Oregon State Bar

Elder Law Newsletter

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Transferring a home to a caregiving daughter or son

By Julie Nimnicht, Attorney at Law

The Medicaid rules impose penalties in most cases where an applicant or the applicant's spouse have transferred assets for less than fair-market value any time in the 60 months preceding the Medicaid application. OAR 461-140-0210. In limited circumstances, however, certain transfers are considered exempt and will not be subject to transfer penalties. See OAR 461-140-0220 and 461-140-0242. One such exemption recognizes the contributions of a caregiving daughter or son.

A caregiving daughter or son is one who has moved into a parent's home to provide care. Often this person has left the workforce or works reduced hours in order to provide care, and may have forgone advancement opportunities, contributions to a retirement account, and Social Security contributions. The services of a caregiving daughter or son may enable the parent to delay moving into a care facility and ultimately applying for Medicaid.

In this issue

The caregiving daughter or son transfer exemption recognizes the contributions and sacrifices caregivers make. Under the rule, a Medicaid applicant (or the applicant's spouse) may transfer title to his or her home to a caregiver without penalty if the daughter or son satisfies the criteria set forth in OAR 461-140-0242(3)(c).

Requirements

OAR 461-140-0242(3)(c) allows a parent to transfer interest in the home to a natural or adopted adult son or daughter without triggering a disqualification for Medicaid benefits if the following conditions are met:

a) The son or daughter resided with the parent in the parent's home continuously for at least two years immediately prior to the parent's admission to long-term care, other than an absence from the home that is not intended to, and does not, exceed 30 days;

b) The son or daughter provides convincing evidence that he or she provided services that permitted the parent to reside at home for at least two years rather than in an institution or long-term care facility; and

c) The son or daughter directly provided at least 20 hours of services described in OAR 461-140-0242(3)(c)(i)–(ii) to the parent per week, without receiving payment from the State of Oregon Department of Human Services.

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Transferring a home

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She assists clients with all aspects of estate planning and administration, protective proceedings, and Medicaid planning.

Prior to joining the firm, Julie worked with an estate planning firm where she focused on probate administration and guardianship and conservatorship.

OAR 461-140-0242(3)C(i) states that the caregiving son or daughter must have provided assistance with one or a combination of any of the following activities of daily living on a daily basis:

- eating
- dressing/grooming
- bathing/personal hygiene
- mobility
- elimination
- cognition/behavior

In addition to the requirements of OAR 461-140-0242(3)(c)(i), OAR 461-140-0242(3)(c)(ii) states that the caregiver must have also provided assistance with one or a combination of any of the following instrumental activities of daily living:

- housekeeping
- laundry
- meal preparation
- medication management
- shopping
- transportation

Documentation

In order to prove that a transfer of a home should qualify as a caregiving son or daughter transfer and therefore be exempt from the disqualifying transfer rules, the Medicaid applicant or the applicant's representative must provide sufficient documentation of the care provided. The Department of Human Services (DHS) generally requires three forms of evidence.

First, a letter from the parent's doctor stating the parent's current diagnoses that make long-term care necessary, along with a list of specific activities of daily living and instrumental activities of daily living that the parent is unable to perform due to the diagnoses, and a statement attesting to the length of time that the parent has been unable to perform his or her activities of daily living as a result of her or his condition.

Second, a statement by the caregiving son or daughter describing the services provided during the two-year period preceding the parent's admission into long-term care. The statement should detail how often each service was provided (e.g., once a day, once a week, twice a week, etc.); the amount of time required each time assistance was provided for the particular task (30 minutes, one hour, etc.); as well as the total amount of time devoted to each activity on average each week. The caregiver's statement should also state to what extent he or she had to forgo other employment opportunities in order to provide the stated care.

Finally, DHS will want to review collateral statements provided by disinterested individuals who will not benefit from the transfer which corroborate the information provided by the doctor and caregiver. The collateral statements can be provided by other family members, friends, or neighbors. They should state the person's relationship to the parent and/or caregiving son or daughter, and generally describe the services the caregiver provides, the approximate amount of time each week he or she devotes to providing care, and how long the services have been provided.

