

The Chester County Guide For Senior Citizens and Their Families



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The Chester County Bar Association

As a Public Service
For the Residents of
Chester County, Pennsylvania

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The Chester County Guide for Seniors and Their Families

This guide is designed to provide information about legal issues facing Chester County's senior citizens, their caregivers and families. It also lists a number of available resources. The Chester County Bar Association has published this guide to help seniors make appropriate choices so that they can maximize personal autonomy, minimize costs, have an understanding of applicable legal concepts, and protect themselves against predators bent on deceiving, exploiting or defrauding them.

No publication can cover all the legal issues relating to a group as diverse as the senior citizens of Chester County. These materials are, moreover, for informational purposes only. They are not intended to be, and do not constitute any substitute for, legal advice or legal opinions on any specific fact or issue. Obviously, the free dissemination of this information is not intended to create an attorney/client relationship with any individual in or associated with the Chester County Bar Association.

This publication is not copyrighted because the Bar Association wishes to insure that the information it provides is accessible to everyone who needs it. Any page or pages may be copied. Like all reference guides, it begins to be out of date the day of its publication. The Chester County Bar Association hopes to revise this guide periodically as part of its long-standing tradition of public service.

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This publication has been the project of the Elder Law Section of the Bar Association and owes its existence to the Section's hard work and valuable input.

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FINANCIAL PLANNING

The need for senior citizens to properly plan is more critical now than it has ever been in the past. Due to advances in health care, the fastest growing segment of our population is now the segment over age 85. The U.S. population is aging in such a manner that seniors may now live twenty or thirty years or more after they retire. Therefore, it is essential that senior citizens plan for a secure source of income for their use during retirement and maximize the use of benefits afforded them under the current law - both state and federal.

Sufficient Income During Retirement

To adequately insure that there is sufficient income during the retirement years, each senior citizen should develop his or her financial plan (i.e. objectives post retirement and the plan for achieving those objectives) as early as possible. Individuals should identify their potential income needs, health care costs, housing costs, property management in the event of incapacity, and the disposition of their estates following death.

Social Security Retirement Benefits

For most senior citizens, Social Security retirement benefits begin at age 65. Depending upon the extent of the individual's income, these benefits may be subject to income tax. For questions concerning the benefits you may be entitled to upon retirement, contact your local **Social Security Administration** office or visit their website at www.ssa.gov.

Individual Retirement Accounts (IRAs)

Traditional IRAs or annuities are taxable for income tax purposes. However, the tax treatment of distributions from the IRAs will

depend on the individual's age at the time of distribution. Distributions made from such accounts before an individual has reached the age of 59½ are taxed, and they are also subject to an additional 10% penalty tax unless the distribution qualifies for an exception. Once the individual is age 59½ or older, distributions are subject to ordinary income tax but are no longer subject to the penalty tax.

Whether the IRA owner needs the money or not, the owner of the traditional IRA must begin to receive the entire balance of his/her IRA through periodic distributions by April 1st of the year following the year in which the IRA owner reached age 70½. If the IRA owner fails to make the required minimum distribution in any year, he/she will be required to pay a 50% excise tax for that year on the amount not distributed as required.

Annuities

Annuities offer a steady stream of income. Each payment received includes a return of the investment made, as well as an interest component. Annuities may be purchased from insurance companies or arranged privately. However, private annuities involve a risk of loss. For death tax purposes, annuities which terminate at death are not typically included as a part of the annuitant's taxable estate. However, to the extent there is any value passing to or for the benefit of an heir of the annuitant, such benefit may be taxed for death tax purposes, as well as income tax purposes.

Reverse Mortgages (Equity Conversion)

In retirement many seniors are land rich but cash poor. Since the seniors are retired, they typically cannot qualify for a loan. Recognizing this dilemma, lending institutions

now offer reverse mortgages. Through a reverse mortgage, a homeowner converts the equity in their home into cash. The lender loans money to the borrower using the borrower's home as security. The loan proceeds may be dispersed in a lump sum, monthly payments, or through a line of credit. Unlike traditional mortgages which are usually repaid in monthly installments, reverse mortgages are repaid upon death, at a specified maturity date, at resale of the home, or by refinancing the mortgage. These mortgages are a good way to overcome the "house rich but cash poor" dilemma that confronts many elderly homeowners.

Home equity conversion mortgages are provided by the federal government and require that the funds be used for a specified purpose, such as home repairs. In order to qualify, the borrower must meet certain income requirements.

The purpose of the federal law authorizing home equity conversion mortgages for elderly homeowners is to meet the special needs of elderly homeowners. The law reduces the effect of the economic hardship caused by the increased costs of meeting health, housing and subsistence needs at a time of reduced income. Lender participation is also encouraged.

Basic Requirements

- ◆ Borrowers must be age 62 or older; there is no maximum age limit.
- ◆ The mortgaged property must be a one-unit dwelling used as the principal residence of the borrower.
- ◆ The property must be in good repair; proceeds from the reverse mortgage may be used to make needed repairs.
- ◆ The borrower must have a satisfactory credit history, and the property to be mortgaged must be free and clear of a

mortgage or almost mortgage-free. The borrower may be required to pay the balance of the mortgage from the proceeds of the reverse mortgage.

Types of Reverse Mortgages

Basic types of reverse mortgages or home equity conversion mortgages:

- ◆ The Pennsylvania Housing Finance Agency (PHFA) offers the Pennsylvania Home Plus Program. The requirements are typical for reverse mortgages with the additional requirement that the home must be located in Pennsylvania. For further information, contact **PHFA at (800) 822-1174 or (717) 780-3800**.
- ◆ The Federal Housing Administration (FHA) insured reverse mortgage program is administered by the Department of Housing and Urban Development (HUD). A borrower's age, the geographic area and the value of the home determine the maximum amount available under this program. HUD permits an agent appointed by a properly drafted power of attorney to apply for a reverse mortgage on behalf of an elderly homeowner. For free information from **HUD about reverse mortgages call (888) 466-3487**.
- ◆ Private lenders such as local banks may also offer reverse mortgages and may have more flexibility in setting maximum loan amounts or placing higher age limits on borrowers. A private lender might also permit the loan and payments to continue even if the borrowers do not live at the home. However, the overall costs and interest rates may be higher. Contact your local banking institution to ask if they offer reverse mortgage products and compare details to make the best choice for your situation.

While reverse mortgages do not adversely affect an individual's receipt of Social Security or Medicare benefits, they may have an impact on an individual's ability to receive Supplemental Security Income (SSI) and Medicaid benefits. Reverse mortgage payments are not considered income since they are borrowed funds. However, mortgage proceeds which are held beyond the month they are received are considered "liquid assets" and may adversely effect eligibility for SSI and Medicaid benefits.

Another important factor to note is that these reverse mortgages are "nonrecourse" loans. This means that you can never owe more than the value of the home at the time the loan is repaid. A lender seeking repayment has no recourse other than the value of your home. Further information regarding reverse mortgages can be obtained by requesting a "Home Equity Conversion Information Kit" from the **American Association of Retired Persons (AARP) by writing to AARP Fulfillment, D-15601, 601 E Street, NW, Washington, D.C. 20049.**

Property Tax and Rent Rebates

The Property Tax/Rent Rebate Program began in 1971 to assist elderly citizens to maintain their homes. Under this program, a person living on a limited income may be eligible to receive a rebate of some part of the money paid for property taxes or rent during a calendar year. Rebates range from \$10 to \$500 depending on the claimant's income level and actual tax or rental costs. Persons living in subsidized housing may only claim that amount actually paid in rent.

To be eligible for a property tax/rent rebate, the individual:

- ◆ must own and occupy the property for which a rebate is claimed; or, rent and

occupy a property for which the owner paid property taxes. In either case, the property must be the principal residence;

- ◆ must be a Pennsylvania resident age 65 or older or have a spouse age 65 or older living in the same household;
- ◆ can be age 50 or older if widowed;
- ◆ can be permanently disabled and age 18 or older, meeting the Social Security disability requirements;
- ◆ must have a total household income of \$15,000 or less; you may exclude 50% of your Social Security/Railroad Retirement income in determining eligibility income limits.

Claims applications must be filed between January 1 and June 30 of the year following the year in which you paid the tax or rent. In addition, owners must have paid taxes prior to filing and renters must make certain their landlords were required to pay property taxes or made payments in lieu of property taxes on the rental property.

Claimants who qualify can be reimbursed up to \$500 a year for the amount they paid in property taxes or rent; rebate checks are mailed beginning July 1 of each year. Proof of income is required, such as copies of the state or federal income tax returns for the claim year in which you are filing. If you are claiming a rent rebate, you must include proof of the rent you paid, such as an affidavit signed by the landlord or the landlord's agent. If the landlord's signature cannot be obtained, the claimant must complete and submit a notarized rental occupancy permit.

If you qualify for the property tax and rent rebate program, you may also be eligible for PACE or PACENET, which are prescription drug programs funded by the Pennsylvania lottery (See page 28 for more information).

For further information regarding property tax/rent rebate you can contact the **Pennsylvania Department of Revenue, toll-free at (888) 222-9190 or (800) 772-5246 or at their website: www.revenue.state.pa.us**. You can get help in filling out PACE and tax rebate forms through the Chester County Department of Aging Services, 610-344-6350 or 1-800-692-1100, extension 6350. You may also contact your local area senior center.

Income Tax Planning

As there are tax laws which inure to the benefit of the elderly, senior citizens should familiarize themselves with such information and utilize these laws wherever possible. For a general guide to the tax laws affecting the elderly, see **Internal Revenue Service, Publication 554, "Older Americans' Tax Guide."** This publication is available free of charge by calling the **IRS at (800) 829-3676**. You also may be able to review and print a copy from the IRS website at: www.irs.ustreas.gov.

Tax Return Preparation

Many seniors fail to effectively utilize the tax laws which are beneficial to the elderly, because they are unable to afford professional tax assistance. However, for those seniors with limited means, volunteer tax preparation and filing assistance is available through several programs:

1. Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE), programs coordinated by the IRS are available. To locate a volunteer assistance site near you, we suggest you contact your local public library or the IRS.
2. The American Association of Retired Persons (AARP) offers assistance in many communities through their Tax Aide program. Like VITA and TCE, this program offers free assistance in preparing tax returns to elderly of modest means. To locate the Tax Aide site near you, contact the AARP at (888) 227-7669 or visit their website at: www.aarp.org.
3. The IRS also provides walk-in tax return preparation services free of charge at its service centers.

Standard Deduction at Age 65

As stated above, federal income tax laws apply to all Americans; however, certain provisions give beneficial tax treatment to seniors. One such benefit is the additional standard deduction when you reach age 65. Below is a chart demonstrating the additional standard deduction, depending upon filing status. In the event you do not itemize, and you are 65 or older, you may be able to avail yourself of this additional deduction.

ADDITIONAL STANDARD DEDUCTION (2002)		
Filing Status	Standard Deduction	Additional Standard Deduction
Single	\$4,550.00	\$1,150.00
Married; filing jointly	\$7,600.00	\$ 900.00
Married; filing separately	\$3,800.00	\$ 900.00
Head of household	\$6,650.00	\$1,150.00
Surviving spouse	\$7,600.00	\$ 900.00

In order to use the additional standard deduction, the taxpayer must have reached the age of 65 before the end of the tax year for which the return is being filed. However, an individual whose birthday falls on January 1 of the succeeding year, is permitted to utilize this additional deduction for the tax year preceding his or her reaching age 65.

Income Tax Credit Age 65 or Older

If you are a U.S. citizen and age 65 or older (or if you are retired on a permanent basis and on total disability), you may be able to take this credit. For tax year 2001, the maximum credit available is \$1,125.00. However, this credit is only available if your income does not exceed a certain limit and you are deemed a qualified individual. As the calculation for determining your tax can be quite complicated, you may require the assistance of a tax professional to properly calculate the credit you are due.

Medical Expense Deductions

In the event you itemize your deductions, medical expenses are deductible to the extent they exceed 7½% of your adjusted gross income. Please keep in mind the medical expense deduction is limited to unreimbursed, i.e. out-of-pocket expenditures. Examples of deductible expenses include:

- (1) Expenditures for medicine, if the medicine was prescribed by a physician;
- (2) All the costs associated with a long-term care facility, including meals and bldg, if the principal reason for admission is the availability of medical care;
- (3) Personal care services, if provided pursuant to a plan of care prescribed by a licensed health care practitioner. Since assisted living care is not traditionally skilled medical care, only a portion of the costs associated with such care may be

deductible. The assisted living facility should be able to instruct you as to the portion of each payment which is deductible.

- (4) Capital expenditures for equipment and home modifications to accommodate the handicapped to the extent they don't increase the market value of the residence. For instance, wheelchair ramps and widening of entrances are deductible improvements.

Personal Dependent

If you provide more than 50% of the support of a relative, you may be able to claim him or her as a dependent on your tax return and as such receive a deduction, provided all of the other elements required by law are met:

- (1) The relative's gross income for that year must be less than \$2,900; and
- (2) The relative must not have filed a joint return with his or her spouse.

Medical Deduction

Even if you are unable to claim a relative as a dependent, you may be able to deduct medical expenses you made on his or her behalf during that year. To deduct such medical expenditures, you (or in certain cases, you and others) must have provided over 50% of the relative's total support for the calendar year. The availability of this deduction is not dependent on the relative's income received in that calendar year.

Dependent Care Credit

If a parent is dependent upon his or her child for support, regardless of the parent's income, the child may be entitled to this credit. However, the parent must be incapable (physically or mentally) of providing his or her

own personal care. However, please note it is usually more beneficial to claim these expenses as medical expenses than to use the credit.

Tax Basis

To properly prepare an income tax return, you or your tax preparer will need to know the “tax basis” for each capital asset (e.g. stock, real estate, etc.) sold within that tax year. The tax basis of an asset is critical to accurately computing the capital gain or loss resulting from the sale of an asset. The maximum current capital gains rate for long term investments is now 20%. Typically, as stated above, an individual’s tax basis in property is the initial purchase price of that property, increased in certain instances for major improvements made over the years to such property. For instance, if person A purchases a house for \$200,000 and later puts a deck on the house at a cost of \$20,000, person A’s tax basis in the property is \$220,000.

Transfers (Gifts vs. Inheritance)

Using the example above, if person A gifts the house to his son, his son’s tax basis will be the same as person A’s tax basis in the house. Son receives a “carryover” basis. If A gifts this house to son and son then sells it for \$400,000, Son will be taxed on \$180,000 of capital gain [$\$400,000 - 220,000 = 180,000$].

However, if person A dies and son inherits this house and son then sells it for \$400,000, the son’s basis in the house “steps up” to \$400,000 (value at time of death) and as such, there is no capital gain recognized upon the sale. An individual’s tax basis in inherited property is typically the fair market value of such property on the decedent’s date of death. Tax basis consequences, as well as other tax considerations, need to be analyzed when determining which assets should be transferred, if any, and which should be retained. As the

tax consequences of such transfers can be significant, it is prudent to seek the advice of a tax professional before undertaking such transfers. Understanding and carefully documenting tax basis can result in significant tax savings to an individual.

Sale of Residence - (Exclusion of Gain from Income)

Under current law, upon the sale of your home, much, if not all, of the capital gain arising from such sale may be excluded from taxation. Under the current federal law, a taxpayer may exclude capital gain on the sale of his or her principal residence up to \$250,000 (\$500,000 on a joint return in most cases). In fact, if you can exclude all of the gain, you don’t even need to report the sale on your tax return. However, this exclusion is only available if all the following are true:

1. You (or your spouse) meet the ownership test (i.e. you own the principle residence for at least two years);
2. You and your spouse (if you are married) meet the use test (i.e. you lived in the home as your main residence for at least two years);
3. During the two year period ending on the date of sale, neither you nor your spouse excluded gain from the sale of another home; and
4. If you are married and wish to use the \$500,000 exclusion, you must be married and file a joint return for the tax year of the sale.

In a general sense, capital gain upon the sale of your residence is the difference between the sale price and your purchase price, plus any payments for major improvements made over the years (i.e. new windows, new roof, new deck, etc.).

ESTATE PLANNING

Many people think the term “estate planning” applies only to very wealthy people. Nothing is further from the truth. An estate is simply what you own. If you own property, you need to plan ahead in order to make sure the desired people or institutions inherit your property after your death.

If you die without a will, your assets, including your home, money and other property will be distributed to your heirs according to the Pennsylvania Intestacy laws. Without a will, you have no control over the manner in which your property is distributed upon your death.

The existence of a well-considered estate plan, most importantly a will, can help avoid disputes among your heirs and will give you the peace of mind that comes with knowing that your final wishes will be carried out.

It is best to consult with a local attorney whose practice includes or concentrates in estate planning to discuss your needs and wishes. You should select an individual with whom you feel comfortable and who will help you in designing a plan to suit your needs, wishes and budget. The cost will certainly be less than the much greater amounts that your family could incur in the future.

The Will

A will is an important legal document and the cornerstone of most estate plans. In a will you direct how your property is to be distributed and you also name a personal representative to administer your estate.

The personal representative named in a will is commonly referred to as the “executor.” An executor collects the estate assets, pays the

estate debts and makes distributions to the beneficiaries you have designated in your will.

It is generally advisable to nominate one executor and an alternate in your will rather than naming two individuals to serve as your co-executors. Co-executors frequently have difficulty getting paperwork signed in a timely manner and can delay estate administration. Moreover, disagreements between co-executors can increase the time and costs of administration.

If you already have a will, take it out and re-read it. Do you understand what it says? Do you agree now with the arrangements you made earlier? Update your will if circumstances have changed. Marriage, death, divorce, birth, asset growth, moving to a different state or a change in estate tax laws are events that may trigger the need for you to revise your will. A good rule-of-thumb is to review your will at least once every five years. Significant changes in the federal tax law were recently made with the passage of the Economic Growth and Tax Relief Reconciliation Act of 2001.

Keep your original will in a secure place such as a fire-proof box, a safe deposit box at your bank or with your attorney. If your lawyer is holding your will, ask whether it is being held in a fire-proof vault or other protected location.

