

Estate Strategies



Protecting Loved Ones with Alzheimer's Steps to Take for Legal and Financial Planning



Imagine finding your mother sitting in her armchair after suffering from a stroke. Even worse, imagine that your father was there the entire time, and was oblivious that anything had gone wrong.

Why can't mom speak? "Oh, she's fine honey, just sitting in her chair. We had a good breakfast this morning."

This is exactly what happened to a Lansing woman. Her mother went on to survive the stroke, but the dramatic realization of how suddenly her father's health had declined still haunts her. Alzheimer's disease had begun to take over.

Suddenly, she had very complex decisions to make: Could her father take care of her mother? Was he capable of taking care of himself? What if he refused the care she suggested?

And, in this personal story, what could a daughter do about the handguns that her father had owned for as long as she could remember?

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Planning Ahead:

Funding a Child's or Grandchild's College Education

By: Mark E. Kellogg



As the cost of college tuition continues to climb at significant rates, one of the biggest financial challenges facing parents today is saving for a child's college education. Not only can it be difficult to save for such a large expense, it can also be confusing when trying to find the best way for you to grow a college fund or provide a monetary gift.

There are various methods available for parents or grandparents to fund a child's education. Each method has its own tax advantages and implications, as well as limits on your ability to control whether the gift is used for your intended purpose.

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Medicare's Annual Enrollment Period Begins in October

By: Melisa M.W. Mysliwiec

Mark your calendars: Open enrollment for Medicare begins on October 15th and runs through December 7th, with any changes you make taking effect on January 1, 2015.

Keep in mind that these plans change annually, so you should never assume that the plan you currently have will be the best available plan for you again next year. You could save hundreds to thousands of dollars, by taking the time to review what plans are available for 2015, and how they might meet your anticipated health care and prescription coverage needs.

During this enrollment period, you can:

- Change from Original Medicare to a Medicare Advantage Plan (called Medicare Health Plans on medicare.gov).
- Change from a Medicare Advantage Plan back to Original Medicare.
- Switch from one Medicare Advantage Plan to another.
- Switch from a Medicare Advantage Plan that doesn't offer drug coverage to one that does.
- Switch from a Medicare Advantage Plan that offers drug coverage to one that doesn't.
- Join a Medicare Prescription Drug Plan.
- Switch from one Medicare Prescription Drug Plan to another.
- Drop your Medicare prescription drug coverage completely.

The Official U.S. Government Site for Medicare has a fantastic tool for reviewing and selecting available plans: Find Health and Drug Plans. We have created a page of useful links for you on our website: fraserlawfirm.com/resources/blog/Medicare.

If you have any questions or concerns regarding the Medicare Open Enrollment Period, contact attorney Melisa M.W. Mysliwiec at mmysliwiec@fraserlawfirm.com or 616.301.0800. Melisa works out of Fraser Trebilcock's Grand Rapids and Lansing offices, focusing her work in the areas of Elder Law, Medicaid planning, estate planning, and trust and estate administration.

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Legal and Financial Planning for Alzheimer's, continued

Worried for her father's own safety, the question of what to do with the guns was tackled first.

"For as long as I can remember, Dad always had handguns in the house," the daughter said. "I knew I had to remove the guns, but I don't think I have ever been so afraid in my life."

First, she needed to have the proper plans in place to work with the authorities on behalf of her ailing father. Otherwise, confiscating the guns could have been considered stealing her father's property. Legal paperwork needed to be signed before she could have any rights to act on her father's behalf.

"My hands were shaking so bad," she said. "I know I did the right thing for the right reasons. I would have never forgiven myself if my dad would have shot someone or himself."

Her father's guns weren't the only pressing concern. Even his doctor became worried about her father's ability to drive, and revoked his driver's license. "To this day, I don't think he ever really understood why his driving privileges had been taken from him," she recounts. "And after he lost his driver's license, his frame of mind changed. He was angry all of the time and the disease was progressing quickly."

