

SOCIAL & SECURITY & YOU

FROM THE OFFICE OF ATTORNEY WILLIAM CRAWFORTH

FALL 2010

Message From Attorney Crawford

HEALTH CARE OVERHAUL PASSED & SIGNED INTO LAW

One of the disadvantages of trying to stay topical in this newsletter format is the lag time between when I submit the copy to the printer and the time it actually arrives in your mailbox (or on line; more about that later). It's generally about 3-4 weeks.

My spring newsletter was finalized and mailed just as President Obama pulled a rabbit out of his hat and got his sweeping health care reform bill through the Senate and signed into law. The title of my column says it all: "Health Care Overhaul Stalled". I predicted failure for the President in this election year and cynically analogized his efforts to those of former president, Bill Clinton. I under-estimated President Obama.

While far from perfect, this legislation will make significant changes in the way health care is delivered in America and in the lives of millions, especially the uninsured and under-insured. Though phased in over several years, major changes are coming.

Among those changes are rules restricting the ability of insurance companies to charge more to persons with pre-existing conditions, creation of health insurance exchanges for people and small businesses who can't afford existing coverage, "high-risk" pools for those currently without coverage due to pre-existing conditions, allowing for portability of coverage when a person changes his or her job, allowing children up to age 26 to stay on their parents

coverage, and helping to close the so-called "doughnut hole" in Medicare part D, the prescription drug plan.

The first step in the later was the mailing of \$250 rebate checks to Medicare beneficiaries enrolled in Part D who have hit the doughnut hole. Those just started coming out in August. Additional checks will be mailed every six weeks for the rest of the year. In 2011 those reaching the doughnut hole will receive a 50% discount on certain drugs. By 2020 the hole will be closed.

And unless modified by Congress, all Americans will be required to purchase health by 2014.

Thus, the reality is that many of the reforms won't be phased in until after the President leaves office, even if he is re-elected for a second term. But his legacy is in place if this is the high water mark of his presidency.

WEBSITE LAUNCHED

I have finally decided to join the 21st century. No, I still don't have an i-phone nor do I text. But I am launching a website this fall.

Found at misocialsecuritylawyer.com, this site will be a portal to my practice. Current and potential clients can get information and contact my office. My newsletter will appear in electronic form. Past issues of the newsletter will be archived. Eventually I hope to be able to deliver the newsletter electronically to those who wish to receive it that way and remove them from my "snail mail" mailing list.

I also intend to blog, which will take care of problems like that which occurred this spring regarding passage of the health care reform package.

Take a few minutes to check out the site and e-mail me with your thoughts.

IS THE RECONSIDERATION COMING BACK TO MICHIGAN?

In 2000 SSA started a pilot program in 10 states, including Michigan, eliminating the Reconsideration appeal step between the initial denial and the hearing stage at the ODAR. Most of us practicing Social Security law have viewed this as a plus. The Reconsideration was done by the same state agency that made the initial denial. The reversal rate was small (about 14%) and it added a 90 day or longer delay in the processing of most claims.

This spring hearings were held by 2 U.S. House Ways & Means subcommittees on whether the Reconsideration should be returned to the pilot states. While the administration, including SSA Commissioner, Michael Astrue, advocated for the change, most of the other witnesses, including experienced representatives, argued against reinstating the Reconsideration.

As of May the SSA announced that plans to reinstitute the Reconsideration were on hold.

LIVONIA ODAR UP & RUNNING

The Livonia ODAR has begun hearing cases. Judges from Lansing, Oak Park & Detroit have transferred to Livonia giving the ODAR an experienced ALJ staff.

Cases from Washtenaw County which are pending in the North Dallas ODAR are being transferred to Livonia unless they are already scheduled, which is welcome news.

In a related development, the ODAR continues to add new ALJs in furtherance of reaching the goal of 226 new judges by the end of 2010. ODARs gain is the State of Michigan Workers' Compensation Board of Magistrates loss, however. Four sitting magistrates have accepted appointments as ALJs this year thus far, as has one Appellate Commission member.



PAPER CHECKS TO BE PHASED OUT

The U.S. Treasury Dept. has issued a Notice of Proposed Rule Making that would affect all those who receive payments from SSA. Claimants who file an initial application on or after March 1, 2011 would have a choice of receiving payments via a direct deposit into a bank account or a debit card named Direct Express. No paper checks will be sent to these Claimants.