If you are afraid that somebody might tamper with or destroy your will if they were to read it, leave it with your lawyer or place it in a safe deposit box where its contents will be kept private. In Pennsylvania, a safe deposit box is accessible upon death of the owner for the limited purposes of retrieving the decedent's will and cemetery deed. Under Pennsylvania law, the safe deposit box is not frozen, i.e.

sealed, if the co-owner of the box is the surviving spouse.

You have the right to request your original estate planning documents from your attorney at any time. The documents belong to you, not your lawyer. You also have the right to revoke your will and write a new one at any time you choose, providing you have the mental capacity to do so.

Trusts

Your attorney might recommend the use of a “trust” in larger estates, estates with young beneficiaries and in situations with special circumstances. What is a trust? Many estate planners explain that a trust is like a box where you can place your property. A person places money in the box, the trust, and designates a manager, known as the “trustee,” to safeguard the contents of the box. The trustee then distributes trust assets to the beneficiaries you select, in such amounts and at such times as you direct. Of course the money is not really put in a box. The “box” is usually a brokerage account or a bank account where the funds are invested by your trustee.

For example, a grandparent may wish to set aside money for a disabled grandchild, but may be afraid to do so for fear of disqualifying that grandchild from certain government benefits. A grandparent could place the money in a carefully drafted trust, designate a trustee to invest and safeguard the funds and enable the disabled child to benefit from the trust while maintaining eligibility for government benefits such as Medicaid or Supplemental Security Income (SSI) payments.

There are many other types of trusts. Credit shelter trusts, also called “by-pass trusts,” are commonly used to help protect large estates from federal estate taxes. Trusts can also be used to set aside money for designated

purposes, such as for education. Discretionary trusts and “income only” trusts can be written to protect spendthrift beneficiaries from squandering their inheritance through wasteful spending habits.

Trusts usually cost more money to create than a simple will because they are more complicated and must be customized for each particular situation. In addition to the costs of drafting a trust, there are continuing attorneys’ fees and trustees’ commissions over the years as a trust is administered. Many trusts require the filing of fiduciary income tax returns; accordingly, an accountant’s services are often needed to help prepare and file these tax returns. Obviously you need to consider the ongoing administrative costs as you decide whether it makes sense to create a trust. Generally, however, if you are in a situation where the use of a trust would be advisable, the benefits of the trust will far outweigh the administrative costs.

Revocable Living Trusts

Before preparing a living trust, you must determine whether it will be useful for your situation. Generally, in Pennsylvania, there is no substantial benefit of the use of a revocable living trust over a properly drafted will.

Although revocable living trusts, when properly drafted, and when used in the appropriate situation, can be valuable parts of a client’s overall estate plan, in recent years living trust scams have become increasingly common. Promoters of such scams frequently target seniors through “free” seminars and mail solicitations because they know that seniors are concerned about making sure their “affairs are in order” and can be susceptible to high pressure sales techniques. Living trust scam promoters emphasize the allegedly high fees, delays and damaging psychological impact of the probate process, and suggest that you can

avoid all these fees by using a revocable living trust. Living trust scam promoters also sometimes promise that a revocable living trust will allow you to avoid death taxes and the possibility of a challenge by disgruntled heirs. What they don't tell you is that the costs, taxes and time commitment involved in administering a trust are, in most areas, virtually identical to those involved with probating and administering an estate.

If you wish to get a low-cost second opinion from an estate planning attorney before proceeding with a living trust, call the **Chester County Bar Association Lawyer Referral Service at (610) 429-1500**. Tell the service representative that you would like to meet with an estate planning attorney before going forward with the preparation of a living trust to make sure that it is right for you. A half-hour consultation costs only \$25; this meeting might save your money and your peace of mind by making you aware of options not mentioned by the salesperson.

If you are contacted by anyone trying to sell you a revocable living trust, here are some of the warning signs that may indicate that this is a scam:

- ◆ high-pressure sales tactics, or unsolicited sales visits;
- ◆ suggestion that the Living Trust is the “only document you’ll ever need”
- ◆ suggestion that “attorneys don’t want you to know this information”
- ◆ use of “one-size-fits-all” pre-printed forms
- ◆ excessive prices for forms

Some people are confused by the complexity of revocable trusts and may experience or feel a loss of control over the assets in the trust. Moreover, many feel the benefits of a costly trust can be obtained through less expensive

alternatives, such as through the use of a general durable power of attorney. **See page 13 for more information**

A living trust is appropriate and may be the best choice if you own real estate in another state, for example, if you own a second home in Florida. Property transferred to your trust will not be subject to an ancillary probate in that state, which will save considerable cost and simplify the administration of your estate. You might consider a living trust for the management of your assets if you become incapacitated, as the successor trustee of your trust will then be able to step in to continue in your place.

Non-Probate Property

Just as you need to review your will periodically, you should check the beneficiary designations on your life insurance and retirement accounts to make sure they are up to date. Many people select beneficiaries when purchasing a life insurance policy or opening their accounts but never recheck these decisions. It is particularly important to do so as families change over the years.

You also need to be aware that jointly-held property, accounts held in trust for **(ITF)** and annuities do not pass according to the provisions of your will. Rather, these items pass by law to designated beneficiaries or to the survivor listed on the account. Be sure these beneficiary designations are carefully reviewed when developing your estate plan.

Joint Property

There are several ways of owning property with another person: Tenants in Common, Tenancy by the Entireties, and Joint Tenancy with Right of Survivorship. You should not transfer your property into joint names with another without obtaining legal advice from an

attorney who is able to explain the tax and other consequences. When you transfer your property so that you own it with another, you are exposing your property to the creditors of that person. There may be income tax, federal estate and gift tax, and also Pennsylvania Inheritance Tax issues.

There are several types of jointly owned property, and people often transfer their property into joint name with family members, or even friends, with the mistaken belief that this will reduce estate administration costs, avoid probate, avoid taxes, and generally “make things easier.” This often results in unexpected outcomes, bad feelings, and hardships.

Titling property in joint names is easy to do. Banks and other financial institutions may provide forms but are not capable of advising of the potential dangers. How you end up owning your property may depend upon the forms you are given to sign by an employee who does not know anything about your situation, or understand anything about the various types of joint property.

If your goal is to provide for the management of your affairs if you become incapacitated, you should discuss the merits of a revocable living trust and a general power of attorney with your lawyer. If you want certain property to go to a particular person after your passing, this should be addressed in your estate plan.

Inheritance, Estate and Gift Taxes

Over the years, senior citizens have watched tax regulations at all levels grow more and more complicated. Guideline information is offered below with the advice to consult with a professional if you have questions.

Pennsylvania Estate Tax

The Pennsylvania Estate Tax is applicable only when the size of the estate requires filing of a

federal estate tax return. The IRS allows a state death tax credit against the federal estate tax, based on the value of the estate. If this tax credit is greater than the inheritance tax paid to Pennsylvania, the Department of Revenue imposes a Pennsylvania Estate Tax on the difference. This is sometimes called a “make-up” or “pick-up” tax.

Pennsylvania Inheritance Tax

Pennsylvania's Inheritance Tax is a tax imposed upon the transfer of property at the time of an individual's death. Generally, assets located within the Commonwealth of Pennsylvania and titled in the decedent's name, such as bank accounts and real estate, are subject to the tax. The rate of tax is determined by the relationship of the beneficiary to the decedent. For example, transfer to a grandparent, parent, or lineal descendant are taxed at 4½%, while property passing to a sibling is taxed at 12%. Property passing to a surviving spouse, or from a child under the age of 21 to a parent is not subject to tax. All other transfers are taxed at a rate of 15%. The tax must be paid within nine months of the date of death to avoid a penalty. If you pay all or part of the tax within three months of death, you will receive a small discount.

Federal Estate and Gift Taxes

The federal government imposes a tax “on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.” The tentative tax is computed on the amount of the taxable estate and the amount of the adjusted taxable gifts. The maximum tax rate for individuals dying in 2001 is 55% on estates in excess of three million dollars.

Due to the recent changes in the tax law, the maximum estate tax rate will be steadily decreasing to 45% in 2009, and will be completely repealed in 2010. A tax credit,

known as the “unified credit”, allows smaller estates relief from the tax. For individuals dying in 2002, the unified credit permits the first \$1,000,000 of an individual’s estate to

pass without being subject to the Federal Estate Tax. This amount will be steadily increasing over the next several years, as follows:

Unified Tax Credit	
Year(s)	Amount
2002 - 2003	\$1,000,000
2004 - 2005	\$1,500,000
2006 - 2008	\$2,000,000
2009	\$3,500,000

Technically, under the new law, the total repeal of the estate tax will be effective only for decedents dying between January 1, 2010 and December 31, 2010. If the repeal is not renewed by Congress by December 31, 2010, the estate tax will revert to the 2002 rules.

The federal taxation is not a concern for estates with assets under the amount covered by the unified credit; however, you should check with your lawyer for other specific concerns. For married couples with assets in excess of what is covered by the unified credit, taxes can be avoided with appropriate planning, such as the creation of a "bypass trust." Estates where combined assets are more than the unified credit protected amount for married couples require complex planning by a professional estate planner. Again, it is always wise to check with your lawyer.

Taxable gifts are the total amount of gifts made during the calendar year, less deductions. Annual gifts less than \$11,000 per person per donee are not taxed. Thus a husband and wife combined may transfer up to \$22,000 to each donee (i.e. \$22,000 to each of their children) per year without being subject to federal taxation. The government provides for an increase of this \$11,000 amount for gifts made after 1998 by using a cost-of-living adjustment.

Planning For Gifts

As you plan to make gifts in your elder years, you need to know about federal estate and gift taxes, income taxes, real estate law, estate law, wills and divorce law. Your first step may be to consult an attorney.

Your attorney will ask you to gather copies of all federal income tax and gift tax returns, gift checks, recorded and unrecorded deeds, copies of gift letters and trust agreements. After a review of all the documents and a discussion of your goals, you will be ready to select the property to be gifted, with your attorney’s assistance as you make your decisions.

You may want to consider a gift to charity. Many not-for-profit institutions have resources to aid you in making gifts, particularly in setting up a charitable gift annuity which allows you to give cash or securities while providing you with a guaranteed, lifelong income. Under certain conditions, you could enjoy a significant charitable tax deduction without incurring a capital gains tax if you give appreciated securities with a low cost basis. Again, you need to see your attorney to help you to review all your options. You need to keep in mind that the federal government taxes some gifts. The Internal Revenue Service

defines a gift as any voluntary transfer of property from a donor to a donee without what is called full and adequate consideration. A gift will be computed when the donor gives up control over the transferred asset. Your gift to anyone during a calendar year will be a “taxable gift” to the extent it exceeds \$11,000.

The value of a gift for federal gift tax purposes is the “fair market value” of the property transferred. Fair market value is generally defined as the “price which would probably be agreed upon by a seller willing to sell and a buyer willing to buy where both have knowledge of the facts.” Gift tax returns, which list the gifts made in that year, must be filed annually when you file your personal income tax return.

Meeting With Your Lawyer

Perhaps the most difficult part of the estate planning process is overcoming procrastination and scheduling that initial consultation. For the best results, you need to deal with an attorney who provides estate planning services on a regular basis. When you call to schedule your appointment, be sure to ask whether there is a fee for the initial consultation. At your first conference, be sure to ask about the total cost to have your documents prepared. Some lawyers charge for documents on a flat fee basis, while others bill at an hourly rate. In either case, reputable lawyers always discuss

fees up-front at the initial consultation and they will put the agreement in writing.

Before you visit your lawyer, you can make the initial meeting more productive by bringing the following information:

- ◆ a list of what you own;
- ◆ a list of your intended beneficiaries with their names, ages and addresses;
- ◆ your choice of executor and at least one alternate;
- ◆ a list of all the questions you have about estate planning.

Your lawyer will thus be able to spend more time developing a plan with you and less time writing down basic information. If you suspect trouble in the family, mention this to your attorney so the issues can be addressed in a way that minimizes conflict. Remember that anything you discuss with your attorney is confidential client information.

After working with you to develop your plan, your lawyer will then prepare the necessary documents. You may wish to ask him/her to forward drafts of complicated documents, such as trusts, for your review in advance of the final appointment. It is very important that you understand all papers you sign. Then, once signed, make sure everything is kept in a secure, fire-proof location.

POWERS OF ATTORNEY

Durable Power of Attorney

A Durable Power of Attorney (DPOA) is a written document authorizing a named person called "agent" to handle certain specified types of transactions for the person making the power of attorney, called the "principal."

General powers of attorney are very broad and allow many types of transactions. Limited powers of attorney convey the power of attorney to an agent to handle a specified task, for example, to attend and sign documents at a real estate settlement.

The power of attorney is "durable" in that it remains valid even after the principal no longer has legal capacity to convey property or handle similar transactions, perhaps due to an injury or an illness such as Alzheimer's disease. However, legal capacity must exist when the power of attorney is first executed. All powers of attorney executed since 1993 in Pennsylvania are durable unless otherwise stated.

A "springing" power of attorney can be executed so that it will only take effect if the principal's legal capacity has diminished or the principal becomes disabled. The agent's power to act then "springs" into effect upon the happening of an event such as disability. A major question of a springing power of attorney is: when does it take effect? Springing powers of attorney can include a formula that involves one or more physicians attesting to the fact that the principal has lost his/her capacity or is disabled in order for the power of attorney to take effect. Documentation that the triggering event has occurred is normally required.

Under a new law, Pennsylvania now requires a notice in capital letters at the beginning of the

power of attorney, signed by the principal, so he/she acknowledges understanding the powers and duties conveyed to an agent under the power of attorney and stating that the power of attorney has been read and understood. The new law also requires an acknowledgment signed by the agent that he/she has read the power of attorney and understands it and that he/she is to exercise the powers given to him/her for the benefit of the principal only. The agent agrees not to co-mingle any assets of the principal with his/her own assets and further agrees to exercise reasonable care and caution, keeping a full and accurate record of all of his/her actions.

The power of the agent to make gifts has been further defined in the new law. The agent may make limited gifts on behalf of the principal to the principal's spouse and children and to a spouse of the principal's child. This can include the agent if he/she is one of the above. During each calendar year, the gifts may not exceed the principal's annual exclusion from the federal gift tax permitted under the Internal Revenue Code.

The new law also allows unlimited gifts to any persons the principal may choose, if specified by the principal in his/her power of attorney. For specific procedures you should contact your attorney.

Revoking A Power of Attorney

As long as the principal has legal capacity, he/she can sign an affidavit to revoke the power of attorney, name a new agent or designate a co-agent to check on the actions of the first agent. The power of attorney must be notarized and witnessed since some powers of attorney must be recorded at the courthouse,

for example, when real estate is being transferred. Often if a power of attorney does not have a recent date on it, banks and other institutions will require the principal to sign a “certification” that the power of attorney has not been revoked and is still in full force.

Special Powers of Attorney

Health care powers of attorney and financial powers of attorney are special forms of power of attorney that delegate to an agent the power to act on your behalf regarding financial, medical and health issues in the event that you are unable to do so yourself. The new power of attorney statute in Pennsylvania authorizes the principal's admission to a medical, nursing, residential or similar facility, entering into agreements for his/her care and authorizing medical and surgical procedures. A financial power of attorney is also a special form of power of attorney that delegates to your agent the power to act on your behalf relating to financial affairs only.

Failure To Act

Any person who fails to act according to the directions of an agent appointed by the principal, without reasonable cause, can be subject to money damages if suit is filed.

Fraud

A power of attorney can be an invaluable tool in aiding an elderly individual who needs assistance, but it can also be a means to facilitate fraud. Steps you can take to minimize that potential are:

- ◆ Choose the right person to act as your agent under a power of attorney. Make sure that the individual is someone you can trust who will make decisions on your behalf in accordance with your wishes.

- ◆ Be careful what powers you give to an agent under a power of attorney. Make sure you read every word and understand what powers are included in any power of attorney before you sign the document. Powers of attorney can be broad or narrow, allowing a full grant of authority to act for an individual or providing only a limited power of attorney for a particular event or situation, i.e. power of attorney for the sale of real estate.
- ◆ Consider appointing more than one person to act as your agent. While this may be more cumbersome and less efficient, it provides a process of checks and balances in that your agents must agree on decisions and actions.
- ◆ To prevent premature use of the power by your agent, you can withhold the document until it is needed or require that the document be held by a non-agent with full instructions for release to the agent.
- ◆ Require your agent to account periodically to a disinterested third person.

Health Care Provisions in a Power of Attorney

A power of attorney usually deals with financial and similar personal issues but can include powers related to medical treatment. The law allows your agent, appointed by you in your power of attorney, to authorize your admission to a medical, nursing, residential or similar facility, and to enter into agreements for your care but only if you so state. The agent may, with respect to your admission to a facility, execute consent or admission forms required by the facility and enter into or sign agreements or contracts for your care by a facility or elsewhere. The law also allows you to authorize your agent to arrange for and give consent for medical, therapeutic, and surgical procedures, including the administration of medications. Again, your document should specifically grant this power to your agent.

If one person is to act as your agent for your financial affairs and another as agent for your health care, you need to create two separate documents. A living will (also called an Advance Health Care Declaration), discussed below, is a document which allows you to specify your desires regarding medical decisions more precisely than with a power of attorney, which is limited by law. In most

cases, it makes more sense to have your medical desires expressed in your living will rather than in your power of attorney. Therefore, you and your lawyer must be careful that these documents complement and do not conflict with one another. Finally, your power of attorney can, if you wish, give your agent the authority to make an anatomical gift of all or part of your body.

ADVANCE HEALTH CARE DECLARATIONS

Please note that at the time of this printing the statutes related to Advance Health Care Declarations were being revisited by the legislature. Significant changes may result because of this review and you should check the following information with your attorney before taking any action based on the following paragraphs. To date, Pennsylvania has not adopted any of the Uniform Acts that are used by many states as guidelines in a given area of law.

In 1992, Pennsylvania became one of the last states to pass "Living Will" legislation (the "Advance Directive for Health Care Act."). In 1994, changes to this law allowed a declarant to also make an anatomical gift of all or part of his or her body.

