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ELDER LAW MINUTE

Consider Darla and Fred Johnson. Fred is in a nursing home suffering from advanced dementia. Darla is in the community recovering from 10 years of around-the-clock care-giving. The couple has a house, a car and $400,000 of liquid assets. Darla is very concerned about paying $6,500 per month for Fred's nursing home care. She is afraid that their savings will be exhausted long before she dies.

Darla, having visited my web site, approached me about purchasing a Medicaid annuity. An annuity is a contract with a life insurance company which provides the purchaser the right to receive periodic payments either for life or for a specified period of time.

In order for an annuity to be Medicaid qualified, it must be amortized so that each payment is the same amount as the previous payment. Payments must be made on a monthly basis. The State of Georgia must be named as the remainder beneficiary. The annuity contract must be irrevocable and non-assignable. And, the payment option selected must be actuarially sound, which means that the return expected during the purchaser's life expectancy must at least equal the purchase price.

I solicited proposals from a few insurance companies for Darla. We agreed that she should get a short term annuity since the interest rates paid by the insurance company are very low, and because she is concerned about the State of Georgia being the remainder beneficiary. The shortest term that we could find was two years. However, in the current economic climate, purchasing a two year annuity would result in a loss of about 3 percent. Technically, a two year annuity does not meet the actuarially sound requirement since over Darla's life expectancy she will not receive back 100 percent of her purchase price. While I could argue that the 3 percent loss was not a gift to anyone that should be penalized, we decided to go with a four year term certain in order to comply with this technical requirement.

Please let me know your experiences with this issue in these times of low interest rates.