Current beneficiaries would have the option of receiving a paper check until March 1, 2013. Thereafter all recipients of SS benefits will have to choose either direct deposit or the Direct Express card.

HEARING REQUESTS RISE AS PROCESSING TIME FAILS

As more of the projected 226 new ALJs get hired and up to speed the average wait for a hearing is dropping accordingly. Plus the use of National Hearing Centers, video hearings and Senior Attorney Advisor decisions have helped reduce the wait in some of the most backlogged areas, including Michigan.

Last year a 2 year wait for a hearing was common. Attorney Crawforth has had some clients get a hearing this year as quickly as 7 months after the Request for Hearing was filed.

Data released in May showed that hearing requests are up, no doubt due in part to the economic downturn. But the national average processing time of 424 days is the lowest since September 2004.

SS BOARD OF TRUSTEES RELEASES ANNUAL REPORT

The 75th anniversary of the Social Security Act was August 15, 2010. On August 5, 2010 the Social Security Board of Trustees released its annual report on the financial outlook of the Old Age, Survivors & Disability Trust Fund. It is largely unchanged from 2009.

The trust fund still projects to be exhausted by 2037. Costs will exceed tax revenues for 2010 & 2011 but will be less than revenues for 2012 through 2014. Then beginning in 2015, unless something changes, costs will exceed revenues permanently, one year earlier than projected last year.

MEDICAL MARIJUANA OKAY WITH VA

Patients at Veterans Affairs hospitals and clinics can use medical marijuana now in the 14 states where it is legal, including Michigan. VA doctors are not allowed to prescribe it, however.

Social Security Claimants are cautioned that although legal under state law, marijuana is still illegal under federal law and many ALJs take a dim view of its use.

SOCIAL NETWORKING SITES REMAIN RISKY

In the fall 2009 issue of SS&Y Attorney Crawforth cautioned against the use of social networking sites on the internet while pursuing Social Security disability or litigating a Workers' Compensation issue. A judge, magistrate or defense attorney reviewing a client's Facebook, Linked In or Twitter postings can find evidence inconsistent with a Claimant's allegations of disability.

Now comes confirmation of this warning from The American Academy of Matrimonial Lawyers. 81% of the group's members say they have used evidence gained from social networking sites to fight for custody of minor children or to provide evidence of infidelity.

Don't post it if you don't want the whole world to see it.

NEW HEALTH CARE LEGISLATION FOSTERS INCREASE IN SCAMS

Con artists are always looking for new ways to separate people from their money and the recently passed healthcare reform legislation is a new opportunity. Attorneys General and insurance commissioners in several states are reporting an increase in complaints about bogus policies.

Persons are told that the new legislation requires them to change from their current plan (not true) or they are told additional coverage under their old plan is only available for a limited time. The requirement of the new act that all Americans purchase health insurance does not go into effect until 2014.

The best course of action if solicited to change coverage is to contact your state's insurance commissioner.



STUDIES, STUDIES, STUDIES

Interesting, surprising, thought-provoking or whacky, the past several months have seen the release of the usual assortment of health related studies. Here is a sampling.

A study performed by psychology professors at Brigham Young University & the University of North Carolina concluded that persons with strong social relationships live longer than those with weaker social ties.

According to researchers from New Zealand, England & the U.S. calcium supplements triple the likelihood of having a heart attack.

A study of cell phones by British researchers determined the average phone contains 18 times the harmful germs found on the flush handle of a toilet.

Australian scientists have found that a substance in snail saliva (snails have saliva?) may be effective as a treatment for chronic pain on par with morphine but without the addictive qualities.

A five year study of 500 men by German researchers concluded that staring at women's breasts is good for their health and increases life expectancy. The study found that just 10 minutes of ogling was the equivalent of a 30 minute aerobic workout in terms of heart activity and increased circulation. Unless, one supposes, a jealous boyfriend or husband notices.

We've heard this before but a study published recently in the *International Journal of Cardiology* confirms the correlation between oral health and heart attacks. Gum disease, such as gingivitis or periodontitis causes toxins to be released into the blood stream. And the more severe the gum disease the thicker and harder the walls of the arteries. In fact, other diseases, such as diabetes, kidney disease,

osteoporosis, Alzheimer's disease and certain cancers are linked to oral health.