Definitions

- ◆ Declarant - The person who is making a declaration (living will) in accordance with the act. As noted above in the discussion of a Durable Power of Attorney, the Declarant is the giver of the authority and can also be termed the Principal who gives authority to his or her Agent.
- ◆ Attending Physician - The physician who has primary responsibility for the treatment and care of the declarant.
- ◆ Declaration (Living Will) - A written document voluntarily executed by the declarant in accordance with the act. A written statement that refuses life-sustaining treatment if the maker is incompetent and either in (a) a terminal condition, or (b) a state of permanent unconsciousness.
- ◆ Health Care Provider - An entity licensed or certified by the laws of Pennsylvania to administer health care in the ordinary course of business or practice of a profession. This term includes personnel recognized under the Emergency Medical Services Act.
- ◆ Incompetent - A person who lacks sufficient physical and/or mental capacity to make or communicate decisions concerning his/her medical treatment.
- ◆ Life-Sustaining Treatment - Any medical procedure or intervention that serves only to prolong the process of dying or only to maintain the patient in a state of permanent unconsciousness. If the declaration so provides, this treatment may include nutrition and hydration administered by gastric tube or intravenously or any other similar artificial or invasive means.
- ◆ Medical Command Physician - A licensed physician who is authorized to give medical command under the Emergency Medical Services Act. For example, an emergency room physician.
- ◆ Permanently Unconscious - A medical condition diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment. This term includes a persistent vegetative state or irreversible coma.
- ◆ Qualified Patient - A person who has executed a declaration and who has been determined to be in a terminal condition or to be permanently unconscious.
- ◆ Terminal Condition - An incurable and irreversible medical condition in an advanced state. This can be caused by injury, disease, or physical illness that will, in the opinion of the attending physician, and to a reasonable degree of medical certainty, result in death regardless of the

continued application of life-sustaining treatment.

Anyone of sound mind who is 18 years of age or older, or who graduated from high school, or has married may execute a living will at any time. The Pennsylvania law currently requires that the document be witnessed by two individuals each of whom is 18 years of age or older. Other states may require that a notary public acknowledge the living will, so if you plan to travel outside of Pennsylvania this notarization is a sound idea. A sample declaration/living will is included in Appendix A on page 54, in the form set forth by the Pennsylvania Legislature with a notary clause added. The form may be tailored to document your specific wishes and desires.

You should discuss with your primary doctor the kinds of medical treatment you may wish to withhold under certain circumstances and how certain medical procedures might affect your body. One copy of your living will should be given to your primary care physician who will place it in your medical records. In following your declaration, your doctor cannot be sued; however, your doctor can refuse to comply with your declaration if it is against his/her conscience. You may decide it is best to name a surrogate or agent to carry out your specific directions when you are unable to make them. You may also expressly exclude certain persons from acting as your surrogate, for example, a spouse from whom you are separated. This freedom to name any person (even a non-spouse) as your agent of choice was recently affirmed by a Pennsylvania Superior (Appeals) Court case called Duran.

By law, hospitals and nursing homes must provide patients with information concerning living wills. However, declarations are optional and no entity can charge a different fee depending on whether a living will has been signed. Additionally, forms presented by facilities at the time of admission are

standardized or “boilerplate” forms that may not accurately reflect an individual’s wishes.

Statutory Living Wills become operable only when the attending physician is provided with a copy and the declarant is determined by the attending physician to be incompetent and in a terminal condition or in a state of permanent unconsciousness. The attending physician must certify, in writing, the diagnosis and must arrange for the physical examination and confirmation of the diagnosis by a second physician.

You may revoke your directive “at any time and in any manner” without regard to your mental or physical condition. Additionally, instructions to withdraw or withhold life-sustaining treatment are void if the declarant is pregnant unless the continuation of treatment will not result in a live birth, will be physically harmful to the declarant, or would cause pain to the declarant that could not be alleviated by medication. By law, if an attending physician or other health care provider cannot follow the directive, the provider must inform the appropriate person and make every reasonable effort to transfer the declarant to another physician or health care provider.

Absence of A Living Will

If a patient does not execute an advance directive, there is no presumption of the patient's intentions to consent or refuse life-sustaining treatment. As such, physicians and other health care providers responding to an emergency will likely try every means to sustain life. Recently however, the Pennsylvania Supreme Court has held that a close relative, with the consent of two physicians and without court involvement, may remove life-sustaining treatment from an adult relative who is in a persistent vegetative state even when that adult has left no advance directive.

GUARDIANSHIPS

Sometimes people are unable to make decisions about their health or finances and can no longer manage for themselves. Dementia or other progressive mental, emotional or physical illnesses can rob people of the ability to keep themselves safe. In the worst cases, individuals can become victims of others who see opportunities to take cash and possessions while "helping" or doing favors. The impaired person may even be pressed to make important decisions about medical care or living arrangements.

To provide a decision-maker for people in these situations, Pennsylvania law allows the Orphans' Court to appoint a guardian of the person (for living arrangements) and/or a guardian of the estate (for financial matters). Anyone interested in the person's welfare can file the petition seeking a guardian; however, a guardian must be identified and be willing to serve. The court will not produce one and there is no public guardian service in Chester County at this time.

To qualify for a guardian, a person must be found impaired in such a way that s/he is partially or totally unable to manage financial resources or meet essential requirements for physical health and safety. Because a ruling of "incapacity" and appointment of a guardian involves the curtailing of many important legal rights, stringent standards must be met. Notice must be given to the alleged incapacitated person and there is a right to request counsel.

Hearing Before the Court

The incapacitated person is required to attend a hearing before the Chester County Orphans' Court unless excused, for example, by a doctor. An attorney for the incapacitated person is not required unless ordered by the court, as in

cases involving family conflict. When testimony by a qualified person such as a psychiatrist or other health care provider establishes clear and convincing evidence that the person is incapacitated, a guardian will be appointed. It is important to note however, that just because an individual has periods of confusion does not mean that s/he will be found incapacitated under the law.

If incapacity is established, the court will appoint a guardian of the estate and/or person with full or limited powers. It is the duty of the guardian to assert the rights and best interests and to respect the expressed wishes and preferences of the incapacitated person to the greatest possible extent. The guardian must also encourage the incapacitated person to participate in all decisions which affect him/her to the maximum extent of his or her abilities. However, the guardian does not have to follow the wishes of that person if they are in conflict with his or her best interests. For example, many times an incapacitated person wants to continue to live in his/her home; if the guardian determines that assisted living or skilled nursing care is necessary, the guardian is fully authorized to admit the person to a facility even over that person's objections.

The appointed guardian has all powers set forth in the court order, usually including making every kind of decision with the exception of admitting to inpatient psychiatric facilities or consenting to relinquishment of parental rights. Court approval is needed for consent to abortion, sterilization, psychosurgery, shock therapy, removal of a healthy organ, or to prohibit marriage, consent to divorce or to consent to experimental procedures.

Typical decisions made by guardians of the person include; arranging medical care and consenting to surgery or other treatments, determining where an incapacitated person is to live and contracting for admission to nursing facilities. A guardian for the estate has the same duties as a personal representative, executor or administrator with specific requirements and limitations. Every guardian must file a detailed annual report with the Orphans' Court.

Working out a comprehensive power of attorney may make guardianship proceedings unnecessary and is less expensive and stressful than the court process. Any person could, of course, name in advance a preferred guardian of estate or person for consideration by the court in case an incapacitation proceeding becomes necessary.

SOCIAL SECURITY

The Social Security Administration operates a variety of programs and benefits including retirement and survivor benefits, Social Security disability insurance benefits, Medicare health insurance, and Supplemental Security Income benefits. In Chester County the Social Security office is located at:

330 West Market Street
West Chester, PA 19380
(800) 772-1213

The Social Security office also has several helpful and informative publications available free of charge.

Additional Information and services from the Social Security Administration (SSA) are available from the following sources:

- ◆ The SSA toll free number at (800) 772-1213. The “TTY” number for the hearing impaired is (800) 325-0778. Please note there have been some reports that the Social Security staff members who answer this toll-free number do not always provide accurate or complete information. When in doubt, call your local Social Security office to make an appointment to meet with their staff in person so they can review your file with you.
- ◆ The SSA website is located at www.ssa.gov. Services available include ways to: request a copy of your earnings record and an estimate of the benefits you and your family will receive when eligible, file a claim for retirement or disability benefits, replace a lost Social Security card or change the name on your Social Security records; locate the nearest Social Security office and get a statement verifying the amount of Social Security benefits you receive. You can also download copies of booklets and fact sheets about Social

Security disability, retirement and survivor benefits and SSI benefits.

Applying for Benefits

To get an estimate of your benefits, you can submit a completed form SSA-7004-SM to the Social Security Administration. It takes about six weeks to receive the information. Do not delay in applying for benefits for which you may be eligible. Any delay on your part could result in fewer benefits if you are ultimately found eligible for certain benefit programs operated by Social Security. When in doubt, contact Social Security to begin the application process as soon as you may be eligible.

Deadlines

Keep in mind that Social Security will give you a deadline to finish certain tasks (i.e., file a written application after you call them, file a written appeal if you are dissatisfied with their decision, etc.). You must comply with their timelines or you will lose your right to potential benefits. Typically, their deadlines are within 60 days. However they may be shorter for special circumstances so you must check this carefully.

Written Explanation for Denial of Benefits

If Social Security denies your claim for any benefits, you are entitled to a written explanation giving the reasons for the denial. If you do not receive a written explanation, ask Social Security to provide you with this documentation.

Correcting Records with Social Security

If you are receiving benefits or applying for benefits from Social Security, it is important that you contact the Social Security

Administration to inform them of any changes or corrections in your records. For example, if you move, change bank accounts, or disagree with the earnings records that they have posted to your Social Security account, you should take immediate steps to inform Social Security of any changes or additions.

It has been estimated that a small percentage of Social Security participants have incorrect Social Security retirement accounts. As a result, the SSA may not be aware of all of your lifetime earnings, which will lower the retirement benefits you receive. It is important to check your records every couple of years, at least until you are receiving benefits, to verify your earnings records on file with Social Security.

Legal Assistance

If you have a problem with a Social Security claim and desire legal advice, a good contact is the National Organization of Social Security Claimants' Representatives: (800) 431-2804. They maintain a national listing of attorneys who concentrate their law practice in Social Security matters. You may also wish to contact Legal Aid of Chester County, A Division of Legal Aid of Southeastern Pennsylvania: (610) 436-4510; or, the Chester County Bar Association Lawyer Referral Service, 15 West Gay Street, 2nd Floor, P.O. Box 3191, West Chester, PA 19381-3191; Telephone (610) 429-1500.

Social Security Benefits

The following is a brief description of some of the benefits available through the Social Security Administration. Remember that Social Security is a system of social entitlement; it is neither welfare-based nor based on means. The system provides benefits not only during retirement but also for survivors and dependents in case of death or disability. Keep

in mind that this is not a description of all of the eligibility requirements for each of these programs and benefits. Some of the eligibility requirements are complicated and cannot be fully addressed in this handbook. As such, we encourage you to contact the SSA and set up an appointment to ask about your eligibility for benefits.

Retirement Benefits

Anyone born before 1938 will be eligible for full Social Security retirement benefits at the age of 65. However, beginning in the year 2003, the age at which full benefits are payable will increase in gradual steps from 65 to 67.

No matter what your "full" retirement age is, you may start receiving benefits as early as age 62. However, if you start your retirement benefits early, they are reduced five-ninths of 1% for each month before your full retirement age. There are disadvantages and advantages to taking your retirement benefits before your full retirement age. The disadvantage is that your monthly benefits are permanently reduced. The advantage is that you collect benefits for a longer period of time. Each person's situation is different, so you should contact Social Security before you make any decisions.

Social Security Disability Insurance Benefits (SSDIB)

If you have worked long enough and earned enough Social Security "credits" to qualify for disability on your own work record, and if you are medically determined to be unable to do "substantial gainful" work for at least one year, you may qualify for Social Security disability insurance benefits on your own account. It is a complicated program and you should visit your local Social Security office in order to apply. It is not intended for a temporary condition;

there is no such thing as a “partial” disability benefit program from Social Security.

Supplemental Security Income Benefits (SSI)

The SSI program is based on means. To qualify, you must be “poor” (low income and few assets) and be either medically disabled, blind, or 65 or older. However, it is not a benefit program to “supplement” the income you may already receive in the form of retirement benefits, SSDIB, or a pension. In other words, in addition to the other eligibility requirement, you must meet strict income guidelines in order to receive this benefit. For example, if you are a single person in Pennsylvania who is medically disabled and you receive more than \$539.40 per month from another benefit such as SSDIB, retirement, or a pension, you will not be eligible for SSI benefits, based on the income you receive.

Survivor Benefits

When you die certain members of your family may be eligible for benefits on your Social Security earnings record if you have earned enough credits while you were working. Family members who can collect benefits include:

- ◆ A widow or widower who is 60 or older;
- ◆ A widow or widower who is 50 or older and disabled;
- ◆ A widow or widower at any age if he/she is caring for a child under 16 or a disabled child
- ◆ A child who is receiving Social Security benefits;
- ◆ Children if they are unmarried and
 - ❖ under age 18;
 - ❖ under age 19 but a full-time student in elementary or secondary school;

- ❖ age 18 or older and severely disabled (the disability must have started before age 22);

- ◆ Your parents, if they were dependent on you for at least half of their support.

Benefits For a Divorced Spouse

Social Security benefits are received in one of two ways: based on your contributions to the Social Security system or as a spouse of such a contributor. Such benefits are called derivative benefits.

After divorce, one can receive benefits based on the contributions of a former spouse if the marriage was at least ten years in duration. Derivative benefits for divorced spouses do not affect the benefits of the contributing spouse and family allowance does not apply. If a divorced spouse seeks benefits based on an eligible former spouse's earning record, and the former spouse is not collecting benefits, the divorced spouse can collect benefits only after two years have elapsed from the date of the divorce. In addition, the spouse from whom benefits are derived must be eligible for benefits; that is, at least 62 years of age and fully insured, even if he/she is not actually receiving benefits. The dependent spouse must be at least 62 years of age and unmarried.

If the dependent spouse remarries, he/she will not be eligible for derivative benefits from a contributing spouse. However, if such remarriage terminates, the dependent spouse becomes eligible for derivative benefits once again from the former contributing spouse. If a dependent spouse has been married more than once and each time for at least ten years, derivative benefits can come from the former spouse's contributions providing the higher benefits.

Benefits to Divorced Widow(er)s

If you are divorced, even if you have remarried, your ex-spouse will be eligible for benefits on your earnings record if you are fully insured when you die. In order to qualify, your ex-spouse must:

- ◆ be at least 60 years of age, or 50 years of age if disabled, and have been married to you for at least ten years;
- ◆ be any age if caring for a child who is eligible for benefits on your earnings record;
- ◆ not be eligible for an equal or higher benefit on his/her own earnings record; and
- ◆ not be currently married, unless the remarriage occurred after age 60, or 50 for disabled widow(er)s.

The surviving divorced widow receives 100% of the benefits instead of the 50% received if the former spouse is alive.

Income Tax on Social Security Benefits

The determination of tax liability depends upon whether the individual's adjusted gross income combined with 50% of his/her Social Security benefits plus any tax-exempt interest or which exceeds exceeding a base amount. For individuals, that base amount is \$25,000; for married couples, the amount is \$32,000. The amount of benefits that will then be included in taxable income is the lesser of half of the benefits or half of the excess of the taxpayer's combined income (modified adjusted gross income plus half of the benefits) over the base amount.

For individuals whose combined income exceeds a higher adjusted base amount (\$34,000 for single individuals, \$44,000 for a married couple filing a joint return), the

amount of benefits that will be included in taxable income is the lesser of 85% of the benefits, or 85% of the excess of the taxpayer's combined income over the adjusted base amount plus the lesser of half the benefits or \$4,500 for a single person, \$6,000 for married couples. Because these issues are so complex you may wish to consult a tax attorney for guidance.

Resources

Social Security pamphlets include:

- ◆ "Basic Facts" - SSA-05-10080
- ◆ "Understanding the Benefits" - SSA-05-10024
- ◆ "Retirement Benefits" - SSA-05-10035
- ◆ "Disability Benefits" - SSA-05-10029
- ◆ "Supplementary Security Income" - SSA-05-11008
- ◆ "Survivor Benefits" - SSA-05-10084
- ◆ "What You Need To Know When You Get Retirement Or Survivors Benefits" - SSA-05-10077
- ◆ "What You Need To Know When You Get SSI" - SSA-05-11011
- ◆ "If You Are Blind How We Can Help" - SSA-05-10052
- ◆ "A Guide For Representative Payees" - SSA-05-10076
- ◆ "What You Should Know When A Representative Payee Manages Your Money" - SAA-05-10097
- ◆ "Receive Your Benefits By Direct Deposit" - SSA-05-10123

These are available by calling the Social Security toll-free number (800) 772-1213 or through their website at www.ssa.gov.

MEDICARE

Instituted in 1965, Medicare is a program administered by the federal government to assist older Americans, along with others who are disabled, with payment of medical costs. The Medicare program has two parts. Part A consists of coverage for most of the costs involved in a hospital stay; Part B is medical insurance which pays a portion of the cost for doctor and outpatient medical care. In Pennsylvania, Part B is administered by Xact Medicare Services in Camp Hill.

An individual is entitled to Medicare because he/she or his/her spouse paid for it through Social Security taxes. The program is provided to assist senior citizens whose medical bills are typically higher than the rest of the population.

Part A - Hospital Insurance

Part A has two types of eligibility. Most people of age 65 or older are covered, for free, based on their work records or on their spouse's work records. People over 65 who are not eligible for free Part A coverage can enroll and pay a monthly fee for the same coverage.

Part B - Medical Insurance

Anyone who is age 65 or older and a citizen of the United States or a resident of the United States who has been here lawfully for five consecutive years is eligible to enroll in Medicare Part B medical insurance. This is true whether or not they are eligible for Part A hospital insurance. Everyone enrolled must pay a monthly premium and in the year 2002 the premium is \$54.00 per month. Eligibility and enrollment are handled by the Social Security Administration: 330 West Market Street, West Chester, PA 19380. Telephone: (800) 772-1213.

