



# Elder Counselor

*A newsletter for professionals serving seniors and those who love them.*

VOLUME 4, ISSUE 5

SEPTEMBER 2013

## The Affordable Care Act: Helpful Resources

[Health Law Answers](#)  
*an interactive website about  
the ACA from the AARP*

[For Healthcare Providers:  
Answers to Common  
Questions from Patients](#)  
*from the American Medical  
Association*

[Some Facts About ACA  
Implementation](#)  
*from the American Medical  
Association*

[About the Health Insur-  
ance Marketplace](#)  
*from the Centers for Medi-  
care & Medicaid Services*

[The Health Insurance  
Marketplace](#)  
*the official website of the  
Health Insurance Market-  
place*

## QUICK LINKS

[Elder Law of East Tennessee  
Blog: Elder Law Insights  
Blog: Care Conversations  
Contact Us](#)

## The Affordable Care Act: How It Impacts Our Senior Population

Since its passage in 2010, the Affordable Care Act has been the subject of many heated debates and a cause for some confusion among most of the population. Its far-reaching changes have already begun and will continue to take effect over the years to come. In order to assist you in serving your senior clientele, this issue of *Elder Counselor* will attempt to shed some light on how the law affects the elderly.

### Individual Mandate

Most of us have heard that under the ACA there is an individual mandate to obtain healthcare insurance. In the event that one fails to do so, a penalty will be imposed starting at \$95 in 2013 and rising each year until 2016, when the penalty reaches \$695. While many people nationwide may struggle to pay for their own health insurance, for seniors this is not as big a threat since most of those over age 65 are eligible for Medicare. As long as they enroll in the coverage available, seniors age 65 and over will not face any penalty due to lack of health insurance.

### Medicare Changes

Although there will be payment cuts to Medicare, there are key benefits that are absolutely protected under the ACA. Medicare Part A (hospitals, hospice care and some home health services) and Medicare Part B (medical insurance) are protected and will not be cut. The changes under the ACA, according to the [National Council on Aging](#), give seniors even more Medicare benefits, which are described below.

### Medicare Prescription Drug Coverage

The new healthcare law decreases the expenditure on prescription drugs for Medicare recipients. Prior to the law being enacted, Medicare recipients were subject to what has become commonly known as the "Donut Hole." Simply put, the Medicare law previously required recipients to reach a \$310 deductible prior to Medicare kicking in to assist. At that point, enrollees started paying 25% of the drug cost until they reached a total expenditure of \$2800. The drug expense from \$2800 to \$4550 was then paid 100% by the enrollee. Once drug expenses reached \$4550 Medicare would kick in again and the enrollee would pay only a small percentage of the prescription at that point. The Affordable Care Act has enacted a provision that requires Medicare to pick up more of the tab and will close the "Donut Hole" by the year 2020. Eventually, Medicare recipients will pay 25% of all prescription drugs across the board. This is good news for seniors since the number of prescription drugs taken typically increases with age.



*Continued on Page 2*



## UPCOMING EVENTS

**October 21, 1:00 pm**

Fountain City Methodist support group

**October 22, 6:30 pm**

Island Home Nursing Home

**October 25, 11:30 am**

Lunch & Learn with staff of Cole Neuroscience Center

**October 26, 9:00 am**

KBA Access to Justice Legal Clinic for Veterans  
Joyn Tarleton Center

**November 6, 8:30 am**

22nd Annual East Tennessee Healthcare Administrators' Conference  
Manorhouse Assisted Living

**November 13, 11:30 am**

Financial Planning Association

*For more information about locations and participating in events, contact **Connie Taylor** at 951-2410 or [connie@elderlawetn.com](mailto:connie@elderlawetn.com).*

## QUICK LINKS

[Elder Law of East Tennessee](#)  
[Blog: Elder Law Insights](#)  
[Blog: Care Conversations](#)  
[Contact Us](#)

### ***Medicare Preventive Care***

Another benefit to seniors under the Affordable Care Act is an increase in preventive care coverage. The ACA requires that Medicare cover preventive care procedures and screenings in an effort to reduce possible necessary future treatment. Prior to the ACA, Medicare did not cover preventive services. Such services include flu shots, tobacco use cessation counseling, cancer screenings, diabetes screenings and screenings for other chronic diseases. In addition, seniors are allowed an annual wellness visit. Previously, these services, whether recommended or not, were paid out of the patient's own pocket. No doubt the senior population sees this change as a benefit, not only because it reduces personal expenses but also because it may help to preserve overall good health and quality of life.