A study released earlier this year in the journal, *Science Translational Medicine*, concludes that chronically sleep deprived persons can't "catch up" on their sleep with one long night. And getting 6 hours or less of sleep on a regular basis slows reaction times and abilities 10 times worse than just pulling an all-nighter.



Believe it or not, a study published in January in the journal, *Annals of Behavioral Medicine*, finds that the blood pressure readings of parents are better than those of adults who are not parents.

A Danish study published in the *American Journal of Epidemiology* disclosed that men who drink a quart (less than 3 12 oz cans) of cola every day have sperm counts 30% lower than men who don't. BUT all news is not bad for soda drinkers. A study published in the *Journal of Urology* found that diet versions of citrus sodas, such as 7Up, Sprite, Fresca & ginger ale help prevent the formation of kidney stones.

It has been known for years that X-rays & CT scans, while necessary to diagnosing & treating many conditions come with a risk due to the exposure to radiation. Now a study released in *Archives of Internal Medicine* speculates that 29,000 future cancers could be related to scans done in 2007. More than 70 million scans are done each year.

A report released by the *Lung Cancer Alliance* states that lung cancer kills more women each year than breast, ovarian & cervical cancer combined.

As someone who is vertically challenged himself, Attorney Crawforth was distressed to see the results of a Finnish study that states short people have a 50% greater

chance of having a heart problem or dying from one than tall people. He felt a little better when he noticed short people were defined as being under 5'3" & tall people were 5'9" or greater. Randy Newman must be smiling somewhere.

Here's one likely to send mothers everywhere scurrying to their beach bags. The FDA reports that nearly 50% of the nearly 500 sun screens on the market may actually increase the speed at which malignant cells develop and spread skin cancer because they contain vitamin A or its derivatives. Many sun screens include vitamin A because it is an anti-oxidant that slows skin aging. Maybe not much longer.

Though a workaholic, Attorney Crawforth loves to nap and would take one every day, if he could. Even a short nap can reinvigorate. Researchers from Germany's University of Dusseldorf report even a nap as short as 6 minutes significantly improves memory. And French researchers issued a study concluding that nappers, especially younger ones, did better on nighttime driving tests than non-nappers.

Canadians live longer than Americans according to a study published recently in *Population Health Metrics*. On average Canadians live 2.5 years longer and stay healthier longer, enjoying 2.7 more years of perfect health.

DOCTORS NICKLE AND DIME PATIENTS

It shouldn't come as a surprise in an era when airlines charge for pillows, luggage and leg room and banks charge non-activity fees when you don't write any checks or make any deposits. But somehow it seems different when your doctor does it.

Lawyers are used to paying for copies of records, reports and completed forms but now patients are being charged for things not covered by insurance. No show fees are understandable. But filling out forms for school or athletic teams, annual administrative fees for simply being a patient in the practice seem a bit much.

Nevertheless, such fees are becoming more common.

William Crawford
-Attorney at Law-
220 E. Huron, Ste. 520
Ann Arbor, MI 48104

PRSRT STD
U.S. POSTAGE
PAID
ANN ARBOR, MI
PERMIT #229

MORE MONEY SAVING TIPS

Newspapers & magazines are great sources for tips on how to stretch limited dollars. Here are some recent suggestions.

Bartering services you have for services you need. Tutoring, music lessons, housekeeping and other services can be swapped for services and goods you need. For more suggestions check out *The Art of Barter: How to Trade for Almost Anything*, by Karen S. Hoffman and Shera D. Dalin.

Use credit cards with cash back. If you buy all of your gas on the Discover card, for example, you will save 5%. Additionally, some gas companies will give you a few cents a gallon off the price of gas if you pre-pay by purchasing one of their gas cards.

Declare a “no spending month”. No restaurants, no movies, no trips for 30 days. Clean out the freezer and the pantry. Just the necessities for 30 days.

Put thicker curtains on your windows & use them, especially in the summer and on cloudy winter days. On sunny winter days let the sun shine in on the southern side, especially.

Regularly dust the coils on your refrigerator so it doesn't have to work as hard to keep things cool.

Install low flow faucets, sprinkler heads & toilets.