Cost of Treatment

Part A of Medicare covers most of the costs incurred directly from a hospital as inpatient care. In addition, some of the costs of inpatient treatment in a skilled nursing facility may also be covered. However, doctors' bills are not covered under Part A as they fall under Part B. To be eligible for Part A hospital insurance coverage, the care and treatment must be medically reasonable and necessary. This means that if the treatment could safely be given in an outpatient setting at the doctor's office or even at the patient's home, Part A will not provide coverage. It also rules out elective or cosmetic surgery. To be covered by Medicare Part A, a stay in a skilled nursing facility must be preceded by a stay in a hospital and the patient's doctor must verify that the individual requires daily skilled nursing care. During each benefit period, the individual must pay the hospital insurance deductible before Medicare will pay anything toward the incurred bill; in 2002, the deductible is \$812.

Medicare will cover 100 days of inpatient care in a skilled nursing facility during any one benefit period and the first twenty of these days is covered 100%. For the balance of the days, the patient is responsible for the daily co-payment, which in 2002 is \$101.50 per day. Once a person has been in a skilled nursing facility for 100 days in a benefit period, there will be no further coverage from Medicare Part A and the patient will be totally responsible thereafter.

Part B medical insurance requires that the services by the doctors, clinics and laboratories are medically necessary. Only a few preventive medical procedures are covered by Part B. One such covered service is a Pap smear for which Medicare will pay 80% once every three years. Also covered are

mammograms every twelve months if performed in a certified facility.

Normally Medicare Part B pays on average about one-half of an individual's total medical bills. Since there are often balances remaining, Pennsylvania has enacted the "MOM" law which forbids any doctor from billing patients for the balance of the bill above the approved Medicare amount. There is an annual deductible of \$100 per year. You can call the Pennsylvania State Department of Aging at (717) 783-8975 if your doctor is attempting to bill you for any amount above the amount Medicare approves.

Appeals in Denials of Benefits

If you are denied Medicare benefits you have the right to an appeal, which is somewhat complicated. Pennsylvania has a program called "APPRISE" wherein trained volunteer counselors provide free one-on-one assistance or telephone assistance with eligibility and benefits questions for all people over the age of 60, their families or their caregivers. You can call them toll free at (800) 783-7067, or contact the APPRISE Office in West Chester by calling (610) 344-6009. Also in Pennsylvania, a peer review organization called "KEPRO" protects the rights of Medicare beneficiaries receiving care. For example, if you are denied admission to a hospital, are asked to leave the hospital before you feel well enough or are dissatisfied with the quality of hospital care, KEPRO reviews your complaints, free of charge to Medicare beneficiaries including those enrolled in HMOs. You can reach KEPRO toll free in Harrisburg at (800) 322-1914.

Program Changes

Public debate over the future of Medicare goes

on and change seems to be the only constant. However, one way to get answers to your questions is to keep for reference the Medicare handbook which is periodically mailed to every person covered under the Pennsylvania program. Call (800) 633-4227 to get help with your Medicare questions or to request the handbook on audio-tape, in large type or in Braille.

Medigap Insurance

Even after Medicare pays its portion of an individual's medical bills, the remaining balance can be staggering. Therefore, it is recommended that people purchase some type of private insurance to pay all or part of that balance. Because such insurance policies are designed to fill the gaps in Medicare payments, the term "Medigap" has developed. There are a wide variety of plans available depending on the amount of coverage sought.

Under federal law, the insurance companies must offer "open enrollment" which means that insurance companies are forbidden to deny a Medigap policy to anyone who buys it within the first six months after enrolling in Medicare Part B. All Medigap policies have been simplified and offer a choice of one of ten plans, "A-J," and must meet certain standards such as guaranteed renewability. The costs for the different Medigap plans range from the very low for plan "A" to the very high for plan "J," approximately \$400 to \$2500.

As a general rule, no Medicare coverage is available outside the USA with one exception: a citizen of the USA would be covered in Canada if s/he were en route to Alaska.

Questions concerning Medicare Part B should be addressed to Xact Medicare Services, P.O. Box 890065, Camp Hill, PA 17089-0065; telephone (800) 382-1274.

MEDICAID

Medicaid is a substantial federal program that pays toward the cost of long-term care in skilled nursing facilities (nursing homes) that are Medicaid certified. The program applies after personal liquid assets have been spent down to about \$2,400. Special rules, however, apply to married couples, which may allow the spouse remaining at home (the community spouse) to keep much more in assets and income under complicated rules.

The individual receiving benefits under Medicaid must contribute his or her own monthly income (including social security benefits, pension) less a small allowance (now \$30) for personal needs. There are some very limited slots under the Medicaid waiver program for in-home care.

Eligibility

Medicaid benefits are available under the following eligibility standards:

Medical:

An applicant for Medicaid benefits must actually need long term care in a skilled nursing facility (or, if at home, require a similar level of care). A Medical assessment, an MA-51, should be requested by the nursing facility where the applicant resides.

Financial and General:

- ◆ The Applicant must be 65 years or older or disabled
- ◆ The Applicant must be a citizen of the United States
- ◆ To apply in Pennsylvania, the applicant must be a resident of Pennsylvania
- ◆ The applicant's monthly income (not including the spouse's income, if any, but

including the applicant's Social Security, pension, salary, interest, dividends, etc.) must be less than about \$1,400 after medical expenses have been subtracted. In Pennsylvania, the cost of nursing home care is considered to be a medical expense.

Example: applicant's income is \$3,000 per month. Nursing home cost is \$5,000 per month. The applicant's income will not make the applicant ineligible because income (\$3,000) less medical (\$5,000) is less than the standard (about \$2,400). Note however, that the income indicated will be applied toward nursing home care on qualification for the program.

- ◆ The applicant's available and countable assets (generally, liquid assets such as cash, stocks, bonds and similar assets) must be worth less than \$2,400. (See, however, below, for married couples.)
- ◆ For married couples, the applicant's spouse can keep approximately one-half of the combined countable assets of both spouses up to a maximum amount, which in 2002 is \$89,280 (the CSRA or "spousal share"). Available assets consist of assets owned by the applicant in his/her own name and also assets titled jointly and assets titled in the name of the applicant's spouse (except for the community spouse's IRA which, in Pennsylvania is completely exempt). The value of assets in order to determine the CSRA is calculated based on completion of a Resource Assessment Form with values on the date of the admission to the nursing home.
- ◆ Assets that are not counted for purposes of the above calculation and which may be protected include but are not limited to the family residence (however, special rules apply as to possible estate recovery), one motor vehicle, property used in a trade or

business, term insurance, life insurance with a face value of a maximum of \$1,500, an irrevocable burial reserve, household goods and personal effects.

Disqualification

Certain gifts, that is, transfers for less than fair market value, will make the applicant temporarily ineligible to receive Medicaid benefits even if all of the stated criteria have been satisfied. For this reason, individuals should be cautious and should seek guidance regarding transfers or retitling of assets during the 3 year (5 year if a trust is involved) period prior to applying for benefits. This includes transfers into the name of other family members. Significant gifting is not prohibited but complicated regulations control when and how much may be gifted over time while still permitting eligibility for benefits.

“Look Back” Period. The County Assistance Office in administering Medicaid will review all gifts made within 36 months (60 months if a trust is involved) prior to the date when the applicant nursing home resident applies for Medicaid. Based on the size of the gift, when it was given away, and the average cost of nursing home care determined by the state, a formula is applied to determine whether or not there will be a period of ineligibility and, if so, the duration of the ineligibility. Medicaid structuring through 50-50 planning and other methods, if done in a timely manner well in advance of the application, may accelerate qualification for benefits and may also make additional funds available to the family.

Estate Recovery

Upon the death of a person who has received Medicaid benefits, the government must seek recovery of the amounts paid to a nursing home from the deceased’s estate. In Pennsylvania such recovery can only be made

from the probate estate, that is, any assets titled in the individual’s name alone at the time of death that are or could have been transferred by a Will.

Medicaid Planning

Under certain circumstances, Pennsylvania law allows individuals or their spouses to keep their homes and much of their money without becoming ineligible for Medicaid benefits. However, Medicaid laws are extremely complex and vague. Therefore it is recommended that Medicaid planning should not be attempted without the assistance of an elder law attorney.

Restrictions For Non-Citizens

As of August 1996, new legal immigrants are not eligible for Supplemental Security Income (SSI) benefits until they become citizens or attain 40 quarters of Social Security-covered employment. Aliens who were receiving SSI prior to August 1996 retain their program eligibility. Also, individuals who were legally residing in the USA prior to August 1996 and who become disabled can obtain SSI.

Post-August 1996 qualified aliens are subject to a five-year exclusion from means-tested benefits. Refugees and asylees receive a seven-year exemption from the restrictions on aliens for SSI and for Medicaid.

The purpose of these changes in the law is to reduce the number of future aliens who become eligible for SSI and Medicaid. The law also changes the SSI eligibility of aliens who entered the country after August 22, 1996. Now, most non-citizens who were not receiving SSI or food stamps as of August 1996 will be ineligible for such benefits until they become U.S. citizens or have worked in the United States for 40 quarters.

PACE and PACENET
(Pharmaceutical Assistance Contract for the Elderly)

Pennsylvania has established a limited pharmaceutical assistance program for the elderly (age 65 and over) and under the PACE program, citizens are eligible if their annual income is not higher than \$14,000 for a single person or \$17,200 for a married couple.

You must have lived in Pennsylvania for at least ninety days prior to the date of your application and you must not be eligible for pharmaceutical benefits under medical assistance.

The PACE and PACENET programs are based on income only and not on assets. In order to qualify for Pennsylvania's new prescription program called PACENET, you must meet the \$500 per person deductible. Thereafter, you will pay \$8 for generic drugs and \$15 for brand name drugs. In order to receive PACENET benefits, you must be a Pennsylvania resident for at least ninety days prior to application, must be age 65 or older and must have a household income between \$14,000 and \$16,000 for an individual and \$17,200 and \$19,200 for a married couple. PACE eligibility is subject to annual renewal and eligibility could be terminated if you move out of state or are found guilty of fraud or abuse by the Department of Aging or if you are covered by another plan which pays the full costs of your prescriptions.

Applications are available from your local area Agency for the Aging, pharmacy, senior citizen

center or your local legislator's office. Your completed application must be accompanied by proof of age and residency. You may apply thirty days prior to your sixty-fifth birthday.

Pennsylvania's prescription program requires the use of generic drugs, unless there are no generic drugs available for the prescription you require or if there are certain medical restrictions which require the use of a brand-name drug. Participating pharmacies display a PACE emblem in their windows; out-of-state pharmacies cannot participate in this program.

If you have other questions about PACE or PACENET, you can call toll-free (800) 225-PACE or in Chester County you can call the Department of Aging Services at 610-344-6350 or 1-800-692-1100, extension 6350. The application form can be used for both PACE and PACENET enrollment.

Pennsylvania Low Income Home Energy Assistance Program (LIHEAP)

The Pennsylvania Department of Public Welfare provides a low income home energy assistance program to help low income families pay a portion of their winter heating bills. LIHEAP is not a welfare program or loan and no lien is placed on the home. Consumers do not have to pay the money back. For information on eligibility guidelines call Chester County Department of Aging (610) 344-6009.

LONG-TERM CARE FACILITIES

Long-term care facilities can be thought of as housing with integrated supportive services. The level of service varies with the type of facility. This section outlines important aspects of the most common types: nursing homes, assisted living facilities and continuing care retirement communities. For lists of these facilities contact the Chester County Department of Aging Services: Telephone (800) 692-1100 ext 6350 or (610) 344-6350; website www.chesco.org/aging. The offices are located at 601 Westtown Road, Suite 130, PO Box 2747, West Chester PA 19380-0950.

Nursing Homes

A nursing home is a facility where residents receive around-the-clock nursing care designed to help them with the activities and needs of daily living and health care. Residents do not need the kind of acute health care provided in a hospital. A person usually enters a nursing home after all other long-term care options, such as an assisted living facility or living at home with supportive services, are found to be inadequate.

Medicare does not provide substantial coverage for long term nursing home care. Medicare may pay for a portion of the cost for the first 100 days of a nursing home stay, under very limited circumstances. Those circumstances are:

- ◆ Skilled nursing or rehabilitation services are provided within 30 days of a Medicare-covered hospital stay of more than 3 days;
- ◆ A doctor certifies the resident's need for skilled care on a daily basis;
- ◆ Skilled care is actually received on a daily basis;
- ◆ The facility is Medicare approved.

If these requirements are met, Medicare will fully cover the first 20 days of skilled care and a portion of the cost for the next 80 days of skilled care. Note that Medicare does not cover custodial care.

Medicaid is the only public benefit program that covers intermediate or skilled care provided in a nursing home after Medicare benefits are exhausted. In order to be eligible for Medicaid, an individual must not have "countable" assets of more than \$2,400. "Countable" assets are all assets available to the individual, except for:

- ◆ the individual's residence;
- ◆ one car;
- ◆ a prepaid burial fund;
- ◆ \$1,500 of life insurance.

When a nursing home resident's assets have been reduced to \$2,400, Medicaid will cover the resident's stay in the nursing home. Keep in mind, once eligible for this Medicaid nursing home assistance, the resident's income is considered available to pay for his or her nursing home care while Medicaid pays the difference. The resident may keep from his or her income \$30 per month for personal needs and an amount equal to the cost of Medicare and Medigap insurance premiums. In the case of a married couple, the spouse remaining at home is allowed to keep at least \$17,856 of the couple's countable assets and as much as one-half of the assets, up to \$89,280 (2002 rates). Also, there are very complicated Medicaid rules which take into account the amount of each spouse's individual income and the amount of the couple's countable assets that the spouse remaining at home is allowed to keep. This may allow the spouse remaining at home to retain a minimum maintenance allowance of up to \$2,232 per month.

Because of the extremely complex rules governing Medicaid eligibility, it is advisable to seek the counsel of an elder law attorney to guide you through this maze. Your particular situation may lend itself to legitimate and legal ways to "spend down" your countable assets to the \$2,400 threshold while preserving a substantial portion of such assets for your spouse staying at home or for other family members. Also, under certain circumstances, Medicaid rules allow for asset protection planning designed to let the spouse staying at home retain more than \$89,280 of the couple's countable assets.

Residents' Rights

Upon admission to a nursing home, a resident or his/her family will be required to sign an admission contract. Entering into a nursing home can thrust a family into emotional turmoil. A prospective resident or the family member or members responsible for the resident might feel pressure under emergency circumstances to sign a nursing home admission contract without a careful review of its terms. **Do not be pressured.** Read the contract and have it reviewed by a elder law attorney before signing. Federal and state laws have been enacted to protect individuals entering nursing homes and an experienced advisor can make sure that you get the benefit of these protections. For example:

- ◆ A nursing home cannot require a resident to waive his/her right to apply for Medicaid. Furthermore, a nursing home cannot discriminate against a resident who is receiving Medicaid. Nursing homes must establish and maintain identical policies and practices regarding transfer, discharge and covered services for all residents regardless of source of payment.
- ◆ A nursing home cannot require a third party guaranty of payment as a condition of admission or continued stay.

- ◆ A nursing home is allowed to require that an individual having legal access to a resident's income and assets, such as an agent under a power of attorney, sign a contract, without the agent incurring any personal liability, promising to pay for a resident's care from the resident's funds.
- ◆ A nursing home cannot require a resident to agree to pay privately for a specified period of time before the nursing home will "allow" the resident to convert to Medicaid.

Once admitted to a nursing home, a resident enjoys certain rights mandated by both federal and Pennsylvania law. For example:

- ◆ A nursing home must conduct a comprehensive assessment of every resident's functional capacity within 14 days of admission. The assessment must be used to develop, review and periodically revise, as necessary, an individualized plan of care for each resident. The resident, the resident's family and, if desired, the resident's legal representative must be given full opportunity to participate in the development of the plan of care.
- ◆ A resident has the right to choose a personal attending physician and to be kept fully informed about care and treatment.
- ◆ A resident has the right to remain free of physical and chemical restraints which are not required to treat the resident's medical condition.
- ◆ A resident has the right to privacy with regard to communications in writing and by telephone and with regard to visits of family and meetings of resident groups. A resident must be provided with reasonable access to the use of a telephone where calls can be made without being overheard.

- ◆ A resident has the right to access to clinical records upon request by the resident or the resident's legal representative.
- ◆ A resident has the right to voice grievances with respect to treatment or care without fear of reprisal.
- ◆ A resident can only be transferred or discharged from a nursing home under limited circumstances which are spelled out in the law, upon 30 days advance written notice.

A nursing home must inform every resident of his/her legal rights, orally and in writing, at the time of admission. Pennsylvania maintains an ombudsman program to investigate and resolve complaints made by or on behalf of residents of nursing homes and other long term care facilities. The Pennsylvania Department of Aging has designated the Area Agency on Aging for each county to be the local providers of these ombudsman services. The Chester County Department of Aging Services telephone number is (800) 692-1100 ext 6350 or (610) 344-6350.

Assisted Living Facilities

Assisted living is housing for older individuals who need some assistance with the activities and needs of daily living and perhaps some medical help, but who do not need the degree of care provided in a nursing home. The goal of an assisted living facility is to help people live as independently as possible.

An important benefit of residency in an assisted living facility is help with medication. A resident can be reminded when to take medication and a nurse can assist the resident in taking medications.

Payment for residency in an assisted living facility is almost exclusively through private arrangements with the resident. Neither Medicare nor Medicaid covers residency in an

assisted living facility. If a resident needs some sort of skilled medical or nursing care, Medicare may cover such care under the same rules that would apply to home health care in general. Long-term care insurance will pay benefits for residency in an assisted living facility if the policy's "benefit triggers" requirements are met by a resident's need for assistance with activities of daily living or by a resident's cognitive impairment. Most long term care insurance policies define "activities of daily living" as including dressing, eating, bathing, toileting and transferring from a bed to a chair, and usually require that an individual needs assistance with a certain number of these activities of daily living.

Contract Questions

Upon entrance to an assisted living facility, a prospective resident should carefully review the admission contract. Significant issues to consider in evaluating an admission contract include:

- ◆ What personal care services are to be provided? Who delivers these services? Is the service provider licensed or certified?
- ◆ What are the monthly or other charges for such services? Are housekeeping services included? How can fees be increased and what happens if fees are increased and a resident cannot afford the higher fee?
- ◆ In the case of a married couple, what happens upon the death of a spouse? Is a change of living unit required? How would fees be affected?
- ◆ What recreation or cultural activities are available and are they included with the monthly fee?
- ◆ Is transportation provided to such things as doctor appointments, shopping and community activities? Is a separate fee charged?