### ***Medicare Advantage Plans***

When a senior enrolls in Medicare, he or she may choose the traditional Medicare coverage plan or may choose what is called a Medicare Advantage Plan. The Medicare Advantage Plans have their own terms of coverage. They usually cover services not traditionally covered by Medicare such as dental or vision, but may, at the same time, require co-pays or cost-sharing fees for services covered at no out-of-pocket expense under traditional Medicare. Presently, 1 in 4 seniors is enrolled in a Medicare Advantage Plan.

The ACA prohibits Medicare Advantage Plans from charging higher cost-sharing fees for seniors receiving chemotherapy and dialysis. In addition, it limits the program's overall expenditures on administration, marketing, and other non-medical expenses. While certain additional covered services under Medicare Advantage Plans may be eliminated, certain required benefits are prohibited from being cut.

The new healthcare law reduces payments to Medicare Advantage Plans by \$145 billion over 10 years. Because of these cuts to the Medicare Advantage Plans, the future of these plans is uncertain. As to whether this is a benefit to the senior depends on your point of view. At any rate, over time it will change the options available to seniors under Medicare Advantage Plans.

### **Non-Medicare Changes**

In addition to Medicare changes that certainly affect seniors, there are other changes written into the law that should be noted as well. Most of these would be considered beneficial to seniors.

### ***No Pre-existing Conditions Clauses***

All health insurance carriers are prohibited from including pre-existing conditions clauses in their plans. This means that one's current health condition cannot be a factor when applying for health care coverage. Furthermore, insurance companies are prohibited from charging individuals varying amounts for coverage based on their health, sex, age or other commonly-considered factors. This appears to be good news for the ill, females, and the elderly, which are the groups of people who traditionally have paid more for their coverage. Now the cost will be evenly distributed to all.

In addition to those factors that may not be taken into consideration upon applying for coverage, there is also greater protection of consumers once they are enrolled in an insurance plan. The healthcare law says that once enrolled in a plan, the insurance company may not dis-enroll a person for becoming ill.

*Continued on Page 3*



## ELDER LAW OF EAST TENNESSEE

Elder Law of East Tennessee uses a unique approach to Elder Law called Life Care Planning. Attorney Amelia Crotwell and Elder Care Coordinator Connie Taylor, LCSW, work as a team to address legal issues while designing a comprehensive long-term care plan that maximizes quality of life and independence for the older adult.

Caring and planning for the future can be burdensome and overwhelming, but Elder Law of East Tennessee can help in many ways. A consultation with Elder Law of East Tennessee is your first step toward the assurance that only a specialized Life Care Plan can provide.

Call 865-951-2410 or visit our [website](#) to get started today. Elder Law of East Tennessee is conveniently located at 428 E. Scott Avenue, Knoxville, TN 37917.

### QUICK LINKS

[Elder Law of East Tennessee](#)  
[Blog: Elder Law Insights](#)  
[Blog: Care Conversations](#)  
[Contact Us](#)

### *Reducing Frequent Hospital Readmissions*

Many seniors who are admitted to the hospital are at high risk of being readmitted within 30 days after discharge. The ACA provides incentives for hospitals to take extra care of seniors to reduce the frequency of hospital readmissions. Under the ACA, hospitals may receive grants for working with seniors who are at high risk for frequent hospital readmissions. Section 3026 of the ACA established the [Community-based Care Transitions Program \(CCTP\)](#), which will determine ways for improving transitions from the hospital to other settings and ensure better overall care for patients admitted to the hospital.

### *The Elder Justice Act*

The Elder Justice Act, which was enacted under the ACA, is aimed at protecting seniors from crimes and abuse including physical and mental abuse and financial exploitation. It is designed to bolster federal and state efforts to prevent and respond to elder abuse and to generate greater awareness and understanding of elder abuse. Under the law, these goals will be accomplished through efforts such as awarding grants to adult protective services agencies, setting new requirements for responding to reports of abuse in long-term care facilities, and creating the Elder Justice Coordinating Council and Advisory Board on Elder Abuse, Neglect, and Exploitation to help guide policy and develop strategies for reducing elder abuse nationwide. You can read more about the Elder Justice Act in this [educational bulletin](#) from the National Health Policy Forum.

### *Nursing Home Care Changes*

There are several provisions under the ACA that concern nursing homes. For example, the ACA requires the Center for Medicare and Medicaid Services to provide a comprehensive website where consumers may find information regarding local nursing homes, including inspection and complaint reports. From this, the consumer may find the number of violations and complaints a specific nursing home has received. In addition, the consumer will be able to find information about the nursing home such as the owner of the nursing home, how much the nursing home spends on resident care compared to administrative costs, the number of hours of nursing care received by residents, and staff turnover rates.