The rules do not contain any specific guidelines in regard to who must submit collateral statements or what information the statements contain, so caseworkers have some discretion. As an example, in a case involving a Medicaid applicant who was a protected person whose son and caregiver (an only child from a small family) had been appointed as guardian several years prior to the Medicaid application, I submitted the court visitor's report which corroborated the applicant's condition, the approximate onset of the condition, and the extent of the applicant's care needs. DHS accepted the report as sufficient collateral evidence in that instance.

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In most cases, I generally recommend submitting statements from other family members who have information about the applicant's care needs and the services provided by the caregiving daughter or son.

Transferring title

The home cannot be transferred from the parent to the caregiving son or daughter prior to the parent's admission into long-term care, but may be transferred at any time thereafter. In addition, the title to the parent's home must be transferred to the caregiver during the parent's lifetime in order to qualify for the transfer exemption. If the parent passes away with the home still titled in his or her name, it becomes an asset of the estate and is subject to estate recovery. There is no provision that allows for the transfer of a home to a caregiving son or daughter under the estate-recovery rules.

If the parent has capacity, the parent can transfer the title. If the parent does not have capacity, an agent acting under the parent's durable power of attorney that expressly authorizes the agent to make such a gift can complete the transfer. If an incapacitated parent does not have a durable power of attorney that authorizes the transfer, an interested person could petition the court to appoint a limited conservator and authorize the conservator to make the transfer if appropriate. ORS 125.650(5) allows the court to authorize the transfer of a protected person's property if the transfer is necessary or desirable to achieving any security, service, or care arrangement that meets the foreseeable needs of the protected person. In addition, ORS 125.435 allows a conservator, with prior court approval, to make gifts of a protected person's assets for such purposes as the protected person might have been expected to make.

The transfer exemption should be considered in cases where a daughter or son has resided for at least two years with a parent who has applied or anticipates applying for Medicaid long-term-care assistance, and who provided long-term-care services to the parent, which enabled the parent to remain in the home during that time and without which the parent would have required institutional care.

For a caregiver who has limited income and has been out of the workforce for several years, taking title to the home can provide much-needed financial security.

For a parent with modest income and resources who has been reliant on a daughter or son's care and later applies for Medicaid, transferring the home enables the parent to benefit the caregiver when assets may not otherwise be available for distribution after death. ■

Medicaid eligibility and estate recovery: Treatment of unavailable assets

By Monica H. Logan, Attorney at Law

Monica Logan joined the Salem firm of Douglas, Conroyd, Gibb & Pacheco, P.C. in 2019 as an associate.

She practices in the areas of Medicaid planning, estate planning, probate, and guardianship/ conservatorship proceedings.

When evaluating a Medicaid recipient's assets for eligibility for long term care in the OSIPM program, it is essential to address any Medicaid recipient's concerns about the treatment of assets. This issue is often raised in regard to assets claimed as unavailable for eligibility purposes.

A resource is unavailable if the Medicaid recipient has no legal or practical access to it. Specifically, a resource is unavailable if any of these apply:

- The Medicaid recipient has an ownership interest, but cannot legally or physically gain possession of it.
- The resource is jointly owned and the joint owner is unwilling to sell.
- The Medicaid recipient is not competent and has no representative with legal authority to access the asset.
- The sale of the asset is legally barred.
- The resource is in an irrevocable or restricted trust that is not for the benefit of the Medicaid recipient or spouse.
- The Medicaid recipient is a victim of domestic abuse and accessing the resource would risk exposure of the Medicaid recipient to abuse or further hardship.
- The Medicaid recipient is unaware of the resource, including a resource that is transferred to the recipient without his or her knowledge. OAR 461-140-0020(2), (3).