- ◆ Are nursing services available at the site? What happens if a resident's health declines? Is the facility responsible for coordinating medical care?
- ◆ How does the facility determine the point at which a resident cannot be served by the facility? What recourse does a resident have to challenge the facility's decision? Is there a grievance process?

Residents' Rights

Under Pennsylvania law, residents of an assisted living facility have the following rights:

- ◆ the right to privacy, including the right to have access in reasonable privacy to a telephone and the right to have uncensored access to the mail;
- ◆ the right to receive visitors;
- ◆ the right to leave and return to the home;
- ◆ the right to participate in religious activities;
- ◆ the right to exercise the rights of a citizen and to voice grievances;
- ◆ the right to be provided with 30 days advance written notice of the facility's intent to terminate a resident's stay and the reason for termination;
- ◆ the right to be free of chemical and physical restraints.

As with nursing homes, the Chester County Department of Aging Services ombudsman program applies to residents of assisted living facilities. The telephone number is (800) 692-1100 ext 6350 or (610) 344-6350.

Continuing Care Retirement Communities (CCRC)

Continuing care retirement communities provide different levels of care based on the

particular needs of the individual resident. New residents usually move into independent living units. As they age and become physically disabled and need assistance with the activities and needs of daily living, residents move to an assisted living facility located on the grounds of the continuing care retirement community. Some continuing care retirement communities provide assisted living services in the independent living units so that a resident does not have to move. If physical decline continues and more intensive care is needed, nursing home care is also available within the confines of the continuing care retirement community.

Upon entrance into a continuing care retirement community, a resident enters into a contract whereby the continuing care retirement community agrees to provide housing, a certain level of activities and health care support as needed in return for the resident's payment of an entrance fee and monthly occupancy fees. In most cases, residents do not own their living unit. The services offered can vary; most provide house-cleaning, laundry facilities and at least some meals. The monthly fee for residents who move into the assisted living or nursing home facilities may be higher than if they had remained in an independent living unit.

A careful review of the contract, preferably by an attorney, is advised to make sure the resident understands what he/she is buying. Some continuing care retirement communities offer unlimited health services in exchange for the entrance fee, while others provide that residents pay an additional fee for health care services as they are needed. Still others offer a combination of the two. The fee-for-services arrangement is becoming increasingly more common. Other important issues to be reviewed in a continuing care retirement community contract are:

- ◆ Who determines when a resident must change living arrangements due to a decline in health?
- ◆ What are a resident's rights and responsibilities with regard to furnishing and altering his/her living unit?
- ◆ Under what circumstances would the entrance fee be refundable?
- ◆ Under what circumstances can the monthly service fee be increased?
- ◆ What services are not covered by the monthly service fee?

Pennsylvania law mandates that all continuing care retirement community contracts:

- ◆ provide for continuing care;
- ◆ specify all services to be provided and provide that a resident cannot be liable to a health care provider for services that the continuing care retirement community promises to furnish;
- ◆ describe any exclusions or limitations on coverage for pre-existing conditions;
- ◆ provide for termination by either party upon 30 days written notice and the terms for refund upon termination;
- ◆ contain notice of rescission rights before moving in.

The advantages of living in a continuing care retirement community are:

- ◆ An individual whose health declines can move into an assisted living unit or, if necessary, to a nursing home within the same residential community.
- ◆ Payment of the entrance fee locks in a fixed price for continuing care at an amount that is usually less than the market rate for nursing home care. For this

reason, some people consider a continuing care retirement community as a form of long term care insurance. However, if there will be a substantial increase in the monthly service fee upon moving into the assisted living or the nursing home portion of the continuing care retirement community, there could still be a need for long term care insurance.

- ◆ A couple who moves into a continuing care retirement community is assured that if one spouse must enter the nursing home, the other spouse will be living on-site and can easily visit.

Because a continuing care retirement community comprises both assisted living and nursing home care, different activities within the continuing care retirement community can be governed by different laws and regulations. Residents would be protected by the laws that apply to assisted living facilities while they are receiving assisted living services and they would be protected by the laws that apply to nursing homes when residing in the nursing home component of the continuing care retirement community. See previous sections covering assisted living facilities and nursing homes for a description of these protections.

Nursing Home Licenses: Problems, Sanctions and Revocations

Although nursing home placement is a difficult decision, there are people to help you to verify that you are placing your loved one in a secure environment. One contact person is the long term care ombudsman who responds to care issues for all the licensed facilities in Chester County. The telephone number is (800) 692-1100 ext 6350 or (610) 344-6350.

Any employee or administrator of a licensed facility who has reasonable cause to believe that a resident of the facility is a victim of abuse is required under Pennsylvania law to report the abuse immediately. The law does

not require that the reporter be a direct eyewitness; having more than a suspicion obligates them to make an oral report at once, followed up by a written report to law enforcement officials. This reporting requirement protects a care-dependent person and applies to all caretakers. Civil and criminal fines and imprisonment for up to one year can be imposed upon the person or facility that commits the violation or abuse.

Pennsylvania law protects nursing home residents by requiring criminal history background checks by the Pennsylvania State Police of all employees of public or private nursing homes, personal care facilities, adult daycare and home healthcare providers. Employees with certain felony and misdemeanor convictions are precluded from working in these facilities.

The final sanction under Pennsylvania state law is that a facility can have its license revoked or its licensing withheld in the first place for any one of the following reasons: gross incompetence, negligence, misconduct in operating the facility or mistreating or abusing an individual cared for in the facility. This sanction applies to both physical and mental abuse of a patient. This law serves as a deterrent to such abuse since the facility cannot do business without a license. Court cases in Pennsylvania have upheld the decision to

revoke the license of homes for abuse of patients.

To investigate licensed personal care homes, contact the Department of Public Welfare Facilities at (215) 560-2916. To find out about nursing homes, check with the Chester County Department of Health at (800) 692-1100 ext 6225 or (610) 344-6225. For home health agencies, the telephone number to call is (800) 222-0989.

Resources

- ◆ “How To Select Long Term Care in Pennsylvania”; “A Guide for Selecting a Nursing Home in Pennsylvania,” and “Know Your Rights as a Nursing Home Resident”; Pennsylvania Department of Aging, (717) 783-7247.
- ◆ “Home Away From Home: A Consumer Guide to Board and Care Homes and Assisted Living”; American Association of Retired Persons, (800) 424-3410, www.aarp.org.
- ◆ (800) 424-3410, www.aarp.org.
- ◆ Health Care Finance Administration, www.hcfa.gov, for online publications. For information on long-term care options, including continuing care retirement communities and choosing skilled nursing facilities and nursing home go directly to www.hcfa.gov.

LONG-TERM CARE INSURANCE

The term “long-term care” is generally understood to mean the kind of care needed by the old and frail who are, for example, suffering from a dementia such as Alzheimer’s disease or other disabilities of old age. Long-term care mostly consists of custodial care, i.e., care designed to assist an individual to perform the activities and meet the needs of daily living. Such activities and needs include eating, bathing, dressing, toileting and transferring from a bed to a chair. Supervision or assistance to assure the safety of those with cognitive impairments is also considered custodial care. Long-term care can be provided in the home or in a long term care facility, such as a nursing home or an assisted living community.

Neither Medicare nor supplemental Medigap insurance covers long-term custodial care. Long-term care insurance sold by commercial insurance companies can be purchased to cover long-term care.

Long-Term Care Costs

The average cost of nursing home care in Pennsylvania is currently more than \$63,000 a year. Home health care can cost up to one-half this amount depending on the intensity of the care services provided. In fact, around-the-clock nursing care can exceed the cost of a nursing home. Assisted living facilities can run from \$60 to \$150 a day or \$38,000 a year.

Services Covered

When you purchase a long term care insurance policy, it is critical that you understand the types of services that will be covered. Some policies only cover care provided in a nursing home, while others also cover services provided in assisted living facilities, adult day care centers or other community facilities. A

policy should be carefully reviewed so you understand exactly the kinds of services that it will cover.

If you want to remain at home as long as possible, consider a policy that includes home care coverage. Policies differ widely in how home care coverage is provided, so a very careful review of this type of coverage is strongly advised. Some policies limit home care coverage to skilled services, i.e., those performed by registered nurses, licensed practical nurses and occupational, speech or physical therapists. Some policies offer a broad range of home care benefits which include services of home health aides who can assist with custodial care. Some policies will also cover homemaker or chore worker services which would pay for aides who cook meals and do housework. Most policies will not pay benefits to family members who perform home care services.

Coverage Needed

Most policies express benefits in terms of a daily amount. In order to make an informed decision as to the amount of coverage that you will need, you must have an idea of the amount of long term care costs that you anticipate. If your ideal long term care facility charges \$180 a day, you will need a policy that pays a daily benefit of \$180 less the amount of your income. For example, if your income consists solely of Social Security benefits of \$1,500 a month (\$50 a day, based on a 30-day month), you will need, at the bare minimum, a policy with a daily benefit amount of \$130.

Factors Affecting Costs

Most policies include a waiting period, sometimes called an “elimination period,” before benefits can begin. This means that you

can choose to have benefits begin 20, 30, 60, 90 or 100 days after you enter a long term care facility. The longer the waiting period, the lower the cost of the policy. Of course, you will have to have resources to cover the cost of long term care during the waiting period.

An important feature to consider in any long-term care insurance policy is inflation protection. Long-term care that costs \$3,300 a month now will cost \$5,375 a month in 10 years and \$8,756 a month in 20 years, assuming an annual inflation rate of 5%. The younger you are when you purchase the policy, the more important it is to consider adding inflation protection. Obviously, this protection adds to the cost of the policy.

Benefit Triggers

When the benefits are payable under a long term care insurance policy is determined by what are commonly called “benefit triggers.” A benefit trigger is a medical condition or a degree of physical or mental disability that an individual must meet before qualifying for benefits.

For a person with a physical, as opposed to a mental disability, policies usually provide for benefits to begin when that person cannot perform a specified number of “activities of daily living,” i.e., eating, bathing, dressing, toileting and transferring from a bed to a chair. Policies can differ on the number of activities of daily living that a person must need assistance with before benefits can be triggered. Also, it is important to understand how a policy defines the inability to perform a particular activity of daily living. Does the policy require the need for “hands-on” assistance or does it only call for the need for someone to supervise the activity? The more clearly a policy defines its benefit triggers, the

easier it will be to make a claim when necessary.

For a person with a mental or a cognitive disability, some policies provide that benefits are triggered by a diagnosis of “cognitive impairment,” such as Alzheimer’s disease or Parkinson’s disease. This is an important feature to look for in a policy. A person can have a cognitive impairment and need long term care services because it would be unsafe to leave him/her alone but, if such a person could perform the activities of daily living without assistance, benefits would not be payable without the cognitive impairment trigger.

Cost Considerations

Long term care insurance is most appropriate for individuals under age 65 whose assets are between \$200,000 and \$1,000,000. Premiums are usually set for life, based on your age when you buy the policy; each premium is lower, therefore, if you buy at an earlier age. If you have more than \$1,000,000 in assets, it may not be worth paying the premiums over a long period of time to protect an estate of that size against the risk of long term care costs. The chances that you will need any sort of long term care is minimal until you reach your eighties. At current interest rates, it takes about \$770,000 in investment assets to produce funds necessary to meet annual long-term care costs for 10 years; therefore, a person with assets of this magnitude can essentially self-insure against the risk of long term care costs.

Consumer Tips

- ◆ Ask questions.
- ◆ Take your time.
- ◆ Get the actual policy and read it before you buy it.

- ◆ Ask the insurance agent for a thorough explanation of what degree of disability triggers benefits.
- ◆ Do not let the attractiveness of a lower premium push you into a policy that provides less coverage than you really need. A cheap policy that leaves you underinsured is no bargain and a waste of money.
- ◆ Consider policies from at least three companies. No two long term care insurance policies are alike.
- ◆ Do not spend more than 5% or 6% of your annual income on long term care insurance premiums.
- ◆ Check the financial stability of the insurance company you are considering.
- ◆ Do not be pressured. Once you receive a policy that you have purchased, you have 30 days to review it and return it if you change your mind.

Independent Advice

Examining long term care insurance policies is fraught with difficulty for the consumer. This section has outlined the more important provisions of such policies and has tried to convey a sense of the complexity of the issues raised. Other similarly complex provisions not covered in this chapter are duration of coverage, exclusions from coverage and various optional coverages. Once you start shopping for long term care insurance, it would not be unusual for you to be confronted with six or seven policies, each with different provisions, different definitions of the same terms (such as “benefits triggers”) and, of course, different prices. Comparison shopping is very difficult because you are never comparing “oranges to oranges.”

An independent advisor, such as an attorney, can be invaluable in providing the following services:

- ◆ Determining the financial suitability of an individual for long term care insurance.
- ◆ Reviewing the financial soundness of prospective insurance companies.
- ◆ Understanding, explaining and comparing policy features.
- ◆ Pinpointing uncertain terms in the policy and obtaining written clarification from insurance companies.
- ◆ Recommending a policy that serves the individual’s needs over the long term.

Resources

- ◆ “A Shopper’s Guide to Long Term Care Insurance”; The National Association of Insurance Commissioners, 816-842-3600.
- ◆ "Overview of Long Term Care Insurance"; Pennsylvania Department of Aging, (800) 783-7067.
- ◆ Long Term Care Planning Guide, by Phyllis A. Skelton; 9th Edition, 1999.
- ◆ Elderweb, www.elderweb.com for a collection of informative articles on long term care insurance.
- ◆ American Health Care Association, www.ahca.org.
- ◆ Long-Term Care Insurance National Advisory Council, www.longtermcareinsurance.org.
- ◆ Health Insurance Association of America, www.hiaa.org.

HOUSING OPTIONS

The Pennsylvania Department of Aging outlines several types of housing options for all levels of independence.

Services For Individuals Who Remain in Their Homes

- ◆ Homemaker assistance for daily household activities.
- ◆ Personal care for those who cannot manage alone.
- ◆ Home delivered meals.
- ◆ Family caregiver support which includes one-time grants for home modifications to help with mobility problems.
- ◆ Transportation services.
- ◆ Senior community centers where older people can get together for social activities, recreation, education, creative arts, physical health programs, and nutritious meals.
- ◆ Adult day care centers which provide personal care and medication management for individuals who cannot be left alone during the day.

For more information regarding these services, you can contact the Chester County Department of Aging Services: telephone (800) 692-1100 ext 6350 or (610) 344-6350; website www.chesco.org/aging. Offices are located at 601 Westtown Road, Suite 130, PO Box 2747, West Chester PA 19380-0950.

Independent Housing Options

A Continuing Care Retirement Community (CCRC) offers independent living, usually in an apartment or cottage, and access to a higher level of care such as personal care or a nursing

facility. Residents move between levels of care as their needs change. Services, such as meals, medical care, social and recreational activities, are provided through a contractual arrangement for the lifetime of the resident. Residents usually pay an entrance fee and a monthly charge.

Retirement Communities offer independent living in an apartment or cottage. They are intended for healthy, mobile older people and generally offer no special services. Units may be rented or purchased. Many retirement communities offer recreational amenities such as golf, swimming or tennis.

Subsidized Housing is made available by the federal government providing rental assistance to low income elderly people. Income eligibility is 50% of the median income for the county of residence; individuals must be age 62 or older. Assistance is determined by an individual's income with tenants paying 30% of their income toward the rent. For information on subsidized housing facilities contact the Chester County Department of Aging Services: telephone (800) 692-1100 ext 6350 or (610) 344-6350; website www.chesco.org/aging. Offices are located at 601 Westtown Road, Suite 130, PO Box 2747, West Chester PA 19380-0950.

Housing Options for Individuals Who May Require Assistance or Supervision

- ◆ Domiciliary Care Services for Adults is a supervised living arrangement in a home-like environment for adults who are unable to live alone because of demonstrated difficulties in accomplishing daily activities, social or personal adjustment, or resulting from disabilities. The Chester County Department of Aging Services is

responsible for assessment and placement of residents in domiciliary care homes. Residents are eligible for a domiciliary care supplement payment if they are eligible for SSI or have an income less than the combined federal/state payment for domiciliary care and are not related to the provider.

- ◆ Nursing Facilities provide medical care, rehabilitation, or other health services to individuals who do not require the care and treatment of an acute-care hospital. Most

nursing facility residents are unable to take care of themselves on their own and may have chronic illnesses or have been transferred from a hospital following a serious illness, accident or operation.

- ◆ Personal Care Homes, sometimes called “assisted living facilities,” offer room and board and assistance with the activities of daily living (such as bathing, grooming and meal preparation, taking prescription medication) but do not provide the level of care offered by a hospital or nursing home.

ELDER ABUSE AND NEGLECT

Abuse or neglect occurs in all communities, all economic levels, among all races, all nationalities and people of all religions. When the victim is elderly it is known as "Elder Abuse." Federal and state laws make it clear that everyone has the right to be safe. No one should be too embarrassed to get help and no one has to tolerate abusive situations. Federal and state laws also protect older adults who lack the capacity to protect themselves and are at immediate risk of abuse, neglect, exploitation or abandonment.

Signs of Abuse or Neglect

Abuse can be any one or more of the following:

- ◆ infliction of injury;
- ◆ unreasonable confinement;
- ◆ intimidation;
- ◆ any punishment that results in physical harm;
- ◆ causing mental anguish;
- ◆ withholding food, necessary medication or medical services;
- ◆ sexual harassment;
- ◆ rape;
- ◆ any physically or emotionally controlling behavior that restricts independence or activity.

Elder abuse and neglect is not always easy to identify; signs to consider include:

- ◆ bruises and broken bones blamed on falls; the real cause may be pinching or beating;
- ◆ weight loss which might be result of starvation or neglect, not just illness or lack of appetite;

- ◆ dementia is not always a part of aging; malnutrition or the misuse of medications can also be causes.

If you know an elderly person who is being abused or neglected. call:

- ◆ **1-800-564-7000, the toll-free number for the elder abuse hot line; or**
- ◆ **Domestic Violence Center of Chester County, Inc. (610)431-3546; hotline telephone number is (610)431-1430**

Don't be afraid to make the call. Do not confront the abuser yourself. Your call may help protect a neighbor, a friend, a loved one or you from further abuse. The call could mean the difference between life or death.