In addition to being able to evaluate a nursing home more completely prior to choosing one, the law has made changes meant to make it easier to file complaints about the quality of care within the nursing home. It also prohibits retaliation for filing such a complaint.

Further, in the event a nursing home decides to close its doors, the ACA imposes new, expanded notice requirements for its residences. Not only must the nursing home provide notice of a closure far enough in advance for its residents to relocate, but it must ensure that all residents have been successfully relocated prior to actual closure.

Finally, the ACA provides all states with the option to enroll in federal grants to pay for criminal background checks on nursing home staff who have not traditionally been required to undergo background checks. This will ensure that not only are nurses and certified nursing assistants background checked, but that any staff coming into contact with patients may be subject to a background check as well. This is an optional program left to the discretion of each state.

*Continued on Page 4*





**Elder Counselor** is a bi-monthly publication serving professionals in elder law, senior service providers, and caregivers and families of the elderly and disabled.

To subscribe to our e-newsletter, send an e-mail to [info@elderlawetn.com](mailto:info@elderlawetn.com) with the subject "NEWSLETTER." We will not share your contact information with other parties.

View other archived issues on our website: [www.elderlawetn.com/newsletter](http://www.elderlawetn.com/newsletter).

*To comply with the U.S. Treasury regulations, we must inform you that (i) any U.S. federal tax advice contained in this newsletter was not intended or written to be used, and cannot be used, by any person for the purpose of avoiding U.S. federal tax penalties that may be imposed on such person and (ii) each taxpayer should seek advice from their tax advisor based on the taxpayer's particular circumstances.*

*The information contained in this newsletter is not offered for or on behalf of an exchange.*

## QUICK LINKS

[Elder Law of East Tennessee](#)  
[Blog: Elder Law Insights](#)  
[Blog: Care Conversations](#)  
[Contact Us](#)

## Community Based Long Term Services and Supports

The ACA aims to strengthen the emphasis on home and community-based care by giving states several options to expand such programs for Medicaid enrollees.

There are three voluntary provisions for the expansion of home and community-based services (HCBS) under Medicaid. First, a state may choose to offer a community first choice option to provide attendant care services and supports. Second, a state may amend its state plan to provide an optional HCBS benefit. And, finally, states may rebalance spending on long term services and supports to increase the proportion that is community-based. The first and third provisions offer states enhanced federal matching rates as an incentive. Although the new provisions are valuable, the law does not set minimum standards for access to HCBS, and the new financial incentives are limited, especially for the many states facing serious budget problems. Wide variations in access to HCBS can be expected to continue, while HCBS will continue to compete for funding with mandated institutional services.

## How is the ACA Funded by Seniors?

The benefits received under the ACA must be funded. Although too lengthy to detail in this newsletter, we will outline how our seniors will bear part of the burden of funding the law.

As already mentioned, there will be some cuts to the Medicare Advantage Plans that will support the funding of the ACA. This is in the form of \$145 billion over a ten year period. Those seniors enrolled in such plans will no doubt undergo adjustments as the changes are implemented.

In addition, the ACA will be funded with a surcharge tax of 3.8% to unearned or investment income of singles with an annual income over \$200,000 and couples with an annual income over \$250,000. Therefore, seniors who fall within this income bracket will be subject to the tax.

Another impact on seniors is the increase in the floor for medical expense deductions from 7.5% to 10% of Adjusted Gross Income (AGI). This change will impact taxes paid for 2013. There is a temporary exemption from January 1, 2013 to December 31, 2016 for individuals age 65 and older and their spouses. If you or your spouses are 65 years or older or turned 65 during the tax year, you are allowed to deduct unreimbursed medical care expenses that exceed 7.5% of your adjusted gross income. The threshold remains at 7.5% of AGI for those taxpayers until December 31, 2016.

Finally, working seniors may be subject to the additional 0.9% Medicare payroll tax on high income earners (defined as taxpayers with over \$200,000 in earned income, \$250,000 for families). This additional tax applies to the excess over the stated limits. This change takes place in 2013.

## Conclusion

Clearly many of the changes made by the Affordable Care Act will affect seniors and their loved ones. It is important to have a general understanding of what seniors are facing in terms of their health care coverage in order to direct them to the resources they need to make educated decisions about their health, their finances, and their care options. Elder Law of East Tennessee is dedicated to helping seniors and their loved ones work through these issues and implement sound legal planning to address them. If we can help in any way, please don't hesitate to contact our office.