Medicaid does not count an unavailable asset for eligibility purposes. However, if that asset later becomes available, the resource may be counted and may affect the Medicaid recipient's continuing eligibility. If the resource was owned by the Medicaid recipient, the newly available resource, or income from the sale of the resource, will be counted as part of his or her assets. OAR 461-140-0120 (4)(a).

Under OAR 461-170-0011, any change in the Medicaid recipient's income or resources must be reported.

The most common example arises when a Medicaid recipient has property owned jointly with a non-spouse, and at the time Medicaid eligibility is determined, the joint owner refuses to sell the property. Without the joint owner's consent, the Medicaid recipient's interest in the property is impossible to sell to a third party, making the asset unavailable at the time of application for Medicaid benefits. If the joint owner consents to the sale of the property after the recipient is qualified for benefits, the Medicaid recipient's share of the proceeds of the property's sale is considered available to the Medicaid recipient. These proceeds typically cause the Medicaid recipient to be over the resource limit and, therefore, ineligible for Medicaid—unless the proceeds are spent or protected within the calendar month the funds are received. OAR 461-170-0130; OAR 461-140-0120 (4)(a). This same analysis would need to be done for any exempt assets the Medicaid recipient claims at eligibility.

For married couples, if that same unavailable resource is owned by the community spouse and the resource is sold, the proceeds will not risk the Medicaid recipient becoming ineligible for Medicaid benefits. This is because the proceeds of the sale are owned entirely by the spouse, whose resources are not considered for redetermination of the recipient's eligibility. OAR 461-135-0745(3)(a). For example, the property is owned by the Medicaid recipient's spouse and a sibling who initially refuses to sell the property. The property is later sold, but the Medicaid recipient has no ownership interest in the property. Thus, the proceeds will not be counted as part of the Medicaid recipient's resources. OAR 461-140-0020.

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Unavailable assets

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Married couples also need to consider the possibility of a future Estate Administration Unit (EAU) claim against the unavailable resource. After both spouses are deceased, EAU claims are made against the Medicaid recipient's assets in order to recover the expenses paid on behalf of the Medicaid recipient. OAR 461-135-0835(2)(a). Whether or not the EAU is permitted to make a claim on property depends on how the property was owned at the time of the Medicaid recipient's death or whether it was transferred from the Medicaid recipient and could be considered a voidable interspousal transfer.

Assets that are unavailable at the time of eligibility may or may not be subject to an EAU claim, assuming there is no disabled adult son or daughter. If an asset has been owned only by the community spouse or only within five years of application, then it is not subject to an EAU claim at any time. For example, a piece of land inherited by a community spouse and the spouse's siblings can be deemed unavailable if the joint owners refuse to sell. The real property is not subject to an EAU claim, even if the property becomes available after the Medicaid recipient's application for benefits. EAU's claim will not attach to that property because the asset was never owned by the Medicaid recipient.

[Ed. note: The expanded estate discussed in this article is currently the subject of ongoing litigation and the Elder Law section does not intend to support or advocate for either party's position in that litigation.]

Unavailable assets that are permitted to satisfy an EAU claim include those that were transferred from the Medicaid recipient to the community spouse within five years (before or after) the recipient's application for Medicaid benefits. OAR 461-135-0832 (13). For example, if the Medicaid recipient was unaware that he or she inherited property through a transfer-on-death deed and applied for Medicaid, this property would be unavailable at the time of eligibility. However, if the community spouse found this property and transferred it to his or her own name within five years of the Medicaid application, it would be traceable to the ownership of the Medicaid recipient and be subject to an EAU claim.

The underlying rule regarding this availability for recovery is based on the definition of estate under OAR 461-135-0832(13), which includes property transferred from the Medicaid recipient. The EAU's claim is allowed only up to the amount of ownership interest the recipient held in that property. OAR 461-135-0835 (2)(a) and (b).

As an example, if a Medicaid recipient had severe dementia and a life insurance policy without a named beneficiary, he or she would not have the capacity to cash out the life insurance policy to qualify for Medicaid. This asset is unavailable until a court orders a conservator to retrieve this policy. If the Medicaid recipient dies, the life insurance policy is part of the estate. The EAU would be permitted to make a claim on the entirety of the policy payment because the payment would become the recipient's estate. OAR 461-135-0832(13)(i).

