



## Medicaid Asset Protection Trust Helps Avoid Asset Loss

### Using Trusts to Protect Assets from Long-Term Care Costs

There are many kinds of trusts that can be created, all of which have different uses. A Medicaid Asset Protection Trust (MAPT), as the name suggests, can be a useful tool when it comes to planning to protect assets from the costs of long-term care.

After President Bush signed the Deficit Reduction Act of 2005, one of the effects was that the Medicaid qualification rules were altered. One of the biggest impacts of this legislation was the extension of the “look-back period” from three to five years. The increase of this time period means that any gifts made by a Medicaid candidate in the five years prior to their application would result in a penalty. This penalty is expressed through a delay in qualification for Medicaid. On top of that, the penalty period does not begin to run until the applicant has otherwise spent down all their other assets so that the penalty is imposed at a time when the applicant has no other assets to use to pay.

Medicaid Asset Protection Trusts are irrevocable trusts that receive “gifts” of assets from the person who creates it, known as the “grantor.” A MAPT can successfully supply its creator with a source of income for the remainder of their lifetime. However, because of the nature of the trust, the assets transferred to it become unavailable to the grantor, and therefore no longer countable assets for Medicaid purposes.

There are certain features that are found within every Medicaid Asset Protection Trust.

The first of which are trustees. The grantor of the trust can choose whomever they want to act as trustee, although it is typically a family member. The Trustee carries the responsibility of managing the assets in the MAPT for the benefit of all the beneficiaries.

**...ANY GIFTS MADE BY A MEDICAID CANDIDATE IN THE FIVE YEARS PRIOR TO THEIR APPLICATION WOULD RESULT IN A PENALTY.**

Lifetime beneficiaries are also an aspect of all Medicaid Asset Protections Trusts. This kind of beneficiary can collect distributions of principal from the Trustee throughout the lifetime of the grantor. Most times these beneficiaries are the children of the person that created the trust. Once the principal is in the hands of the beneficiary, they can manage it however they please. A strategy that is often used is bestowing the funds upon the grantor in order to pay for their care.

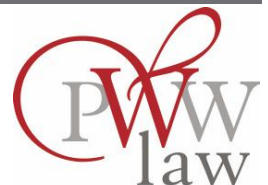
Residuary beneficiaries, on the other hand, are those who will receive what remains in the MAPT upon the death of the grantor.

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*Continued from previous page...*

The strength of Medicaid Asset Protection Trusts lies in using them before long-term care is going to be needed. If five years pass before the grantor applies for Medicaid, the assets are no longer a countable resource. The assets are therefore saved from the devastating costs of long-term care and the applicant is not penalized.

**THE STRENGTH OF MEDICAID ASSET PROTECTION TRUSTS LIES IN USING THEM BEFORE LONG-TERM CARE IS GOING TO BE NEEDED.**

A MAPT can also be used in crisis Medicaid situations. When there is an immediate need to apply for Medicaid, approximately one-half of a person's assets can be protected through gifting to a MAPT. Although a penalty is still incurred, with appropriate planning in place a cash flow can be provided during the penalty period.

## LIVE FOR CHOCOLATE EVENT

*Procino-Wells & Woodland, LLC Participates*

Friday, May 2<sup>nd</sup>, Nanticoke Health Services along with the Greater Seaford Chamber of Commerce and the City of Seaford hosted a Girls' Night Out event. Procino-Wells & Woodland, LLC opened its doors as a stop for the scavenger hunt that took place and served chocolate martinis to participants! Pictured below, from left to right, are Amber B. Woodland, Esquire, Erin A. Dukes, Real Estate Coordinator as well as PWW's liaison for the event, and Michele Procino-Wells, Esquire.



## BELLA'S BRIEF

*The Office from a Dog's Perspective*



If you ask me this place is going to the dogs (pardon the pun). Recently the ladies, as I affectionately like to refer to them, have been addressing one another as partner. Not that there is anything wrong with that, but what does it mean for me?

And there has been an unusual amount of celebrating lately. First the Greater Seaford Chamber of Commerce had people traipsing through the office, then a staff appreciation luncheon and Live for Chocolate

Event with chocolate martinis. They know I can't have chocolate! Now a straight with double olives I can handle, but I digress.

Perhaps most troubling is a comment I heard about buried assets not being protected from Probate. I don't know who Probate is but I am now concerned about the prime rib treasures I have hidden out back.

Oh look, here come the ladies now...is that a doggie bag I see? Well maybe things are looking up after all. Bon Appétit!

xoxo Bella 

## TIME OUT — STAFF PROFILE

*Ashley M. Adams, Client Services Director*

### ON THE CLOCK:

Ashley M. Adams is a graduate of Sussex Technical High School (2009) and The University of Delaware (B.S., Finance, 2013).



During the summers since high school, she worked as an administrative assistant for a local University's Research and Education Center.

Ashley is the staff member here at Procino-Wells & Woodland, LLC that answers new client calls, schedules client appointments, and handles other matters relating to the beginning of a client's relationship with us. Along with this, she handles creating our advertisements and in-house marketing needs.

Ashley's fresh perspective and enthusiasm are a perfect fit for the Client Services and Marketing Director position at Procino-Wells & Woodland, LLC.

**OFF THE CLOCK:** Ashley lives in Seaford with her parents, Rick and Joyce, and sister, Abby. In her spare time she enjoys boating, going to the beach and spending time with friends and family.

## UPCOMING EVENTS

*What is on our Calendar?*

### June 4th — Aging in Place Forum at Heritage Shores

*1:00 to 5:00 pm*

Michele and Amber will be speaking on asset protection planning for long term care at this event. Please plan to join us to learn more about this topic and others. The address of the clubhouse is 1 Heritage Shores Circle, Bridgeville, Delaware 19933.

### June 12th — Heritage Shores Health Fair

*1:00 to 3:00 pm*

Stop by our table to meet the attorneys and staff at PWW Law and to learn more about the basics of elder law and planning for long term care. The address of the clubhouse is 1 Heritage Shores Circle, Bridgeville, Delaware 19933.

### July 4th — Independence Day; Office Closed

## LEGAL MUMBO JUMBO

*Legal Language in Layman's Terms*

### PROBATE

In the simplest of terms, probate is nothing more than the legal process to conclude all legal and financial matters after a person's death. Probate normally takes about a year to complete and is handled by the executor named in a person's Last Will and Testament.

### *A note from the attorneys...*

When we set out to create a newsletter we didn't realize what a huge undertaking it would be. We wanted it to be informative and reflect our vision as a boutique law practice. It also had to represent who we are and where we are from, which just happens to be the same small Delaware community we love to serve. We think we accomplished our mission and are excited to share this first edition with you. It is our hope that Off The Clock is something you will become to look forward to receiving each quarter.

*Michele & Amber*



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*Planning today to protect your family's tomorrow.*



## OFF THE CLOCK

We would like to thank our featured referrer of the month:

**Edward Jones**<sup>®</sup>  
**MAKING SENSE OF INVESTING**

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