This woman is far from alone in facing these complex physical, emotional, and legal challenges associated with Alzheimer's disease or another dementia. Every 67 seconds, someone in the United States develops Alzheimer's, a debilitating and ultimately fatal disease. Right now, statistics from the Alzheimer's Association show that one in three seniors dies with Alzheimer's.

As family members, we may not be able to prevent the onset of Alzheimer's or another dementia, but we can certainly act now to protect our loved ones' wishes before capacity is lost. Some important items to consider:

- Make plans for health care and long-term care coverage.
- Name another to make medical and financial decisions for the person with dementia.
- Make plans for finances and property, both during incapacity and at death.
- Make plans to avoid estate recovery if your loved one is on Medicaid, protecting the value of the home after death.

When making these decisions, it is important that you get legal services from an attorney who specializes in elder law. Elder law focuses on planning, including steps to preserve independence for as long as possible, appointing an agent in the event of incapacity, Medicaid planning, and protecting assets. This niche area also helps planning for a disability with Durable Powers of Attorney for financial and health matters, as well as conservatorship, guardianship, and nursing home issues. Attorneys can also assist you in wealth transfer planning, such as setting up wills, trusts, or a business succession plan. You'll also want to look into Medicaid planning and avoiding estate recovery, as you strategize for long-term care.

Whether you or a loved one are facing the challenges associated with Alzheimer's, another dementia, or if you're planning ahead for your future, our attorneys are here to help you make the right choices for your situation. All of our Trusts and Estates attorneys are experienced in the practice of Elder Law and can assist you through the process.

“ I would have never forgiven myself if my dad would have shot someone or himself. ”

What is Alzheimer's?

Dementia is a general term for loss of memory and other mental abilities severe enough to interfere with daily life. It is caused by physical changes in the brain.

Alzheimer's is the most common type of dementia, accounting for an estimated 60-80% of cases. It is not a part of normal aging, though the majority of people with Alzheimer's disease are age 65 and older. Up to 5% of people are diagnosed with what is called early onset Alzheimer's, which is diagnosed when someone is in their 40s or 50s. In Michigan, there have been patients diagnosed as young as 30 years old. **Learn more at alz.org.**

Source: Alzheimer's Association Facts & Figures 2014



Lansing Walk to End Alzheimer's Fraser Trebilcock Makes Top 10 List of Teams in Fundraising

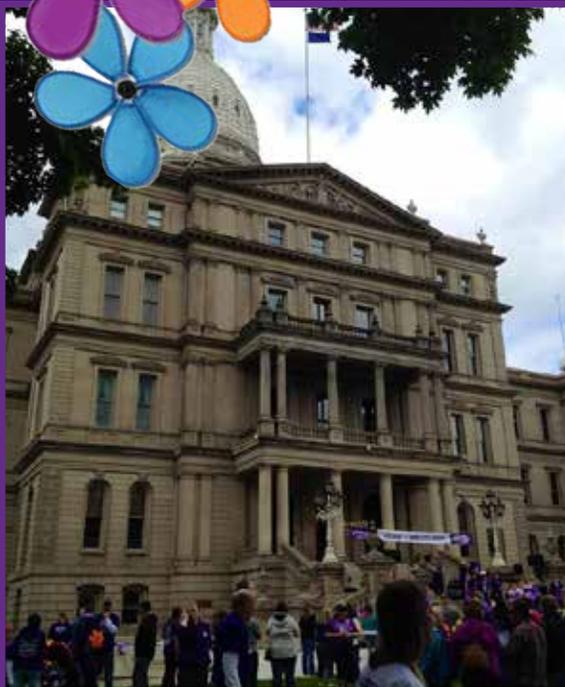
On a sunny September Sunday, Team Fraser Trebilcock joined more than 800 people outside the State Capitol Building in Lansing for the Annual Walk to End Alzheimer's. This year, the Lansing walk surpassed its goal, raising more than \$168,000 dollars for Alzheimer's awareness, support, research, and care. Team Fraser Trebilcock is proud to have ranked among the top ten teams for the Lansing walk, thanks to donations and support from our clients, attorneys, staff and their families. A special shout out goes to Martha Sutterer, our firm's biggest individual fundraiser.