In 2008, the Department of Human Services amended OAR 461-135-0832 to explicitly include as part of the estate of the deceased any interspousal transfers made for the purpose of eligibility within five years of the application date. However, the court in *Nay v. Dep't of Human Servs.*, 360 Or 668, 385 P.3d 1001 (2016) found that the department exceeded its authority under ORS 411.060 to adopt and enforce rules because the rule departed from the legal standard expressed or implied in the law being administered. While this amendment was found invalid, the current rule of voidable transfers stands. The rule itself is presently under examination in the Court of Appeals.

The availability of an asset at the time of application and the effect the EAU claims process has on a Medicaid recipient's property are crucial to determining the strategies we employ for our Medicaid recipients' financial and physical well-being. It is imperative to be aware of what changes might be coming for asset treatment and whether an asset which is unavailable now may be considered available for some purpose in the future. ■

Can you get CLE credit for writing an article?

According to Jade Priest-Maoz, Oregon State Bar MCLE Program Manager, attorneys can claim credit for legal research and writing if the activity meets certain accreditation standards. This is Category II credit, and there is a cap of 20 Category II credits per three-year reporting cycle.

MCLE Rule 5.7 and Regulation 5.200(e) set forth the requirements for claiming credit for legal research and writing. **MCLE Rules and Regulations**

Sources for important elder law numbers

By Darin J. Dooley, Attorney at Law

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He practices elder law, estate planning and administration, and probate.

Elder law numbers change over the course of the year. Figures can change on January 1, July 1, or October 1. This article provides information on the sources for important elder law numbers, how these figures are determined, and when they change.

The Center for Medicare and Medicaid Services (CMS) announces Supplemental Security Income (SSI) and spousal impoverishment standards for the coming year sometime during late fall at https://www.medicaid.gov/medicaid/eligibility/spousal-impoverishment/index.html. Because the SSI benefit is tied to the yearly cost of living adjustment (COLA), the announcement of the COLA by the Social Security Administration (SSA), found at www.ssa.gov, precedes the SSI and Spousal Impoverishment announcement.

The SSI benefit for an individual and a couple is announced prior to January 1. This announcement also affects the Income Cap Limit, because the income cap is 300% of the individual SSI benefit. For example, the 2020 income cap is three times the SSI benefit rate for an individual of $783/month, which equals $2,349 per month.

The resource limit for a Medicaid recipient is found in OAR 461-160-0015(3). OAR 461-160-0015 also contains resource limits for other benefits such as Temporary Assistance for Needy Families (TANF) and the Supplemental Nutrition Assistance Program (SNAP).

The burial fund limit of $1,500 each for the recipient and community spouse is found in OAR 461-145-0040(3)(a)(D). OAR 461-145-0040 contains useful information on burial arrangements and burial funds in general.

The personal needs allowance changes on January 1. The personal needs allowance for nursing home, community-based care, veterans, and in-home assistance can be found in OAR 461-160-0620(3)(c).

The room and board rate for waivered community-based care changes on January 1 and is found in OAR 461-155-0270. This figure is based on the SSI benefit rate for an individual minus the personal needs allowance for someone in community-based care. For 2020, this is $783 - $175 = $608.

The Oregon Supplemental Income Program for Medicaid (OSIPM) maintenance standard, found in OAR 461-155-0250, changes on January 1 and is tied to the SSI benefit rate for an individual. This figure is used when calculating the need standard for an individual receiving in-home assistance by adding $500 to the OSIPM maintenance standard per OAR 461-160-0620(3)(c)(C)(ii). For 2020 this is $733 + $500=$1,233.

