

KRAMER RADIN, LLP

LAW FIRM

ESTATE PLANNING MATTERS

SPRING 2017

Medi-Cal Recovery Rule Changes

Beginning January 1, 2017, the laws governing recovery from the estates of Medi-Cal recipients have changed significantly for those individuals who die on or after January 1, 2017. For individuals who died before January 1, 2017, the previous laws prevail.

Medi-Cal, California's version of Medicaid, provides free or low-cost medical assistance for low-income or low-resource individuals. The State can seek repayment for the cost of covered services after a recipient dies.

The new law includes provisions for the following:

- * Prohibits claims on the estates of surviving spouses and registered domestic partners as well as a minor child or a disabled child of any age;
- * Limits recovery for those 55 years of age or older to nursing home and home and community based services;
- * Restricts the amount of interest that the state can charge on liens;
- * Requires a waiver to the claim if it is a substantial hardship when the estate is a homestead of modest value; and
- * Limits recovery to only those assets subject to California probate.

Perhaps the most significant rule change is the last point mentioned above. Assets transferred via living trusts, joint tenancies, survivorship and life estates will not be subject to recovery if they are distributed to a named beneficiary (or beneficiaries) other than the estate.

If you or a loved one are currently a Medi-Cal recipient, or anticipate needing Medi-Cal assistance, proper estate planning is vital to the preservation of assets. If you would like more information, please call us to schedule an appointment with one of our estate planning attorneys.



ATTORNEYS AT LAW

PARTNERS

Linda C. Kramer* #

Deborah G. Kramer Radin*

ASSOCIATES

Betsy Marder Friedman

Tricia L. Manning

Lisa M. Kajani

*Certified Specialist, Estate Planning, Trust and Probate Law, State Bar of California Board of Legal Specializations

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CONTACT INFORMATION

280 Second Street, Suite 100
Los Altos, CA 94022

Phone: 650.941.8600 or 408.377.7845

Fax: 650.949.5648

Email: inquiries@kramerradin.com

www.kramerradin.com

Digital Asset Management

People usually think of valuable assets in financial terms, and visualize real estate, bank or brokerage accounts, stock or life insurance. But as our digital world becomes more complex, website domain name(s), airline miles, earned “rewards”, gift cards, PayPal and, of course, your digital assets and social media assets such as photos, emails, blogs, and Facebook postings become more valuable and important to protect. While some of them, *e.g.* website domain, airline miles and PayPal, may have monetary value others have great emotional or sentimental value to you and your family and friends.



Digital assets can live forever, or be lost forever, unless you plan ahead for someone to access your accounts following your disability or death. You know computer access to your bank and brokerage accounts must be properly set up according to each institution’s rules and regulations and, hopefully, you have made proper preparation. If not, your account officer(s) can help you with this.

However, not all social media providers offer any type of “death planning” and few offer disability contingencies. For example, AOL, Microsoft and Yahoo currently have relatively standard protocols for immediate family members to request the deletion of a deceased person’s account. Snapchat will allow next-of-kin with a death certificate to request the removal or deletion of an account; LinkedIn will allow a verified next-of-kin to remove an account. Twitter currently also allows a verified next-of-kin to delete your account but will require not only the death certificate but also “other official documents”. Twitter, in fact, has a protocol if a user becomes incapacitated although the person who can act will have to have proof of power of attorney. Facebook and Google each has protocols in place for you to pre-plan who will be able to access your account and, in some cases, manage the content including the photos, emails and blog postings.



There is some movement to standardize the procedures across the country, but it will be some time before California enacts laws to govern the disposition of digital assets at a disability or death. In the meanwhile, you need to deal with providers directly to best manage your on-line presence and non-financial assets prior to an emergency and/or death.

It can be time-consuming but it behooves you to take the initiative to work with each of your accounts to arrange for post-emergency and/or post-death management of those accounts and all contents with each provider.

So, how does estate planning fit into all this? Your trust and/or financial power of attorney can also provide the means to allow your successor trustee and agent to manage digital assets in the event of an emergency. Make certain your estate planning documents are up to date.



Estate and Gift Tax Update

The federal estate tax exemption for 2017 is \$5,490M and the federal estate tax is 40% on assets in a decedent's estate exceeding that amount. Additionally, some individuals will also have to contend with state estate and/or inheritance taxes. Currently Connecticut, Delaware, Hawaii, Iowa, Illinois, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Nebraska, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont and Washington and Washington, D.C. levy their own form of estate and/or inheritance taxes. New Jersey is now phasing out its estate tax.

If you have assets, such as real estate, in any of these states or Washington, D.C., although you may not owe a federal estate tax, you should check with your tax or estate planning advisor to learn if your estate may owe estate tax or your beneficiaries will owe inheritance tax to the particular state in which the asset is located. State exemption amounts vary from \$-0- to the maximum allowed by the federal guidelines.

The current administration intends a major federal tax overhaul. The timing for tax reform will probably start this year but won't be made overnight. Among the many changes proposed are to do away with the alternative minimum tax and the Federal estate tax.

Stay tuned...

A GENTLE REMINDER...

You should meet with your estate planning attorney at least every 3-5 years to review your estate plan. This is important to be sure your estate planning documents still reflect your wishes and, because our laws continue to change, to reflect up-to-date law.

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CONTACT INFORMATION

280 Second Street, Suite 100
Los Altos, CA 94022
Phone: 650.941.8600 or
408.377.7845
Fax: 650.949.5648
Email: inquiries@kramerradin.com
www.kramerradin.com

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ABOUT US

KRAMER RADIN, LLP is a firm of professionals dedicated to the practice of law in estate planning, probate and trust administration, conservatorships and all aspects of trust and estate litigation.

Our team of experienced legal professionals encourages our clients to plan and administer their estates wisely to provide for their loved ones, protect their assets from unneeded legal and tax expense and carry out smooth and well-thought-out estate continuity.

Our attorneys deal with related issues including gifting, charitable giving, prevention of elder abuse and dispute resolution.

KRAMER RADIN, LLP

280 Second Street, Suite 100
Los Altos, California 94022-3642

Phone: 650-941-8600
Fax: 650-949-5648
E-mail: inquiries@kramerradin.com
www.kramerradin.com

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