For many members of our Fraser team, the fight against Alzheimer's is a personal one. Some of us have held the hand of a loved one, a close friend, or a grieving client, dealing with the devastating effects of Alzheimer's disease. We are pleased to do our part in helping bring awareness to the cause, while raising money for Alzheimer's research and caregiver support programs.

The Walk is the nation's largest event to raise awareness and funding for Alzheimer's Disease, with annual walks taking place in more than 600 locations across the country, including downtown Lansing.

If you would like more information on Alzheimer's disease, we would be happy to put you in touch with staff at your local Alzheimer's Association. There is also a 24-hour hotline: 1.800.272.3900. In addition, please let us know if you have any concerns about getting legal documents in order for family members suffering from Alzheimer's or another form of dementia. Our attorneys can work to ensure that your loved ones and their caregivers are protected under the law.

For more information, contact Trust & Estates Department Chair, Marlaine C. Teahan at mteahan@fraserlawfirm.com or 517.377.0869. Marlaine is one of only 52 attorneys in Michigan elected as a Fellow of the American College of Trust and Estate Counsel (ACTEC). She handles a wide variety of matters including: drafting wills, trusts, and durable powers of attorney; trust and estate administration; guardianship and conservatorship matters; and probate litigation.



10 SIGNS of Alzheimer's

Alzheimer's is a brain disease that causes a slow decline in memory, thinking and reasoning skills. The Alzheimer's Association offers these 10 Warning Signs:

1. Memory loss that disrupts daily life.
2. Challenges in planning or solving problems.
3. Difficulty completing familiar tasks.
4. Confusion with time or place.
5. Trouble understanding visual images and spacial relationships.
6. New problems with words in speaking or writing.
7. Misplaced things and losing the ability to retrace steps.
8. Decreased or poor judgment.
9. Withdrawal from work or social activities.
10. Changes in mood and personality.

Every individual may experience one or more of these signs in varying degrees. If you notice any of them, please see a doctor. Getting a base line memory screening test at the first warning sign will help doctors more accurately diagnose you later if your memory declines. Education, support, and additional resources are available through the Alzheimer's Association.

Alzheimer's Association

24/7 Helpline:

1.800.272.3900



ALZHEIMERS
DISEASE
IS THE **6TH** LEADING
CAUSE OF
DEATH
IN THE U.S.

IT KILLS MORE
THAN **BREAST &
PROSTATE CANCER
COMBINED**

1 IN 3 SENIORS DIES



WITH ALZHEIMER'S OR ANOTHER DEMENTIA

MORE THAN 5 MILLION AMERICANS HAVE
ALZHEIMER'S DISEASE TODAY.

Someone in the
U.S. develops
Alzheimer's
every **67**
seconds



2014 Alzheimer's Facts and Figures Report Released by the Alzheimer's Association.





Funding a Child's or Grandchild's College Education, continued

As you explore the best ways to save for future college expenses, we've put together a list of five potential options. Each has its own benefits that could help you provide a great start to a child's education.

1. **Annual Exclusion Gifts.** The first \$14,000 per year of an outright gift by a donor to a child is excluded for gift tax purposes (under Section 2503(b) of the Internal Revenue Code of 1986, as amended (IRC)). However, this may not be the best option if you intend on this gift only being used for future college expenses. With an outright gift, you would lose control of how the funds are spent, and instead the child would be able to use the gift as he or she wishes.

2. **Gifts in Trust.** Gifts given in trust, to children under the age of 21 also qualify for the annual gift tax exclusion, as allowed by IRC Section 2503(c). This section of the law allows the donor to maintain control of how the money is spent up until the child turns 21. Once the child turns 21, the donor loses control and all remaining funds are paid to the child. If the child should die before reaching age 21, the funds must be payable to the child's estate. So, if you'd like to ensure that the money is used only for a college education, then this gifting format is also not ideal, as control is lost once the child turns 21 years of age.