However, for someone whose only source of countable income is SSI and who receives either home and community-based care in-home services or State Plan Personal Care (SPPC) services under OAR chapter 411, division 034, OAR 461-155-0575 states that DHS contributes a monthly supplementary payment of $22 considered reimbursement of uncovered assistance needs. You will see a cryptic reference to SSI only: $805 on the Elder Law Numbers sheet. That is SSI of $783 (2020) + $22 supplement = $805.

As stated above, the long term care income cap amount changes on January 1 and is 300 percent of the full SSI standard under OAR 461-145-0540(10)(c).

The minimum and maximum Community Spouse Resource Standard can change on January 1 and is part of the Medicaid Spousal Impoverishment Standards press release. It is also found in OAR 461-160-0580(2)(c).

The community spouse Maximum Monthly Maintenance Needs Allowance changes on January 1, while the Minimum Monthly Maintenance Needs Allowance (MMMNA) changes on July

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Elder law numbers

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1. Both figures can be found in OAR 461-160-0620(3)(d). If the community spouse's income falls below the MMMNA, the shortfall can be made up from the institutionalized spouse's income or by allocation of additional resources to the community spouse.

The Excess Shelter Allowance, also known as the Community Spouse Monthly Housing Allowance or Shelter Allowance, changes on July 1. It is currently $634.13/month and can be found in OAR 461-160-0620(3)(d).

It includes expenses for rent, mortgage payment, property taxes, and homeowners' insurance. This figure is used in calculating the community spouse's spousal allowance. If the shelter costs are greater than the set monthly housing allowance, the community spouse is entitled to a greater MMMNA.

The SNAP utility allowance, found in OAR 461-160-0420(4)(d), changes on October 1. This amount—currently $444/month—is used when calculating the MMMNA. It includes cooling/heating, electricity, basic phone service, sewage, garbage, and water costs, but is only used if these costs are paid separately from monthly rent.

The Average Private Pay Rate used to calculate the period of ineligibility for a disqualifying transfer of assets can change on January 1. Currently $8,784, this figure is found in OAR 461-140-0296(2)(j).

Medicare figures are updated on January 1 and can be found at medicare.gov.

Finally, a useful tool for Oregon Medicaid eligibility rules is the Oregon DHS searchable website at http://www.dhs.state.or.us/policy/selfsufficiency/ar_search.htm ■

Current Elder Law Numbers can always be found on the Elder Law Section website and in this newsletter.

Important elder law numbers

as of
January 1, 2020

Supplemental Security Income (SSI) Benefit Standards	Eligible individual ..... $783/month Eligible couple $1,175/month
Medicaid (Oregon)	Asset limit for Medicaid recipient ..... $2,000 Long term care income cap ..... $2,349/month Community spouse minimum resource standard ..... $25,728 Community spouse maximum resource standard ..... $128,640 Community spouse minimum and maximum monthly allowance standards ..... $2,113.75/month; $3,216/month Excess shelter allowance ..... Amount above $634.13/month SNAP utility allowance used to figure excess shelter allowance ..... $444/month Personal needs allowance in nursing home ..... $64.11/month Personal needs allowance in community-based care ..... $175/month Room & board rate for community-based care facilities ..... $608/month OSIP maintenance standard for person receiving in-home services ..... $1,283 Average private pay rate for calculating ineligibility for applications made on or after October 1, 2018 ..... $8,784/month
Medicare	Part B premium ..... $144.60/month* Part D premium ..... Varies according to plan chosen Part B deductible ..... $198/year Part A hospital deductible per spell of illness ..... $1,408 Skilled nursing facility co-insurance for days 21–100 ..... $176/day

* Premiums are higher if annual income is more than $85,000 (single filer) or $170,000 (married couple filing jointly).

Update on work of Oregon Health Authority's Advance Directive Adoption Committee

By Stephanie Carter, Attorney at Law

Stephanie Carter is an attorney with the Law Office of Jerrold W. Hilary in Tigard.

Her practice focuses on estate planning, trust and estate administration, general business, and elder law.

She served on the legislative work group to prepare the Advance Directive legislation that went into effect in 2018, and is chair of the Advance Directive Adoption Committee.