Protection From Abuse Orders (PFAs)

There is assistance available to get an order to keep the abuser away from the victim. Call the Chester County Courthouse and ask for the person who helps with PFAs. This individual speaks both English and Spanish. The PFA Office telephone number is (610) 344-5755; the toll-free number is (800) 692-1100. These numbers are answered during business hours only. If it is an emergency, call 911 any hour of the day or night.

Zero Tolerance for Abuse

There are many organizations in Chester County working to prevent elder abuse. They have zero tolerance for abuse, but they can't help if they don't know about the abuse. Whenever you hear or see abusive behavior you should call 911. If you ignore the abuse or think it will get better without intervention, you may be risking your life or the life of someone you know. Abuse always gets worse without help; everyone should know that help is available.

AMERICANS WITH DISABILITIES ACT (ADA)

Upon finding that some 43,000,000 Americans have one or more physical or mental disabilities, and that this number is increasing as the population as a whole is growing older, Congress, in 1990, passed the Americans with Disabilities Act. The purpose of the ADA is to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities. The ADA ensures that the Federal Government plays a central role in enforcing standards to address discrimination faced by those with disabilities in employment, public services, public accommodations, and telecommunications. At the core of the ADA is the prevention of job discrimination against those with disabilities.

Definition of Disability

The Act defines disability as follows:

- (A) a physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (B) a record of such an impairment; or
- (C) being regarded as having such an impairment.

What the definition means is that if an individual, when compared to an average person, has a significant restriction on a major life activity (or is unable to perform a major life activity), that individual would be considered disabled under the ADA. Major life activities include functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. It should also be remembered that the disabling condition must be permanent or long-term to come under the ADA.

Employment

No covered entity shall discriminate against a qualified person with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. The term “covered entity” means an employer, employment agency, labor organization, or joint labor-management committee. The term “employer” means a person engaged in an industry affecting commerce who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such person. The term “employer” does not include the United States, a corporation wholly owned by the government of the United States, an Indian tribe, or a bona fide private membership club (other than a labor organization) that is exempt from certain tax laws. The ADA also does not prohibit religious corporations, associations, educational institutions, or societies from giving preference in employment to individuals of a particular religion.

Reasonable Accommodations

The term “discriminate” includes not making reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such covered entity can demonstrate that the accommodation would impose an undue hardship on the operation of the business of the covered entity. There are other ways in which a covered entity may improperly discriminate, such as excluding or denying equal jobs or benefits to a qualified individual because of the known

disability of an individual with whom the qualified individual is known to have a relationship or association; and utilizing standards, criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control.

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that such individual holds or desires. Consideration is given to the employer’s judgment as to what functions of a job are essential.

The term “reasonable accommodation” may include making existing facilities used by employees readily accessible to and usable by individuals with disabilities (such as providing a ramp) and may include job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, etc.

The term “undue hardship” means an action requiring significant difficulty or expense. With “undue hardship,” the overall financial resources of the facility are given consideration as well as the type of operation or operations of the covered entity. It is also a defense to a charge of discrimination that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job-related and consistent with business necessity, and such performance cannot be accomplished by reasonable accommodation. The term “qualification standards” may include

a requirement that an individual not pose a direct threat to the health or safety of other individuals in the workplace.

Medical Examinations

The prohibition against discrimination shall include medical examinations and inquiries. Except in certain circumstances, a covered entity shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of such disability. An examination must be shown to be job-related and consistent with business necessity. Also, if an examination is given after an offer has been made but prior to commencement of the employment duties it must be shown that all entering employees are subjected to such an examination regardless of disability. In such a situation, the employer may condition the offer on the results of the examination but must maintain the medical records in separate files and adhere to rules of confidentiality. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations, and first aid and safety personnel may be informed if the disability might require emergency treatment. Government officials investigating compliance with the ADA also shall be provided relevant information upon request.

A covered entity may also conduct voluntary medical examinations that are part of the employee health program available to employees at the work site. A covered entity may make inquiries into the ability of an employee to perform job-related functions.

Illegal Use of Drugs and Alcohol

The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the

illegal use of drugs when the covered entity acts on the basis of such use. The ADA does not, however, exclude those who have completed or are participating in drug rehabilitation programs. Covered entities are allowed to adopt or administer reasonable policies such as drug testing to ensure that the individual is no longer engaging in the illegal use of drugs. A covered entity may also require that employees shall not be under the influence of alcohol at the workplace. A covered entity may also hold an employee who engages in the illegal use of drugs or who is an alcoholic to the same qualification standards for employment and behavior that such entity holds other employees, even if any unsatisfactory performance or behavior is related to the drug use or alcoholism of such employee.

Posting Notices

Every covered entity as defined above shall post notices in an accessible format to applicants, employees, and members describing the applicable provisions of the ADA.

Receipt of Services

The term “qualified individual with a disability” also includes an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

The term “public entity” means any state or local government, any department, agency, special purpose district, or other instrumentality of a State or States or local government, and the National Railroad

Passenger Corporation (as well as other certain commuter authorities).

Under the ADA, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity or be subjected to discrimination by any such entity.

After August 25, 1990, it became unlawful discrimination for a public entity that operates a fixed route system to purchase or lease a new bus, a new rapid rail vehicle, a new light rail vehicle, or any other new vehicle if said vehicle is not readily accessible to individuals with disabilities, including individuals who use wheelchairs. A public entity that operates a fixed route system (other than a system that provides only commuter bus service) must provide Paratransit and other special transportation services to individuals with disabilities, including those in wheelchairs, which are sufficient to provide these individuals a level of service that is comparable to the level of designated public transportation services provided to individuals without disabilities; or, in the case of response time, a level of service comparable, to the extent practicable, to the level of designated public transportation services provided to individuals without disabilities.

Public Accommodations

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

A private entity is considered a “public accommodation” if the operation affects commerce. Included are inns, hotels, motels,

restaurants, bars, motion picture houses, concert halls, stadiums, grocery stores, clothing stores, laundromats, libraries, zoos, parks, day care centers, senior citizen centers, golf courses, gymnasiums, etc.

Making accommodations to individuals with disabilities will have to be “readily

achievable.” “Readily achievable” means easily accomplishable and able to be carried out without much difficulty or expense. Factors include the nature and cost of the action needed, as well as the overall financial resources of the facility or facilities involved.

AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA)

Who and what does the Act protect?

The Age Discrimination in Employment Act protects people who are 40 and older from discrimination in the workplace.

What is considered discrimination in the workplace?

Any act by an employer that treats persons unfairly because of their age is considered discrimination in the workplace. This includes not only being fired because of their age, but also, being treated differently or less favorably. For example, someone over 40 receives less pay than someone younger for doing the same work.

What must be proven in a discrimination claim?

In order to be successful in a discrimination claim you must prove all of the following:

- 1) You were qualified for the job,
- 2) Someone younger and less qualified was hired in your place, AND
- 3) There is no other valid reason for the failure to hire you.

What if an employer tries to disguise age discrimination by claiming that the layoff or discharge is the result of downsizing or a reduction in the workforce?

In such a case, the discharged employees may have a claim under the ADEA if they can demonstrate that they are as qualified for the positions as younger employees who were retained.

What do you do if you feel that you have a claim under the ADEA?

Special agencies have been set up to assist you in discrimination cases. In Pennsylvania, the agency set up to assist in discrimination cases is the Pennsylvania Human Relations Commission (PHRC). The parallel agency for the federal government is the Equal Employment Opportunity Commission (EEOC). Be aware that, while these agencies are designed to assist you with a discrimination claim, each agency has deadlines for notification. The PHRC gives you 180 days after the discriminatory act to give them notice and to file the necessary paperwork. The EEOC gives you 300 days to do so. If you feel that you have been treated unfairly by your employer, notify these agencies immediately. Do not wait for your employer to resolve the issue. If the deadline passes, you may have lost your right to make a claim.

You may contact the PHRC at:

Uptown Shopping Plaza
2971-E North 7th Street
Harrisburg, PA 17110-2123
Telephone: (717) 787-9780

The Philadelphia District Office of the EEOC is located at:

21 South 5th Street
4th Floor
Philadelphia, PA 19106
Telephone: (215) 440-2600

To be automatically connected to the nearest EEOC field office, call (800) 669-4000.

CONSUMER PROTECTION

There are a number of offices which can help you with your consumer complaints, such as if you believe you have been defrauded by a door-to-door salesperson, harassed by a debt collector or scammed in some deceptive sales practice. However, the best resource you have for your own protection is YOU.

Scams of one kind or another have been around for all of recorded history. Deception is the name of the game, and many scams prey on the vulnerable. Indeed, 75% of all scams are reported by senior citizens, and Pennsylvania has the second largest percentage (15%) of seniors over 65 in the nation. Scams come in every conceivable form: visits at the door, free publications, flyers, the telephone (today it's called telemarketing, which accounts for 40% of all scams across the nation), through the mail, "infomercials" on TV, out in the shopping center parking lot, and even over the computer.

While there are new scams every day, scams really fit into several different kinds of traditional patterns. Typical kinds of scams are "home improvement scams," and there are "investment scams" dealing with such hot topics as securities and "living trusts." Beware of the "one size fits all." Many scams deal with scare tactics, such as "Medicare Alert", or bank scares. Other scams try to get you to donate your hard earned dollars "for a worthy cause."

How to Know It's a Scam

- ◆ You have to pay money to get money, such as the "confirmation deposit".
- ◆ It's too good to be true.
- ◆ You didn't initiate the contact.
- ◆ You've won!, but you never entered . . .
- ◆ It's a high pressure situation

- ◆ You have to give out a credit card number to a stranger over the telephone (NEVER, NEVER, NEVER!!!)
- ◆ You sent "too much money" to someone you don't remember, and now they need a new check
- ◆ Thanks for your pledge - what pledge?
- ◆ You have to buy right now, because "it's a once in a lifetime opportunity" or "it ends at 5 o'clock today" (too bad!)

Many are variations of the old "get rich quick" schemes, but the only ones who get rich quick are the ones who leave town that evening — not you.

Suggestions for Resolving Complaints

The Office of the Attorney General publishes consumer protection booklets which include these suggestions if you plan to resolve a complaint yourself:

- ◆ Decide on the specific complaint you wish to make;
- ◆ Have a clear statement on the specific action you want the person or business to take to remedy your complaint
- ◆ Proceed without delay
- ◆ If you are making the complaint in person, take along the purchase receipt, any guaranty or warranty, and if possible, the product;
- ◆ Be assertive! If you are told by a salesperson or company representative that they cannot deal with your complaint, ask for higher authority;
- ◆ If you complain by mail, give the brand name, model number, size, color and other details needed for identifying the product. Include in your letter specific explanation

of the circumstances surrounding your complaint;

- ◆ Keep copies of your letter and all correspondence you receive. If you return the product, be sure to insure it.

If you are unable to resolve your consumer complaint, you can file a written complaint on a pre-printed form with the Bureau of Consumer Protection, Strawberry Square, 15th Floor, Harrisburg, PA 17120. Their hotline number is (800) 441-2555.

Other Good Names and Numbers to Know

- ◆ The Better Business Bureau - the local number is (215) 985-9313
- ◆ Your local police
- ◆ U.S. Chief Postal Inspector (for mail fraud), 877-987-3728, or your local Postmaster

Charitable Organizations

Senior citizens who are solicited by charitable organizations can call the Pennsylvania Department of State's Bureau of Charitable Organization's toll-free number at (800) 732-0999 to find out if the organizations are registered to solicit contributions; how much income the organizations received; how much the organizations spend on programs, services, administration and fundraising. Seniors can also call the toll-free number with any complaints they have about organizations which have solicited funds from them.

Some precautions when you are called for donations:

- ◆ ask for written information, including the charity's name, address and telephone number;

- ◆ Ask for identification. If the solicitor refuses, hang up;
- ◆ Call the charity to check whether they are aware of the solicitation. If they are not responsible, you should report the call to your local police department so they can investigate the potential for fraud;
- ◆ Watch out for organizational names which sound like established charities; some phony groups use titles that closely resemble respected legitimate organizations;
- ◆ Know that "tax-exempt" is not the same as "tax-deductible." The exemption refers to the organization but your contribution may or may not be deductible and if that is important to you ask for a receipt for the amount of your contribution;
- ◆ Be skeptical if someone thanks you for a pledge you do not remember making. Keep records and check them;
- ◆ Refuse high pressure appeals. No legitimate organization should pressure you for your gift.

Telemarketing

Telemarketing is another method commonly used to get your personal information such as credit card numbers, checking account numbers, Social Security number, driver's license number, etc. Do not give out this information unless you placed the call yourself to a well known, reputable company. Other tips include:

- ◆ Never pay for a prize over the phone;
- ◆ Never allow a caller to pressure you into acting immediately;
- ◆ Never agree to any offer until you have seen it in writing; and remember

The law prohibits telemarketers from calling consumers who have stated that they do not want to be called.

Pennsylvania law permits telemarketers to make calls only between the hours of 8:00 a.m. and 9:00 p.m. If you want your name removed from telemarketing lists, send your name,

telephone number (including area code) and address to the Telephone Preference Service, Direct Marketing Association, P.O. Box 9014, Farmingdale, New York 11735-9014. This action will help reduce the number of unsolicited calls even if it won't stop all the calls.

GRANDPARENTS' RIGHTS IN PENNSYLVANIA

The Pennsylvania General Assembly recognized in a Declaration of Public Policy that it can be in the best interests of a child to maintain a relationship with his grandparents, as long as the relationship does not interfere with the parent-child relationship. Pennsylvania law allows grandparents to petition a court for either custody or visitation of their grandchildren, but only in certain situations.

There are generally three situations where a grandparent can obtain reasonable visitation or partial custody rights of their grandchildren. The three situations are: (1) when a parent of the child is deceased; (2) when the child's parents are divorced or separated; and (3) when the child resided with the grandparent for twelve months or more.

When a parent is deceased or divorced and the grandparent wishes to seek partial custody or reasonable visitation rights, the court is required to find, and it is the grandparent's burden to prove, that granting the grandparent partial custody or visitation rights is in the best interests of the child and that such an arrangement will not interfere with the current parent-child relationship. In making its decision, a court will consider the quality of the relationship the grandparent has with the child, as well as the amount of time the child typically spends with the grandparent seeking visitation or partial custody.

Grandparents may also wish to seek full custody of a grandchild. This is possible in limited circumstances. The court will need to decide that it is in the child's best interests to live with the petitioning grandparent and not the child's parent. In order to obtain custody of a grandchild, the grandparent must meet the following three conditions: (1) the grandparent must have a genuine care and concern for the

grandchild; (2) the grandparent must have begun the current relationship with the grandchild with the consent of either the parent or by court order; and (3) the grandparent must have assumed, for twelve months or more, the role and responsibilities of the child's parent, by providing for the physical, emotional and social needs of the child. Recent cases in Pennsylvania have stated that grandparents, as opposed to other third parties such as government agencies, other relatives or family friends, have a favored position in custody disputes.

A court may also grant custody to a grandparent where a child is determined to be dependent by the state and in need of care by someone other than the parent(s). A grandparent who assumes responsibilities for a grandchild or who feels it is necessary to assume responsibility for a grandchild who may be at great risk of parental abuse, neglect, drug abuse or mental illness may petition the court for an emergency order granting temporary custody.

In all cases where the grandparent seeks reasonable visitation rights or partial custody of a grandchild, the burden rests with the grandparent to prove that such an arrangement is in the best interests of the child and that it won't interfere with the parent-child relationship. Parents enjoy a presumptive right to custody, care and control of their children.

It should also be noted that a grandparent does not have the right to be granted visitation or custody of the grandchild when the parent of the child is not deceased, separated, divorced and the child never resided with the grandparent. Also, if a grandchild is adopted by anyone other than a step-parent or another grandparent, the adoption will also terminate

any rights the grandparent may otherwise have to reasonable visitation or custody.

Procedure for Filing

In Chester County, a grandparent can initiate a proceeding to gain visitation or custody by filing a Complaint in Custody with the Prothonotary in the Court of Common Pleas of Chester County, in West Chester, PA. The filing fee is approximately \$130.00. Once the Complaint is filed, a conference is scheduled

before a custody conciliator. The purpose of this conference is to promote an agreement between the parties and resolve the matter so that it does not proceed further. There is also a mandatory mediation session which must be attended by all parties prior to the conciliation conference. If the mediation fails to produce an agreement and the subsequent conciliation is unsuccessful, the case proceeds to a judge who hears the case in court. If the parties reach an agreement at any stage, the proceedings will stop and a Custody Order can be entered.

MEDIATION SERVICES

Mediation is a process that provides a setting to resolve conflict cooperatively through face-to-face dialogue with the assistance of an impartial third party. Seniors, their families, and caregivers sometimes need support to deal with the conflict that sometimes arises in situations like the following:

- ◆ Decisions such as selling the family home and moving into a retirement community or moving in with a family member;
- ◆ Adjustments to changes from independence to interdependence;
- ◆ Tension created by the interaction of two or three generations living together;
- ◆ Disagreements between health care providers, such as nurses or home health aides, and seniors and their families concerning the care being given;
- ◆ Conflicts regarding finances;
- ◆ Disputes between tenants and landlords.

Some of the benefits that are derived from implementing mediation as a method of solving problems are:

- ◆ Learning new ways to handle conflict and resolve problems;
- ◆ Maintaining a better sense of personal dignity and independence;
- ◆ Avoiding escalation to painful and costly litigation;

- ◆ Increasing opportunities for seniors and their families to communicate more effectively and to work together to resolve their problems;
- ◆ Improving the quality of life and the relationships within their circle of support.

Elders, their families, or their attorneys in Chester County may contact the Community Mediation Program through the Chester County Family Services Program. The telephone number is (610) 696-4900.

