

SOCIAL SECURITY & YOU

FROM THE OFFICE OF ATTORNEY WILLIAM CRAWFORTH

FALL 2014

Message From Attorney Crawford

OBAMACARE UPDATE

On October 1st it will have been a year since enrollment began in the Affordable Care Act national health insurance program known as Obamacare. The difficulties in the early weeks and months have been well-documented. But where are we a year later?

Well, there have been additional legal challenges. The law famously survived a challenge 2 years ago, when it was first made law, by a 5-4 vote of the Supreme Court, when Chief Justice John Roberts shocked the world by finding a rationale to support it. The Supremes will likely get another crack at it as 2 US Court of Appeals panels went in different directions this summer. The Washington D.C. Circuit panel voted 2-1 that consumers in the 34 states using the federal health exchange were not eligible for subsidies, essentially because of a typo in the wording of the law. But simultaneously another 3 judge panel in Richmond, VA ruled unanimously that the subsidies were legal, regardless of whether run by state or federal marketplaces.

The expanded Medicaid coverage, which is fully funded by the federal government, initially, was embraced by some states, including Michigan, while rejected by others, largely for political reasons. Michigan governor, Rick Snyder, ever the businessman, couldn't turn down such a deal, despite pressure from others in the Republican Party to reject it. Many other states with Republican governors refused

the aid. I have seen dozens of clients, both Social Security and Workers' Compensation, get coverage through expanded Medicaid this spring.

Individuals with an annual income up to \$15,282 and couples with income up to \$20,628 are eligible for the Healthy Michigan plan. While not the best insurance, something is better than nothing.

There are lots of opinions both in favor of and against the ACA.

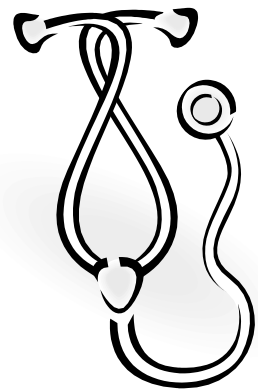
Clearly, among the winners are the self-employed and unemployed, especially older Americans. They have coverage that wasn't available before and at a reasonable premium. Also winners are those with pre-existing health conditions (insurers cannot discriminate against those with catastrophic health issues) and young adults who can stay on their parent's coverage through 26 years of age.

However, the younger persons who must now buy coverage they don't think they need because they are healthy and others, who saw their premiums rise, have not fared as well. Nevertheless, according to the ACAsignups.net website, over 24 million people have signed up for coverage either independently, through one of the exchanges or expanded Medicaid. In Michigan, as of late August the Healthy Michigan Plan website was reporting over 364,000 people had received coverage.

The Washtenaw County Health Plan's Director of Enrollment and Advocacy Services reported in July that of the county's 13,000 residents eligible for the plan, over 50% had signed up for the Healthy Michigan Plan.

Politically, the tide seems to be turning. Initially, it appeared Republican candidates for Congress would be making Obamacare the main focus of the mid-term elections coming up in November. However, while the poll numbers show a majority of Americans still oppose the ACA (a recent CBS poll was 53% to 41% against), when the question is whether to repeal the law or make changes to make it work better, 53% want to keep the law & fix it.

Three quarters want to keep the ability to have children stay on their parents insurance up to age 26 and two thirds like the ban on pre-existing conditions. It is the individual mandate which is most unpopular, but still only by 51% to 47%.

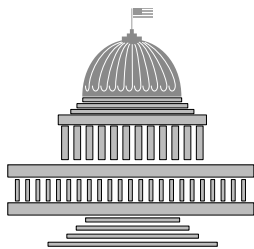


CONGRESS INVESTIGATES SS FRAUD ALLEGATIONS

This past winter the U.S. House Ways & Means Social Security Subcommittee held hearings to examine allegations of large scale fraud in obtaining Social Security Disability & SSI benefits in New York City.

The scheme involved “facilitators” and doctors. The potential Claimant contacted a facilitator who would arrange for “treatment” for the disability and coach the Claimant as to how to appear disabled. If successful, the Claimant would pay a fee equal to 14 months of benefits, in cash, to the facilitator.