The Advance Directive Adoption Committee was created under the mandate of HB 4135 and is tasked with developing a form that will replace the sections of the advance directive form that are currently numbered "3. Instructions to my Health Care Representative" and "4. Directions Regarding My End of Life Care." The legislation requires that certain groups, including lawyers, be represented on the committee. Three Oregon lawyers, Stephanie Carter (Chair), Mike Schmidt, and Christopher Hamilton, have been providing legal expertise throughout the process. The first meeting took place on June 3, 2019, and the members have been working steadily since then to develop the new form.

Members have reviewed various iterations of the form with family, friends, and co-workers, who have provided valuable feedback. The current version of the form was slated to be discussed at an April 7, 2020 meeting. However, that meeting has been cancelled due to the current health crisis. The committee hoped to release the form with any edits to the broader stakeholder groups for comment by the end of April. Since we do not know when we will be able to hold the next meeting, we are releasing the current version now. Draft language can be found here: https://hilarycarterlaw.com/585-2/.

The committee needs to present the proposed form to the appropriate legislative committee before September 1, 2020. Early drafts of a form can be viewed in the meeting packets available at https://www.oregon.gov/oha/PH/ABOUT/Pages/AdvanceDirectiveAdoptionCommittee.aspx

As part of their process, members have reviewed the forms of many other states and non-governmental groups who have also struggled with how best to provide citizens with a way to communicate their wishes about the health care they want to receive in the event they are unable to personally communicate their own wishes for any reason and for end-of-life care. For example, one approach is that taken by The Conversation Project (https://theconversationproject.org). Its form combines a series of question prompts with five-point Likert scales. In contrast, the Critical Conditions Planning Guide created by the Emory University Center for Ethics (http://ethics.emory.edu/pillars/health_sciences/Emory_HEC_CriticalConditionsPlanningGuide_2018.pdf) sets out a series of statements grouped by theme (e.g., Making Decisions About My Care, Defining Quality of Life) and asks for a Yes/No/Undecided response. These are two of the documents that have informed the committee's work.

Those who sat in on the public meetings have heard the members struggle with the issue of including specific vs. general questions, number and format of questions, and finding language that is accessible, unambiguous, and not loaded with unintended meanings.

The legislation itself includes a list of elements that must be included in the form. One element that the committee has struggled with addressing is: "[P] references with respect to placement in a care home or mental health facility." This element deals with a complex issue. When a person states a preference, there is an expectation that it will be honored. However, whether the stated preference is feasible depends on many factors: health care needs, finances, availability of assistance, etc. This example gives you an idea of the issues that the members are wrestling with.

Along with the form, the members are drafting an extensive Frequently Asked Questions document that may be posted on the OHA website where the advance directive is available to the public.

Please feel free to contact me (Stephanie@hilarycarterlaw.com) or any of the members to ask questions or to provide feedback. ■

Timeshares—and how to terminate ownership

By Anastasia Yu Meisner, Attorney at Law

Anastasia (Stacie) Yu Meisner is apartner at Samuels Yoelin Kantor LLP. Her practice focuses on estate planning, mediation, probate, trust and estate administration. She also works with guardianships and conservatorships, as well as business transactions and formation.

Timeshare ownership can be a positive vacation alternative to traditional vacation rentals, such as hotels, motels, and bed and breakfasts, or ownership of a second home. However, for our clients who no longer want to own a timeshare, divesting of these types of properties is often difficult.

A timeshare vacation property is an arrangement in which the owner shares the cost of the property with other owners and in turn the owner receives the benefit of exclusive occupancy rights to the property for a period of time. Typically the duration is in one-week increments, and the weeks may be fixed or floating. A fixed week is a week that is pre-set and usually determined at the time of purchase. For example an owner's fixed week may be the 27th week in a calendar year. A floating-week arrangement entitles the owner to occupancy within a specific range of weeks or a season.

An alternative to fixed or floating weeks is a points system managed through a vacation club or timeshare exchange program. Points are purchased by the owner and the owner applies a certain amount of points to purchase the use of the vacation property for a certain number of days.