While the first two plans provide greater flexibility in the child's use of the funds, they do not offer potential income tax advantages. The following three plans are structured strictly for education costs, which allows for possible income tax benefits.

3. **Gifts for Educational Expenses.** IRC Section 2503(e) provides for an unlimited exclusion for amounts paid on behalf of a child or grandchild for tuition expenses if paid directly to an educational institution. (Note that under Tax Advice Memorandum 199141013 prepayment of tuition payments can also qualify under IRC Section 2503(e).)

4. **Michigan Education Trust.** To address the spiraling cost of education, many states have created prepaid tuition programs, which allow you to prepay and guarantee college education costs through lump sum or periodic payments. In exchange for the early payment, these programs typically allow you to lock in current tuition rates. Michigan's prepaid tuition program, the Michigan Education Trust (MET), allows people to pre-purchase undergraduate tuition for a child residing in Michigan at any Michigan public university or college, including 28 public community colleges. Under the MET contract, MET will pay future tuition and mandatory fees without additional charge. MET will pay in-state tuition at public four-year colleges and universities in Michigan or in-district tuition at public community colleges in Michigan. Students may also direct refund payments to any eligible university in the nation, both public and private. MET provides that students have 15 years to use tuition benefits, and offers payment plans over four, seven, 10 and 15 years. Benefits under a MET may be transferred to a sibling or first cousin in the event a child receives a full scholarship or does not attend college. If the child decides not to attend college, the monies are refunded. The total contract price is deductible for state income tax purposes. Also, the earnings under a MET plan are tax-exempt when the benefits are used for higher education.

5. **Section 529 Savings Plans.** In response to the many state-created prepaid tuition programs, the federal government has adopted its own qualified tuition program, under IRC Section 529 (now referred to as "529 Plans"). Given their tax benefits and flexibility, the 529 Plan has become the top choice by most people in saving for a child's or grandchild's education. A 529 Plan is operated by a state or educational institution. There are two basic types of 529 plans, a prepaid tuition plan (see the MET plan above), and savings plans. With 529 Savings Plans, an individual is not limited to the plan offered by the State of Michigan. The basic benefits of the Michigan 529 Plan (Michigan Education





Savings Program (MESP)) includes: (1) earnings within the plan are not subject to federal or state income taxes when used for a child's qualified higher education expenses; (2) Michigan taxpayers (under the Michigan 529 Plan) may also be eligible for a Michigan income tax deduction on contributions up to \$10,000 for married couples filing jointly (\$5,000 for individuals filing single); (3) the funds can be used at any private or public college or university, in-state or out-of-state, trade or graduate school; (4) if a child does not want to go to college, you can roll the account over to another family member; (5) unlike the MET, which requires a certain lump sum payment or periodic payments to lock in tuition rates, the MESP offers greater flexibility in permitting minimum contributions of \$25 per beneficiary, per investment option; (6) there are no income limitations related to the donor creating the account; and (7) a donor can contribute as much as \$235,000 per beneficiary as long as the total balance of all accounts for that beneficiary does not exceed \$235,000, including contributions to MET (see above). Most investment advisors offer assistance with 529 Plans.

This discussion of the various methods of funding a child's or grandchild's educational needs is very general in nature. There are significant income and gift tax issues associated with each method. We recommend that any planning be conducted with the assistance of a tax or legal professional or financial advisor.

Mark E. Kellogg, an attorney and CPA, is a shareholder with Fraser Trebilcock. Mark has devoted his 28 years of practice to the needs of family and closely-held businesses and estate and succession planning. For more information or to discuss planning for college expenses, or other estate planning needs, email mkellogg@fraserlawfirm.com or call 517.377.0890.

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