Multiple arrests and indictments came down this spring. Many of the participants in the scheme were former NYPD & NYFD employees. Many of the alleged disabilities involved psychiatric claims, many involving disabilities arising from the 9-11 terrorist attacks.



CONGRESSIONAL HEARINGS ON IMPROVING THE DISABILITY PROCESS

In addition to the Ways & Means Subcommittee holding hearings on fraud in New York, The House Oversight and Governmental Reform Subcommittee on Energy Policy, Health Care and Entitlements held a hearing this spring examining the disability process.

The Subcommittee made a number of recommendations including the need to conduct timely disability reviews (CDRs), red flag for CDR the decisions of outlier, high-paying ALJs, revise the “treating source” rule, review Claimant’s social media accounts, expand “own motion” reviews by the Appeals Council and increase the use of video hearings.

CONGRESS CONTINUES ITS ASSAULT ON SOCIAL SECURITY

As if the previous 2 subcommittees hearings weren’t enough, the full House Oversight & Government Reform Committee held 2 days of hearings in June. Called on the carpet was not only the Acting SSA Commissioner, Carolyn Colvin, but 4 ALJs with high allowance rates. 2 of these also are very high producers, exceeding SSA’s target of 40 decisions per month.

The same date a staff report was issued by the Committee’s Majority Staff, entitled *Systematic Waste and Abuse at the Social Security Administration: How Rubber-Stamping Disability Judges Cost Hundreds of Billions of Taxpayer Dollars*.

The goal is obviously to intimidate the insulated ALJs into saving money, regardless of the cost. This is reminiscent of the hundreds of thousands of benefit terminations in the early days of the Reagan presidency, which turned out to be a disaster when the vast majority had their benefits reinstated and the administrative costs at the ODAR went through the roof.

RULE PROPOSED TO REQUIRE SUBMISSION OF ADVERSE EVIDENCE

As a matter of policy, Attorney Cawthorne submits all medical evidence to the ODAR when representing a Claimant, whether favorable or not. This is for 2 reasons; firstly, many ALJs ask if the record is complete. If caught in a lie, presumably a representative would lose credibility with the ALJ.

And secondly, a careful reading of the file will often disclose a mention of the missing evidence, leading to the same result as reason #1.

Now the point may be moot as the Social Security Administration has issued a notice of proposed rulemaking (NPRM) requiring the Claimant or representative to “inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled”. 79 Fed. Reg. 9663 (2-20-14).

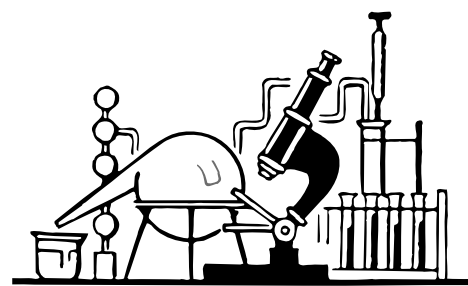
STUDIES, STUDIES, STUDIES

Once again it is Attorney Cawthorne’s pleasure to report on various health and lifestyle related studies that show no idea is too important or too goofy to get funding.

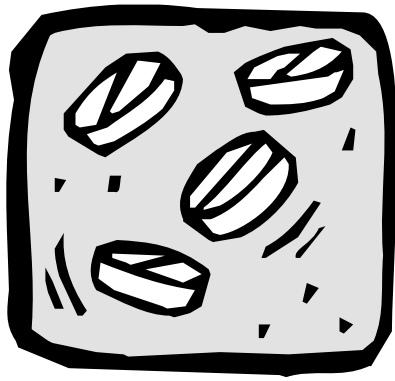
A study published in the April 2014 issue of the journal, *Neurology*, confirms that even mild to moderate levels of elevated blood pressure defined as “prehypertension” leads to a 2/3 increase in the likelihood of stroke. This is especially relevant in view of the relaxed standards for adjusting “goal” blood pressure levels in otherwise healthy adults over 60 published in the *Journal of the American Medical Association*. The old target of 140/90 has been raised to 150/90, although this not without controversy.