Timeshares can be shared deeded properties or lease contracts. Deeded ownership includes the right to own the property in perpetuity or convey the property while alive or at death. With a shared-lease contract, the owner has a contractual right to use the specific property for a term such as 20 years, after which time the contractual right is terminated. Or the right may terminate upon a contingency such as the death of the owner.

Many timeshares are subject to annual regular and maintenance fees and may even require special assessment fees for deferred maintenance or major repairs.

Many of you have probably heard a variety of reasons why clients no longer want a timeshare. Common reasons clients have expressed include: they no longer use the property, the timeshare schedule is too limiting or too cumbersome to arrange, or the fees are cost prohibitive.

Selling a deeded timeshare or early termination of a timeshare lease can be problematic. The strategies noted here assume the timeshare is owned by a living person and not by an estate or a deceased grantor's revocable living trust.

For high-value locations such as Disney World, legitimate seller agents, also known as licensed timeshare resale brokers, are available. However for the typical timeshare, owners will list on timeshare sites or even on Craigslist in the area where the timeshare is located. The Oregon DOJ Consumer Protection Program warns that resale companies that claim a buyer is lined up or a fee has to be paid up front are likely scams. Redweek.com is a popular site to list properties. Typically, when the property is resold, the sale price is much less than the original purchase price.

An attorney's services may be warranted when a legitimate claim can be asserted to cancel a contract executed under high-pressure sales tactics that include fraudulent and unfair practices. Facts that could substantiate a legitimate claim include:

- promises or assurances that the timeshare can be easily resold
- claims that the property's value will appreciate over time or can be resold at a higher price than originally purchased
- misrepresentation of the time to cancel the timeshare contract
- failure to disclosure major repairs, unfunded reserves, or impending special assessment

In such situations an attorney may want to consider the costs and benefits of litigation. A demand letter followed by negotiations may be sufficient to resolve the client's problem.

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Timeshares *Continued from page 8*

Occasionally, resorts may take back a deeded property or cancel a lease contract after payment of a negotiated sum such as payment of one or two years of regular and maintenance fees. Some resorts assist owners with exit programs. For example, Ovation by Wyndham advertises a viable and credible alternative to fraudulent resell companies.

Though it is not unheard of for a charity to accept a donated timeshare, clients who are charitably inclined are unlikely to find a charity willing to take on the financial responsibility of ownership or the obstacles of liquidating a timeshare. ■

More information about timeshares

Timeshare Resort Operations: A Guide to Management Practice by Randall Upchurch and Conrad Lashley. 2006.

The Many Ways to Be Relieved of Your Timeshare Obligations, by Mitchell Reed Sussman. 2013. Mortgage Professional America. https://www.mpamag.com/news/the-many-ways-to-be-relieved-of-your-timeshare-obligations-14611.aspx

Resort Owner's Coalition: www.ardaroc.org

Licensed Timeshare Resale Brokers Association: https://www.licensedtimeshareresalebrokers.org

Redweek.com: www.redweek.com

Resources for elder law attorneys

CLE Seminar

Elder Financial Abuse Litigation
Elder Law Section Seminar
July 10, 2020
Oregon State Bar Center, Tigard
(May be presented as a Webinar)

A review of the basics of elder financial abuse claims, case evaluation, important statutory and case-law updates, and an all-new segment on defending abuse claims.

Brooks Cooper, Jan Kitchel, and Brook Wood will be the presenters.

Websites

Elder Law Section website
https://elderlaw.osbar.org
Links to information about federal government programs and past issues of the Section's quarterly newsletters

National Academy of Elder Law Attorneys (NAELA)
https://www.naela.org
Professional association of attorneys dedicated to improving the quality of legal services provided to elders and people with special needs

National Center on Law and Elder Rights
https://ncler.acl.gov
Trainings and technical assistance on a broad range of legal issues that affect older adults ■

Oregon State Bar Elder Law Section

Newsletter Committee

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