not too much. As my folks taught me, in business and at the dinner table, it is best not to discuss politics or religion.

However, I do want to talk about your building a wall around your assets to protect yourself, your spouse and your family from the ever increasing costs of long term care. With nursing costs approaching \$100,000 per year, you need to have a plan in place. And the government is making planning ahead of time, more important than ever.

I anticipate changes occurring in the rules that control protecting assets from the costs of long term care. If you are a person who likes to put a plan in place ahead of time, and are worried about nursing home costs destroying your life savings, then you will want to keep yourself informed of proposed changes. We will do our best to keep you updated in our newsletters. Even better than staying informed, you will want to put a plan in place now. I can't tell you exactly what the rule changes will be but I do believe the government will make it harder and harder to protect your assets unless you have planned ahead. In fact, the government has already started to make it harder to protect assets. I think in the future, to protect most of your assets, you will probably need to plan many years ahead of time. As I often say, you can't wait to buy house insurance until the house is on fire!

Last year, we saw some big changes from the government that made it much more difficult for people needing Medicaid for long term care. Medicaid started requiring people in the nursing home who were on Medicaid or who were applying for Medicaid to set up special trusts for their income if they had gross income exceeding a little over \$2,000 per month. Instead of the income going into the person's account and then paying the nursing home, it now must go into the person's account, then to a special income trust the person sets up, and then you pay the same nursing home bill. It makes no sense but that is what the government now requires.

For single people who own a home, Medicaid now says they cannot be on nursing home Medicaid unless they "intend to return home." Medicaid got rid of the 13 month exception that allowed a single person to be on Medicaid and own a home, and also got rid of the exception that allowed a home not to be counted by Medicaid if listed for sale by a Realtor. In the past, if you were single or married, you could still qualify for Medicaid if you owned real estate other than your home if you listed it for sale. Not anymore. Now you will be denied until the other real estate is sold and "spent down".

What are some of the possible upcoming changes I am hearing rumblings about? Currently, for married couples, we can generally shelter liquid assets by using a special kind of Medicaid qualifying annuity. The federal government has just passed out of committee the "CALM" act. Don't you love how the government uses marketing techniques to try and make everything sound wonderful? In fact, CALM actually stands for "close annuity loopholes in Medicaid".

*Brumbaugh Elderlaw Report* is written to inform and entertain our clients, referral sources and friends. This is not legal advice. If you need help for your specific situation you should The Law Office of Michael Brumbaugh at 419.626.0684. 336-378-1122. Visit [www.ElderlawFirm.com](http://www.ElderlawFirm.com) for free, helpful information.

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**REGISTER TODAY!**

### Do you have Your Ducks in a Row?

You're invited to one of our FREE Seminars. Come learn about Estate Planning, Asset Protection, Medicaid and VA

**March 7, 2017**

2PM & 6:30PM  
Ida Rupp Library  
Port Clinton

**April 4, 2017**

2PM & 6:30PM  
Quality Inn & Suites  
Sandusky

**May 9, 2017**

10AM & 6:30PM  
Huron County  
Chamber of Commerce  
Norwalk



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## Building your Wall— Continued from Page 1

The CALM act would largely take away our ability to use a Medicaid qualifying annuity to shelter assets in the way we have been able to do for our married clients. There has been talk about the government changing the Medicaid look back period from 5 years to 7 or maybe 10 years

There is talk about the federal government moving to a Medicaid Block Grant formula where the government gives a state a certain amount of money for its Medicaid programs and tells the state to figure out how to use the money. If this happens, each state will determine its Medicaid rules.

We can currently still protect a lot of assets even if a client is in a nursing home. We are not sure how well that will work in the future. It certainly looks like the government intends to continue chipping away at the tools that currently allow us to protect assets where no pre-planning was done.

It is more important now than ever to put your own wall up to protect your assets. We can help you build this. Currently, some of our best options for protecting assets are through the use of financial products that allow you to leverage some of your assets to protect the rest or to take assets out of your name and put them in what we refer to as a "Protector Trust". We think the use of financial products to protect assets will become more important as the rules concerning paying for long term care change. We believe Protector Trusts will still work but you will probably have to set them up farther ahead of time. We can help you get your ducks in a row and build that wall, but you have to take the first step and give us a call. We look forward to helping you.



## Meet our Staff! We welcome Melissa Dillon

Melissa Dillon joined the Brumbaugh Law Office in February as our Administrative Assistant. She will be the person that greets you when you come to the office or call us on the phone.

Melissa lives in the Wakeman area and graduated from Western Reserve High School in 2002. She studied at Bowling Green State University Firelands Campus and then later at Bryant and Stratton University where she obtained her Paralegal degree in 2012. She graduated Alpha Beta Gamma and with Dean's List with honors awards.

She was hired with Hawley Law Firm in 2008 where she worked as a Paralegal. She has experience in Workers Compensation, Probate, Estate Planning, Divorce, Bankruptcy, Deed Contracts and Juvenile Law

In her spare time she likes to volunteer. Two years ago she started the Relay for Life team, The Dillon Family Foundation - In memory of Moira Dillon. As Team Captain she helped her team raise almost \$15,000 for the American Cancer Society.



For the past four years she has been the leader of the Bronc Busters Horse 4-H Club in Huron County. She teaches children about horses and how to ride them and prepares them to show at the Huron County Fair.

She is the mother of two children, her daughter Jayden who is 13, and her son Conner, who is 6. She enjoys spending time with her family, hiking, riding horses and watching baseball.

She looks forward to working at the office of Michael Brumbaugh and helping clients in need of estate planning or nursing home Medicaid assistance.