The Ombudsman Program of Chester County investigates and resolves complaints received from or on behalf of older individuals who reside in nursing homes, personal care homes, domiciliary care homes, or receive long-term care services in their own homes. An ombudsman advocates for and protects the rights of an elder person receiving long-term care services and seeks to bring about needed changes to improve the quality of care received. The program is part of the care management services offered through the Chester County Aging Services. The Ombudsman Program may be contacted at

Chester County Aging Services
601 Westtown Road, Suite 320
West Chester, PA 19382
Telephone: (610) 344-6353
(800) 692-1100 (Ext. 6353)

DRIVERS' LICENSES

Having a drivers' license is considered a privilege. Therefore this license may be recalled or suspended and the privilege to drive an automobile may be revoked upon a determination of incompetence or a finding by a physician of a condition that prevents one from safely operating a motor vehicle. Upon the report of a physician or psychologist, the Commonwealth of Pennsylvania Department of Transportation Bureau of Driver Licensing will send a letter to inform you that your license has been revoked or suspended and must be returned in approximately one month from the date of the letter.

If this occurs, the recall or suspension of a license can be appealed. A petition for appeal must be filed in the Chester County Court of Common Pleas. However, the filing of the appeal will not act as a stay or postponement of the recall of the driver's license. A hearing will be held in court sixty days from the filing of the appeal. The attorney for the Pennsylvania Department of Transportation will argue that the license should remain revoked based upon the medical evidence of the examining doctor or the statements of the psychologist.

That evidence can be challenged by presenting medical evidence and reports of other doctors or by passing a road test given by a driving rehabilitation center. If the driver is successful, a letter is sent to the Pennsylvania Department of Transportation (PennDOT) and the license will be reinstated. If unsuccessful, there is always further review by a higher court, although again, filing an appeal will not reinstate the license until the next court decision.

IDENTIFICATION CARDS

Most establishments require a driver's license for identification. An ID card, similar in appearance to a driver's license, can be obtained by non-drivers at the Pennsylvania Department of Transportation Driver License Centers. Any Pennsylvania driver who voluntarily surrenders his/her license for medical reasons can obtain this ID free of charge. All others, including those who have never had a driver's license, must pay a \$9.00 fee. You must bring proof of identification such as a birth certificate, your old driver's license and your Social Security card.

HANDICAP PARKING

If you are disabled and need a special parking placard or parking place, you can contact the Pennsylvania Department of Transportation, Bureau of Motor Vehicles, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104; telephone (800) 932-4600.

PERSONAL RECORDS

It is important to keep complete written records so that your personal information is readily available when needed. In only one place record where the original of your will, power of attorney, and living will are kept. Also include information such as your Social Security number, bank accounts and other investments (including account numbers), real estate holdings, insurance policies, and other important legal and financial information. All of this is required by your agent or guardian in case of your disability or incapacity and is required by your executor or personal representative upon your death.

A CHECKLIST FOR YOUR PERSONAL FILING SYSTEM

This checklist may be used to organize papers and documents that may be needed when you or members of your family are faced with legal issues. Keep original documents in a secure place such as a fire-proof box, a safe deposit box, or with your bank or attorney.

- ◆ Income tax returns (federal, state and local returns for the following years: _____)
- ◆ Birth, marriage, divorce, custody, adoption and death certificates
- ◆ Naturalization papers
- ◆ Military records
- ◆ Papers documenting real estate such as leases for apartments or home, real estate purchases, mortgages and home improvements
- ◆ Medical records
- ◆ Social Security records and communications
- ◆ Bank accounts: Name of Bank: _____
___ Checking ___ Savings ___ On-line Banking
- ◆ Brokerage and mutual fund statements: Name of Investment Advisor/Company:

- ◆ Business and partnership agreements
- ◆ Stock option and pension fund agreements
- ◆ Wills, trust agreements and powers of attorney
- ◆ Automobile titles, registration and insurance
- ◆ Credit card account information
- ◆ Insurance policies such as homeowners', health, accident, long term care and life
- ◆ Receipts, guarantees and warranties for major purchases

**ADVANCE DECLARATION
("LIVING WILL")**

I, _____, being of sound mind, willfully and voluntarily make this declaration to be followed if I become incompetent. This declaration reflects my firm and settled commitment to refuse life-sustaining treatment under the circumstances indicated below.

I direct my attending physician to withhold or withdraw life-sustaining treatment that serves only to prolong the process of my dying if I should be in a terminal condition or in a state of permanent unconsciousness.

I direct that treatment be limited to measures to keep me comfortable and to relieve pain, including any pain that might occur by withholding or withdrawing life-sustaining treatment.

In addition, if I am in the condition described above, I feel especially strong about the following forms of treatment:

I do do not want cardiac resuscitation.

I do do not want mechanical respiration.

I do do not want tube feeding or any other artificial or invasive form of nutrition (food).

I do do not want tubal or other artificial or invasive form of hydration (water).

I do do not want blood or blood products.

I do do not want any form of surgery or invasive diagnostic tests.

I do do not want kidney dialysis.

I do do not want antibiotics.

I realize that if I do not specifically indicate my preference regarding any of the forms of treatment listed above, I may receive that form of treatment.

Other Instructions:

I do do not want to designate another person as my surrogate to make medical treatment decisions for me if I should be incompetent and in a terminal condition or in a state of permanent unconsciousness.

APPENDIX – BIOGRAPHIES

Catherine S. Clark

Catherine (“Sue”) Clark has a general law practice in West Chester in which she focuses primarily on estate planning and probate, taxes and issues related to older clients including Medicaid and insurance problems. She received her undergraduate college degree from Duke University and both her law degree and master's degree in taxation from Villanova School of Law. She is a member of the National Academy of Elder Law Attorneys, the elder law and the probate sections of the Pennsylvania Bar Association and the Chester County Bar Association.

Robert R. DeLong, Jr.

Rob R. DeLong, Jr. is a partner of Williams and DeLong in Media after a twenty-year career in the securities and investment industry. He is a member of the Pennsylvania Bar and is admitted to practice in New Jersey. Rob is an active member of the National Academy of Elder Law Attorneys, the Philadelphia, Pennsylvania, Chester and Delaware Counties, and New Jersey Bar Associations as well as their Elder Law Committees and Sections. Rob is also an Adjunct Professor at the Widener University Legal Education Institute, where he teaches Wills, Trusts, and Estate Administration and Tort Law.

Joseph P. DiGiorgio

Joseph DiGiorgio received his Bachelor of Science degree from Cornell University, and his Juris Doctor from Villanova University School of Law. He is a member of the American Bar Association, Pennsylvania Bar Association, and Chester and Montgomery County Bar Associations, and is a Family Law Section member of each of the above Bar Associations. He has practiced in Chester County for 23 years and has been honored by the Chester County Bar Association for public service. He is also a member of the Pennsylvania Trial Lawyers Association and, besides his interest in elder law issues, he also practices personal injury law, family law, employment law and estate planning and administration.

William L. Foley, Jr.

Mr. Foley is a co-founder of the West Chester law firm of Foley and Gulasarian. Mr. Foley received his B.S. degree with honors from Boston University and his J.D. from Temple School of Law. He is co-editor of Bisel's Workers' Compensation Update, a monthly publication. He is a member of the American, Pennsylvania and Chester County Bar Association. He is also an active member of the Chester County Bar Association's Elder Law Section. He is a frequent lecturer on employment related topics.

Thomas A. Foster

Tom is a sole practitioner in Westtown concentrating in elder law, estate planning and estate administration. He earned his law degree from Widener University School of Law. He also has an MBA from Temple University and a BA from Lehigh University.

Mark J. Gulasarian

Mr. Gulasarian received his Bachelor of Arts degree from Temple University and his Juris Doctor from the Delaware School of Law of Widener University. He is co-founder of the law firm of Foley and Gulasarian, which is based in West Chester, Pennsylvania. He is a current member of the Chester County Bar Association, and has been a member of the Pennsylvania and American Bar Associations. He is a current member of the Chester County Bar Association's Elder Law Section and is a litigator in the field of workers' compensation law.

Miguel D. Pena

Mr. Pena is with the West Chester firm of Gawthrop, Greenwood & Halsted, P.C. His practice is concentrated in estate planning and administration, and related tax and business matters. He received his undergraduate from Franklin & Marshall College, and continued on to Villanova University School of Law, where he received his J.D. and a Masters of Law in Taxation.

Jean Speiser Polen

Jean is a sole practitioner in West Chester. She is a 1983 graduate of Temple University Law School where she was an Associate Editor of the Temple Law Quarterly. She has practiced in Chester County for sixteen years, and has been a county resident for the last six years. Besides her interest in wills and estates, she also practices family law and juvenile law. She is a member of the Chester County Bar Association and serves on its Children's Rights Committee. She has twice been honored by the Chester County Bar Association for public service.

Marion K. Rechsteiner

Mrs. Rechsteiner works as a volunteer attorney for Legal Aid of Chester County in elder law. She received her A.B. and M.A. degrees in communications and political science from Syracuse University. At age 60, she attended Delaware Law School of Widener University. She was admitted to the Pennsylvania Bar in 1990 and is on the New Matter Committee of the Chester County Bar.

Arthur M. Rosenbaum

Mr. Rosenbaum is a sole practitioner in Paoli. His practice is concentrated in Estate Planning and Estate Administration; preparing wills, trusts, and powers of attorney for clients and in assisting after a death or disability. He is a graduate of the University of Pennsylvania and of the Villanova University School of Law. He is a member of the Chester County Bar Association and of its Elder Law and Probate Section.

Mark L. Tunnell

Mr. Tunnell is a shareholder of the West Chester firm of Gawthrop, Greenwood & Halsted, P.C. He has litigated various kinds of elder cases for over 25 years, and is certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He is a member of the American, Pennsylvania and Chester County Bar Associations, ATLA, PaTLA, and the American Judicature Society. He has served as President of the Chester County Estate Planning Council. He received his J.D. from the College of William and Mary, Marshall-Wythe School of Law. One of his interests is the area of nursing home negligence, and another is will and trust litigation.

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Adult Day Care	Phone Number
Adult Care of Chester County	
West Chester	(610) 431-1105
Exton	(610) 363-8044
Adult Day Services at Devon	(610) 687-3766
Chester Valley Services	(610) 383-3944
Day-To-Day Adult Care	(610) 518-0552
Manatawny Manor-Lutheran Services Northeast	(610) 273-4619
Tel-Hai Adult Day Care (Honey Brook)	(610) 273-9333
Advocacy Services	
Action Alliance of Senior Citizens of Greater Philadelphia	(215) 574-8520
Alzheimer's Disease and Related Disorders Association	(800) 559-0404
Bureau of Advocacy, PA Dept. of Aging	(717) 783-1550
Chester County Dept. of Aging Services	
Advisory Committee	(610) 344-6009
Nursing Home Ombudsman	(610) 344-6350
Coalition of Advocates for the Rights of Infirm Elderly (CARIE)	(215) 545-4437
Community Services Council	(610) 696-4545
Human Relations Commission	(215) 560-3464
Adult Services	
Adult Care of Chester County	
West Chester	(610) 431-1105
Exton	(610) 363-8044
Bridge of Hope	(610) 380-1360
Catholic Social Services	(610) 269-4060
Chester County Adult Literacy Program	(610) 280-2635
Chester County Women's Services	(610) 383-0930
Contact Careline	(610) 649-5250
Family Services	(610) 696-4900
Freedom Valley Disability Entitlement Center	(610) 353-6640
Life Counseling Services	(610) 644-6464
Care Management Agencies	
Adjustments Inc.	(610) 775-7570
Columbus Life Management	(610) 592-0292
Deborah Klock	(610) 631-5689
Elder Options	(610) 323-8432
Eldercare	(610) 688-5579
Genesis Elder Care	(800) 699-1520
Geriatric Consultation & Services	(610) 518-1818
Geriatric Planning Services	(610) 566-6686

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Care Management Agencies <i>(continued)</i>	Phone Number
Intervention Associates	(610) 254-9001
Retirement & Transition Elder Care Services	(610) 527-4578
Star Systems Consultation & Training	(215) 477-2211
Supportive Care Services	(302) 655-5518
Chester County Caseworker Services	
Assessment and Care Management	(610) 344-6350
Long Term Care Ombudsman	(610) 344-6350
Placement Services	(610) 344-6350
Protective Services	(610) 344-6350
Clothing	
First Presbyterian Church	(610) 696-0554
Oxford Area Neighborhood Services Center	(610) 932-8557 (610) 869-2810
Consumer Protection	
Better Business Bureau	(610) 866-8780
Chester County Consumer Affairs	(610) 344-6150
Insurance Consumer Information	(800) 942-4242
Pennsylvania Bureau of Consumer Protection	(800) 441-2555 (215) 560-2414
Pennsylvania Insurance Department (Complaints)	(717) 787-2317
Counseling-Drug & Alcohol	
Addiction Recovery Center Counseling Services	(610) 869-1500
Alanon Family Groups	(610) 696-4216
Alcoholics Anonymous (AA)	(610) 363-6164
Alcoholics Anonymous -Central Office	(215) 574-6900
Alcoholics Anonymous –COAD	(800) 917-1117
Center for Addictive Diseases	(610) 648-1130
Chester County Council on Addictive Diseases	(800) 917-1117 (610) 363-6164
Chester County Department of Drug and Alcohol Services	(610) 344-6620
Help Counseling Center: Downingtown	(610) 873-1280
Help Counseling Center: Malvern	(610) 647-0330
Help Counseling Center: Phoenixville	(610) 933-0400
Help Counseling Center: West Chester	(610) 436-8576
Counseling-Family & Adult Services	
Catholic Social Services	(610) 269-4060
Community Services for Human Growth	
Paoli	(610) 644-4455
Phoenixville	(610) 935-0850
Creative Health Services (Northern Chesco)	(610) 326-9250

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Counseling-Family & Adult Services <i>(continued)</i>	
Family Services of Chester County	(610) 696-4900
Human Services, Inc.	(610) 873-1010
National Domestic Violence Hotline	(512) 453-8117
Northwestern Human Services	(610) 444-0555
Riverside-Brandywine Counseling Center	(610) 383-9600
Women's Resource Center	(610) 687-6391
YWCA Women's Information Network	(610) 692-3737
Counseling-Mental Health/Mental Retardation	
Brandywine Hospital Psychiatric Unit	(610) 383-8470
Brandywine Behavioral Health	(610) 383-8333
Community Service Providers	(610) 363-0850
Community Services for Human Growth	
Paoli	(610) 644-4455
Phoenixville	(610) 935-0850
Crisis Intervention	(610) 837-1000 (877) 918-2100
Family Services of Chester County	(610) 696-4900
Handi-Crafters	(610) 384-6990
Help Counseling Center	
Downingtown	(610) 873-1280
Phoenixville	(610) 933-0400
West Chester	(610) 436-8576
Human Services Inc.	(610) 873-1010 (610) 692-3415
Mental Health/Mental Retardation Board of Chester Co.	(610) 344-6265
Mental Retardation Base Services Unit	(610) 344-6327
Paoli Memorial Hospital Psychiatric Unit	(610) 648-1095 (610) 648-1000
The ARC of Chester County	(610) 594-1560
Counseling-Partial Hospitalization Programs	
American Day Treatment Centers	
Drexel Hill	(610) 853-9945
Exton	(610) 524-2680
Belmont Behavioral Health Geriatrics Partial Hospitalization Project	(610) 692-8994
Brandywine Behavioral Health	(610) 383-8470
Brandywine Behavioral Health, 24-Hour Referral	(610) 383-8333
Community Services for Human Growth	(610) 935-0850 (610) 644-4455
Creative Health Services	(610) 326-9250

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Counseling-Partial Hospitalization Programs <i>(continued)</i>	
Help Counseling, Inc.	(610) 436-5388
Human Services, Inc.	(610) 873-1010
Progressions at Pottstown Memorial Medical Center	(610) 970-5000
Emergency Alert Systems	
Life Assure	(800) 888-4714
Life Line	
American Red Cross	(800) 959-6989
Chester County Hospital: Emergency	(610) 431-5011
Chester County Hospital: Non-emergency	(610) 431-5593
Phoenixville Hospital	(610) 983-1229
Main Street Messenger	(610) 384-4980
Poison Control Center	(215) 386-2100 (800) 722-7112
Vital Link	(610) 338-4825
Employment	
Chester County Job Center	(610) 384-9393
Chester County Opportunities Industrialization Center	(610) 692-2344
Office of Employment and Training for Older Adults	(610) 344-6900
Emergency Response Services	
Crime Victim Center	(610) 692-7420
Crisis Intervention	(610) 873-1000
Dept. of Emergency Services, Administration	(610) 344-5000
Emergency Shelters	
Atkinson Shelter	(610) 380-4443
City Gate	(610) 383-6915
Domestic Violence Center of Chester Co., Inc.	(610) 431-1430
Phoenixville Area Community Center	(610) 933-1105
Safe Harbor	(610) 692-6550
Salvation Army	(610) 696-8746
St. Mary Franciscan Shelter	(610) 933-1105
YWCA	(610) 384-9591
Emergency Clothing and Food	
American Red Cross	
Chester/Montgomery Counties	(610) 323-5920
Main Line	(610) 519-1301
West Chester	(610) 692-1200

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Financial Assistance: Fuel/Energy	
Emergency Fuel	(610) 466-1042
Low Income Energy Assistance Program	(610) 466-1042
PECO Customer Assistance	(800) 774-7040
Financial Assistance: Food	
Community Service Council	(610) 696-4545
Federal Food Programs	(610) 344-6640
Food Stamp Program	(610) 466-1000
Financial Assistance: Home Improvement	
Chester County Office of Housing and Community Development	(610) 344-6770
Farmers Home Administration	(610) 776-4296
Good Works, Inc.	(610) 383-6311
Habitat for Humanity	(610) 384-7993
Home Maintenance Program	(610) 444-4819 (610) 383-6900
Weatherization	(800) 732-3554
Financial Assistance: Income	
Blind Pension	(610) 466-1000
Department of Public Welfare	(610) 466-1000
Governor's Outreach and Assistance Center for Veterans	(800) 247-2323
Social Security Administration	(800) 772-1213
Supplemental Security Income	(800) 772-1213
Veteran's Affairs	(610) 344-6375
Financial Assistance: Medical	
Dental Care Program for Senior Citizens	(800) 692-7256
Medical Assistance (Medicaid)	(610) 466-1000
National Eye Care Project	(800) 222-3937
Office of Vocational Rehabilitation	(610) 525-1810
Pharmaceutical Contract for the Elderly (PACE)	(800) 225-7223
Financial Assistance: Rent	
Chester County Housing Authority	(610) 436-9200
Rent Rebate Program	(610) 344-6350
Section Eight Housing Assistance Payment Program	(610) 436-9200
Senior Rent Rebate Claims	(800) 772-5246