### Heart Facts:

- Your heart beats about 10,000 times per day.
- Age and fitness level affect your heart rate.
- Heart disease is the number one kill for men and a top killer for women.
- Heart attack symptoms are different for men than for women.
- Your activity level is the greatest potential risk factor for heart disease.
- Excessive amounts of sitting have been linked to heart disease.
-

## February is American Heart Month! How to prevent heart disease

Although you might know that eating certain foods can increase your heart disease risk, it's often tough to change your eating habits. Whether you have years of unhealthy eating under your belt or you simply want to fine-tune your diet, here are eight heart-healthy diet tips.

### 1. Control your portion size.

How much you eat is as important as what you eat. Taking seconds and eating until you feel stuffed can lead to eating more calories than you should. Portions served in restaurants are often more than anyone needs. Track the number of servings you eat.

### 2. Eat more vegetables and fruit.

Vegetables and fruits are good sources of vitamins and minerals, are low in calories and rich in dietary fiber, and contain substances found in plants that may help prevent cardiovascular disease. Eating more fruits and vegetables may help you eat less high-fat foods, such as meat, cheese and snack foods

### 3. Select whole grains

Whole grains are good sources of fiber and other nutrients that play a role in regulating blood pressure and heart health. You can increase the amount of whole grains in a heart-healthy diet by making simple substitutions for refined grain products.

### 4. Limit unhealthy fats

Limiting saturated and trans fats is an important step to reduce your blood cholesterol and lower your risk of coronary artery disease. A high blood cholesterol level can lead to a buildup of plaques in your arteries, called atherosclerosis, which can increase your risk of heart attack and stroke.

### 5. Choose low-fat protein sources

Lean meat, poultry and fish, low-fat dairy products, and eggs are some of your best sources of protein. Choose lower fat options, such as skim milk rather than whole milk and skinless chicken breasts rather than fried chicken.

### 6. Reduce the sodium in your food

Eating a lot of sodium can contribute to high blood pressure, a risk factor for cardiovascular disease. Reducing sodium is an important part of a heart-healthy diet

To help you get on track, planning meals is helpful as well as preparing your shopping list.

Excerpt from  
[www.mayoclinic.org/diseases-conditions/heart-disease](http://www.mayoclinic.org/diseases-conditions/heart-disease)

## We Appreciate Your Referrals

For our happy clients and family members, please consider telling your friends and other family members about us. If you know anyone in the nursing home and they are still private pay, please let them know we can still help them protect their assets.

Many thanks to our valued clients & friends who refer their own family, friends, patients and associates to us. We work hard to justify your confidence!

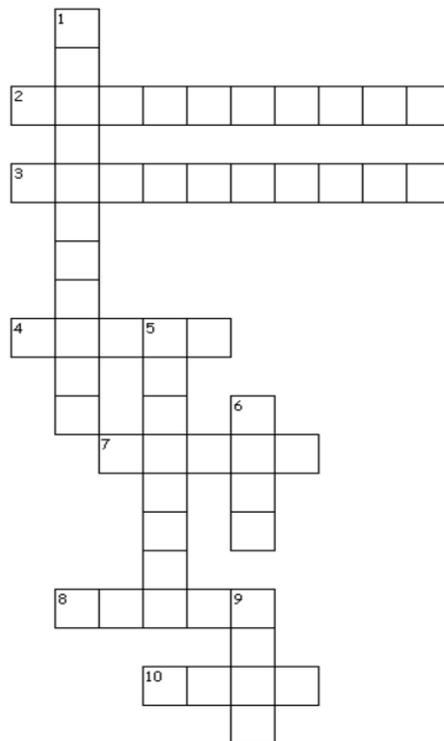
Erie County Chamber of Commerce  
Margie Allen  
Dr. Jim Scherger  
Paul and Shirley Decker

## Just for Fun!

### Heart Health

Place the following words in the grid:

- |          |              |
|----------|--------------|
| Exercise | Vegetables   |
| Fruit    | Whole grains |
| Fish     | Sleep        |
| Plan     | Fiber        |
| Lean     | Moderation   |



# BRUMBAUGH ELDERLAW REPORT

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## YOUR QUESTIONS ANSWERED BY MICHAEL BRUMBAUGH

**We received a question** *Recently we were asked if the agent signing under a power of attorney can be liable for her mom's nursing home bills.* (keep those questions coming to us at [team@brumbaughelderlaw.com](mailto:team@brumbaughelderlaw.com))

Typically, if you are someone's agent under a power of attorney (people often say they are mom or dad's "poa" or "power of attorney") and you sign a nursing home agreement on behalf of your parent and you put "poa" after your name, you are not personally liable to pay the nursing home bill.

Of course, there are always exceptions. Some are: Does the power of attorney document authorize what you are doing? If not, then you could be personally liable. Does the nursing home contract state that the person signing as agent is also personally guaranteeing payment? This at least gives the nursing home an argument that you have agreed to payment although you would have a counter-argument that you did not sign individually but as "poa". You could be sued for being negligent in your duties as agent. If you need to file for Medicaid and do not do it or mess it up and Medicaid is denied, you could be held personally liable for the nursing home bill.

There are too many things that can go wrong to try this on your own. Additionally, if we help you, there are many things we can do to help you protect assets even if a loved one is already in a nursing home. Don't try to navigate these treacherous waters on your own. Let us be your trusted guide.

### *Puzzle Solution:*

Exercise—5	Vegetables— 3
Fruit—7	Whole grains —1
Fish—6	Sleep—8
Plan—9	Fiber —4
Lean—10	Moderation—2

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