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Financial Assistance: Taxes	
Inheritance Tax Information	(610) 353-4051
Internal Revenue Services	(800) 829-1040
Pennsylvania Personal Income Tax	(610) 353-4051
Property Tax/Rent Rebate Program	(888) 222-9190 (610) 344-6350
Taxpayers Assistance	(610) 353-4051
Financial Assistance: Visiting	
RSVP	(610) 436-6646
Food	
Church of the Holy Trinity	(610) 696-4640
City Gate	(610) 383-6915
Coatesville Food Cupboard	(610) 383-6577
Exton-Lionville Community Food Bank	(610) 363-6264
First United Church of Christ	(610) 948-4516
Foursquare Gospel Church	(610) 932-3225
Good Samaritan Food Closet	(610) 644-4040
Grove United Methodist Church	(610) 696-2663
La Comunidad Hispana	(610) 444-4545
Lord's Pantry at St. James Church	(610) 269-1774
Mission Santa Maria	(610) 268-3365
Oxford Neighborhood Center	(610) 869-8557
Paoli Presbyterian Church	(610) 644-8250
Parkesburg Food Cupboard	(610) 857-1586
Phoenixville Area Community Services	(610) 933-1105
Salvation Army (Coatesville)	(610) 384-2954
Salvation Army (West Chester)	(610) 696-8746
St. Paul's Baptist Church	(610) 692-2446
Trinity Presbyterian Church	(610) 644-0932
Valley Forge REACT	(610) 644-3311
Food: Meals Programs	
Main Line Meals on Wheels	(610) 296-7660
Meals on Wheels	(610) 383-5722
Octorara Mission Relief	(610) 384-2663
General Senior Citizen Information	
Adult Care of Chester County	(610) 363-8044
Center for Hearing and Deafness	(610) 436-9751
Chester County CARES	(610) 436-4040 (610) 696-4545

Telephone Guide

Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Chester County Office of Aging	
Caseworkers	(610) 344-6350
Information and Referral	(610) 344-6365
Administration	(610) 344-6009
Commonwealth Information Center	(800) 932-0784
La Comunidad Hispana	(610) 444-4545
Oxford Neighborhood Services Center	(610) 869-2810 (610) 932-8587
Phoenixville Area Community Center	(610) 933-1105
Senior Health Link	(610) 431-1852
Social Security Administration	(800) 772-1213
Government: Chester County	
Chester County Department of Aging	
Administration	(610) 344-6009
Care Management	(610) 344-6350
Information and Referral	(610) 344-6350
Elder Abuse Hotline	(800) 564-7000
Government: Veterans	
VA Medical and Regional Office	(302) 994-2511
Veterans Affairs: Benefits	(800) 827-1000
Veterans Affairs: Debt Management	(800) 827-0648
Veterans Affairs: Insurance Services	(800) 629-8477
Veterans Affairs: Medical Center	(610) 384-7711 (302) 994-2511
Government: Pennsylvania	
Hon. Robert J. Flick, (R), 167 th Legislative District	
West Chester	(610) 344-7446
Malvern	(610) 251-1070
Hon. Timothy F. Hennessey, (R), 26 th Legislative District	
Coatesville	(610) 380-8600
Elverson	(610) 286-9194
Hon. James W. Gerlach, (R), 44 th Senatorial District	(610) 458-8010
Hon. Robert J. Thompson, (R), 19 th Senatorial District	(610) 692-2112
Hon. Arthur D. Hershey, (R), 13 th Legislative District	(610) 593-6565
Hon. Chris Ross, (R), 158 th Legislative District	(610) 925-0555
Hon. Carole A. Rubley, (R), 157 th Legislative District	(610) 640-2356
Hon. Curt Schroder, (R), 155 th Legislative District	(610) 524-5595
Hon. Elinor Z. Taylor, (R), 156 th Legislative District	(610) 436-4433
Military and Veterans Affairs	(610) 948-2400
Nursing Home Licensure & Certification	(610) 595-8041
Welfare Department	(610) 466-1000

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Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Health: General Services	
American Cancer Society	(610) 363-6720
American Heart Association	(800) 734-3500
American Lung Association	(610) 941-9595
Americans with Disabilities Act Information	(800) 257-4232
Arthritis Foundation	(215) 564-9800
Cerebral Palsy Association	(610) 524-5850
Chester County Health Department	(610) 344-6225
Chester County Association for the Blind	(610) 384-2767
Chester County Disability Services	(610) 524-5850
Chester County Medical Society	(610) 644-8120
Epilepsy Foundation	(800) 887-7165
Speech and Hearing Clinic of West Chester University	(610) 436-3402
Health: Mental	
Alliance for the Mentally Ill	(215) 886-0350
Alzheimer's Assn. Of Southeastern PA	(800) 559-0404
Depression Awareness, Recognition and Treatment	(800) 421-4211
Holcomb Hotline (Mental Health and Retardation)	(610) 363-5720
Human Services, Inc.	(610) 873-1010
Mental Health and Retardation of PA	(610) 363-1488
Mental Health Association of Southeastern PA	(800) 688-4226
National Alliance for the Mentally Ill	(800) 223-0500
Northwestern Human Services	(610) 436-5388
US Veterans Admin. Medical Center	(610) 383-7711
Health: Hospice	
Jefferson Hospice	(610) 526-3265
Neighborhood Hospice	(610) 696-6574
Hospitals	
Brandywine Hospital	(610) 383-8000
Bryn Maw Rehabilitation Hospital	(610) 251-5400
Bryn Mawr Hospital	(610) 526-3000
Embreeville Center	(610) 486-8000
Haverford State Hospital	(610) 525-9620
Paoli Memorial Hospital	(610) 648-1000
Phoenixville Hospital	(610) 983-1000
Pottstown Memorial Medical Center	(610) 327-7000
Southern Chester County Medical Center	(610) 869-1350
The Chester County Hospital	(610) 431-5000
U.S. Veterans Administration Medical Center	(610) 384-7711

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Type of Service	Phone Number
Housing: General	
Domiciliary Care	(610) 344-6350
Home Share (YMCA)	(610) 692-3737
Housing: Nursing Homes	
Barclay Friends	(610) 696-5211
Brandywine Hall	(610) 696-3120
Chatham Acres	(610) 869-2456
Coventry Manor	(610) 469-6228
Firbank at Crosslands	(610) 388-1441
Freedom Village	(610) 383-6656
Hickory House	(610) 273-2915
Linden Hall	(610) 444-0741
Mainline Nursing and Rehabilitation	(610) 296-4170
Manatawny Manor	(610) 705-3700
Manor Care	(610) 688-8080
Oxford Manor at Ware Presbyterian Village	(610) 998-2400
Pembroke Health and Rehabilitation Residence	(610) 692-3636
Phoenixville Manor	(610) 933-5867
Pocopson Home	(610) 793-1212
Presbyterian Health Center	(610) 241-3000
Southeast Pennsylvania Veterans Center	(610) 948-2400
St. Martha Manor	(610) 873-8490
Tel Hai Nursing Center	(610) 273-3149
Westmoreland House at Kendal	(610) 388-7001
Housing: Personal Care Homes	
Adel Madanet's Personal Care Boarding Home	(610) 383-5128
Barclay Friends	(610) 696-5211
Beatrice Personal Care Home	(610) 380-0545
Bellingham Retirement	(610) 436-6663
Buttonwood Farm	(610) 495-7871
Colonial Acres	(610) 942-2022
Colonial Woods	(610) 942-4242
Devereux Whitlock PCH	(610) 296-6800
F,S,&R Madanat	(610) 383-6272
Friends Home	(610) 444-2577
George Madanat Personal Boarding Home	(610) 383-5179
Gheel House	(610) 495-7871
Glencrest Manor	(610) 384-7543
Harrison House	(610) 384-6310
Heatherwood	(610) 273-9300

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Type of Service	Phone Number
Heidelbaugh Boarding Home	(610) 384-0216
Heidlauf Personal Care Home	(610) 383-7207
Highgate at Paoli Pointe	(610) 296-7100
Hutchinson House Assisted Living	(610) 688-0833
Madanant Personalized Boarding Home	(610) 384-2573
Manatawny Manor	(610) 327-0840
Manor Care	(610) 688-8080
Melmark Home	(610) 353-1726
Mudanat and Madanat PCBH	(610) 384-2658
New Seasons of Exton	(610) 594-0200
Phoenixville Villa	(610) 935-9120
ReMed Recovery Care Center	(610) 834-1300
Rosalyn Williams PCH	(610) 380-3134
Ruston Residence at Jenner's Pond	(610) 869-6800
Simpson Meadows	(610) 269-8400
Sunrise Assisted Living	(610) 594-0455
Sunrise Assisted Living	(610) 251-9994
Sunrise Assisted Living	(610) 399-4464
Tel Hai/Lakeview Personal Care	(610) 273-3149
The Hickman	(610) 696-1536
The Inn at Freedom Village	(610) 383-6656
The Woodbridge Assisted Living Residence	(610) 933-7000
Ware Presbyterian Village	(610) 998-2400
Housing: Senior Rental	
Ash Park Terrace	(610) 436-9200
Luther House #2	(610) 347-1696
Housing: Retirement Communities	
Bellingham Retirement Community	(610) 436-6663
Cartmel	(610) 388-7001
Coniston	(610) 388-7001
Crosslands	(610) 388-7001
Harrison House	(610) 384-6310
Heatherwood	(610) 273-9301
Kendal at Longwood	(610) 388-7001
Manatawny Manor	(610) 327-0840
Retirement Communities Complete List	(610) 344-6350
Tel Hai Retirement Community	(610) 273-3149
Ware Presbyterian Village	(610) 998-2400
White Horse Village	(610) 558-5000

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Senior Citizen Service Providers and Resources for Chester County

Type of Service	Phone Number
Housing: Senior Subsidized	
Bellingham Apartments	(610) 436-6663
Chestnut Court	(610) 466-0350
City Clock	(610) 384-2997
Coatesville Towers	(610) 384-0120
Denny Reyburn Bldg.	(610) 436-9200
Eagleview Senior Housing	(610) 458-3740
Heatherwood Apartments	(610) 273-9301
Honey Brook Manor	(610) 273-7336
Housing Authority of Chester County	(610) 436-9200
King Terrace	(610) 436-9200
Locust Court	(610) 436-9200
Luther House #1	(610) 347-1696
Maple Court	(610) 436-9200
Oak Place	(610) 436-9200
Oxford Hotel	(610) 932-8380
Parkesburg Apartments	(610) 857-9281
Parkesburg School Apartments	(610) 857-5055
Regency Park Apartments	(610) 383-4030
Saint Peter's Place	(610) 933-4383
Spruce Court	(610) 436-9200
St. James Place	(610) 269-9366
Steel City Apartments	(610) 466-0350
Tel Haven Apartments	(610) 273-9333
The Flag House	(610) 948-1797
Trinity House	(610) 296-3337
Vincent Heights	(610) 948-6602
W.C. Atkinson Apartments	(610) 384-4455
Washington House	(610) 436-9200
Housing: Transitional Care	
Bryn Mawr Rehab. Transitional Center	(610) 251-5670
Transitional Care at Chester County Hospital	(610) 431-5235
In-Home Service Providers	
Berwyn Surrey Services for Seniors	(610) 647-6404
Broomall Accucare Home Nursing Genesis Elder Care Home Services	(610) 353-7360 (610) 604-0520

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Type of Service	Phone Number
In-Home Service Providers <i>(continued)</i>	
Chadds Ford Personal Touch Home Aides and Home Care of PA VNA Health Resources	(610) 361-8911 (610) 388-3558
Coatesville Brandywine Home Health Agency	(610) 384-4200
Devon Quaker Health	(610) 688-8335
Exton Homemaker Home Health Management Loving Care Medicall of PA	(610) 594-5555 (610) 363-6455 (800) 873-8802
Haverford Epicure Home Care	(610) 825-5234
King of Prussia Bayada Nurses First Choice Home Health Corp. of America	(610) 992-9200 (610) 265-4086 (800) 872-5250
Media Compassionate Care Hospice Western Medical Services	(610) 832-7020 (610) 565-9260
New Holland TLC Home Health Care and Staffing Agency	(717) 354-7822
Newtown Square Aspen Home Health Services Life Force Elderly Services PA Agency of Nurses	(610) 325-4000 (610) 359-0260 (610) 353-9570
Paoli Jefferson Home Health Lee's Industries	(610) 648-1207 (610) 408-9555
Philadelphia Addus Health Care	(215) 755-8580
Phoenixville Community Visiting Nurse Services	(610) 933-1263
Pottstown Pottstown Memorial Medical Center Home Care VNA of Pottstown and Vicinity	(610) 327-7216 (610) 327-5700
Springfield LifeLine Home Health Mercy Home Health Services	(610) 328-2788 (610) 690-2500
Uwchland Special Care	(610) 458-7100
Valley Forge Personal Health Care Professional Nursing Services	(610) 933-6130 (610) 933-9483

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Type of Service	Phone Number
Wayne Home Nurse	(610) 975-9600
West Chester Neighborhood Visiting Nurse Silver Lining Home Health Care Staff Builders Home Health Services	(610) 696-6511 (610) 344-0568 (610) 430-7400
West Grove Southern Chester County Medical Center, Home Health Care Department	(610) 869-1212
In-Home Care Services	
American Red Cross Lifeline (24 Hrs)	(215) 299-4197
Brandywine Home Health Agency	(610) 466-4500
Homemaker Health Services	(610) 594-5555
Neighborhood Visiting Nurse Association: Central Chester County	(610) 696-6511
Neighborhood Visiting Nurse Association: Southeastern Chester County	(610) 869-4012
Southern Chester County Medical Center for Home Care	(610) 869-1212
Special Care	(610) 458-7100
The Network for Behavioral Change	(610) 383-1432
Insurance	
Aetna Senior Choice (Medicare HMO)	(800) 377-6296
Health Insurance Information Program (APPRISE)	(610) 344-6009
Independence Blue Cross (Medicare HMO)	(877) 393-6733
Keystone Health Plan (Medicare HMO)	(877) 393-6733
List of Medicare Supplement Plans (Medigap)	(610) 344-6350
Long Term Care Insurance	(610) 344-6350
Medical Assistance (Medicaid)	(610) 466-1000
Medicare Claims, Payments, Appeals	(800) 382-1274
Medicare Enrollment, Card Replacement	(800) 772-1213
U.S. Healthcare Medicare (Medicare HMO)	(800) 282-5366
Legal	
AARP Hotline	(800) 262-5297
Chester County Bar Association	(610) 692-1889
Chester County Office of Aging Reduced Fee Legal Program	(610) 344-6350
Legal Aid of Chester County, A Division of Legal Aid of Southeastern PA	(610) 436-4510
Office of Attorney General	(717) 787-3391
Public Defender of Chester County	(610) 344-6940
Medical Equipment and Supplies	
American Home Patient	(800) 341-1122
Beckett Medical	(610) 280-7700
Dial Medical Supply	(610) 827-9040

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Type of Service	Phone Number
Medical Equipment and Supplies <i>(continued)</i>	
D-M Medical Service	(610) 692-0304
Gateway Home Health Care	(610) 933-0584
Heron Home Care	(610) 384-9404
Invacare Continuing Care Group	(800) 678-7100
Kramer Medical Equipment	(610) 384-5448
Majors Medical Supply	(610) 617-7800
Medical Home Care	(610) 692-0304
RJR Medical	(610) 970-3900
Scomed Supply Company	(610) 873-8600
Recreation	
Brandywine YMCA	(610) 384-5084
Chester County Parks and Recreation	(610) 344-6415
Exton/Lionville YMCA	(610) 363-9622
List of Senior Citizen Clubs and Organization	(610) 344-6350
Phoenixville Area YMCA	(610) 933-5861
Southern Chester County YMCA	(610) 869-8001
Upper Main Line YMCA	(610) 647-9622
West Chester Area YMCA	(610) 431-9622
YWCA of Greater West Chester	(610) 692-3737
Senior Centers	
Berwyn-Eastown Senior Center	(610) 687-3000
Coatesville Senior Center	(610) 383-6900
Downingtown Senior Center	(610) 269-3939
Kennett Square Senior Center	(610) 444-4819
Oxford Senior Center	(610) 932-5244
Phoenixville Senior Center	(610) 935-1515
Wayne Senior Center	(610) 688-6248
West Chester Senior Center	(610) 431-4242
Self-Help Support Groups	
Center on Hearing and Deafness	(610) 918-6250
Coalition for the Active Disabled	(610) 436-6502
Crime Victims Center	(610) 692-7420
Hard of Hearing	(610) 918-6250
Parents Without Partners	(610) 688-4829
People Helping People (Grieving)	(610) 696-0134
Second Sighters Vision Care Club	(610) 384-9100
Stroke and Brain Injury Support	(610) 251-5443
Widowed Persons Services	(610) 399-1072

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Type of Service	Phone Number
Transportation	
ADA Paratransit	(215) 580-7145
AMTRAK	(215) 824-1600
CCPS Reservations	
Northern Chesco	(610) 827-7575
Southern Chesco	(610) 869-8069
Central Chesco	(610) 269-4415
CCPS--Chester County Paratransit System	(610) 344-6350
Krapf's Coaches	(215) 431-1500
Medical Assistance Transportation Program	(610) 344-6645
Office of Aging	(610) 344-6353
SEPTA	(215) 580-7800
Services for Senior Citizens	(610) 344-6350
Surrey Club	(610) 993-9493
Taxicabs	
Berwyn & Paoli Taxi	(610) 644-0200
Downingtown Cab	(610) 684-2900
Rainbow Cab	(610) 696-6060
Tri-County Taxi (Northern Chesco)	(610) 495-5500
Volunteer Opportunities	
Executive Service Corp (Consultants to Non-profits)	(610) 649-2284
Forty Plus of Philadelphia	(215) 923-2074
Handi-Crafters	(610) 384-6990
Retired Senior Volunteer Program	(610) 436-6646 (610) 696-4900
Service Corps of Retired Persons (SCORE)	(610) 344-6910
Surrey Club	(610) 647-6404
YMCA of Greater West Chester	(610) 692-3737