Years ago we were told to take a vitamin supplement every day, especially as we aged. That thinking has changed in recent years. Indeed, Attorney Cawthorne’s personal physician told him to discontinue taking a multi-vitamin several years ago. Now comes a recent study in *Lancet* concluding that taking vitamin D pills to prevent osteoporosis is waste of money except, possibly, for those over 70 who don’t get much sunshine. And researchers at Kaiser Permanente Center for Health Research concluded vitamin supplements are probably useless when it comes to preventing heart disease or cancer.

However, a recent article in *Orthomolecular Medicine News Service*, cites 19 studies showing strong correlations between vitamin usage and reduced risk of heart disease and cancer. And a recent study published in the *Journal of the American Medical Association* found that vitamin E may help delay memory loss and loss of functioning in areas such as planning and organizing in Alzheimer’s patients.



A basic tenant of the Hippocratic oath, taken by physicians is “first do no harm”. Keeping that in mind, a study by researchers at Yale School of Medicine & Oregon St. University that at least 23 percent of Medicare patients with multiple chronic illnesses were taking at least one medication that could adversely affect a coexisting condition.



According to a study published in *Lancet* in May about 29% of the planets 2.1 billion people were overweight or obese and nearly 2/3 live in developing countries. The numbers are even higher for adults. 36.9% of men and 38% of women are overweight or obese.

With that in mind numerous studies on obesity and physical fitness are interesting. A study published in *Neurology and Urodynamics* concludes that dancing helps fight urinary incontinence. And multiple researchers agree exercise retards cognitive decline. 2.5 hours a week is enough to significantly reduce the risk of dementia per University of Washington University researchers. Strength and resistance training in women in their 70s who had symptoms of mild dementia found their focus and decision making skills improved over that of a control group, according to a study reported in the *Archives of Internal Medicine*.

The researchers at Kaiser Permanente Center for Health Research have been busy. Per a recent study of men the risk for heart failure doubles for those who sat at least five hours, outside of work, compared to those who were physically active. The risk was lowest for men who exercised the most and sat fewer than 2 hours per day. A similar study done at Northwestern University's

Feinberg School of Medicine concludes that isn't just that disabled people over 60 are more sedentary but the reverse is true as well. The more sedentary older persons are the more likely they are to become disabled. Which came first, the chicken or the egg? And a study done at the Fred Hutchinson Cancer Research Center in Seattle states that fear of exercise in heart patients causes them to be more sedentary, which leads to even more disability, in a downward spiral. Practicing yoga at least 3 hours per week reduces fatigue and inflammation in breast cancer survivors, according to a study done by the Ohio State University Comprehensive Cancer Center.

An article in the October-November issue of AARP *The Magazine* cites 5 steps women can take to reduce their risk of breast cancer. #1 is get enough sleep. #2 is lose weight. #3 is eat more cabbage. #4 is drink alcohol sparingly. And #5 is to exercise. See the issue for the various studies leading to these recommendations.

A University of Michigan School of Public Health study says that men living in societies where women are equal to men were likely to live longer. Men in patriarchal societies are 31% more likely to die compared to mortality rates for women. The reason is men in societies where they are dominant tend to engage in more aggressive and riskier behaviors likely to result in death.

A controversial study conducted by the University of Leeds in England concludes that wide-hipped women have more sex-partners than narrow hipped women. The reason given is a subconscious desire to reproduce since it is easier for wide-hipped women to deliver babies.



Lots of studies regarding caffeine have been released recently. A study published in *Nature Neuroscience* found that caffeine improved long term memory. Subjects who

took a 200 mg pill of caffeine could remember information better a day later than those who took a placebo. A study by the National Institute of Health and AARP showed that regular coffee drinkers were less likely to die of all causes than nondrinkers. Florida researchers report that 3 cups of caffeinated coffee a day may reduce the risk of Alzheimer's and dementia in older people with mild cognitive impairment. And an Australian study found that muscles recover faster after a strenuous workout if you top off your post workout meal with several cups of caffeinated coffee. Or at least you feel like they have!

Attention those with Seasonal Affective Disorder (SAD). Per a Northwestern University study exposure to bright early morning light significantly reduces the amount of body fat than those who got their light later in the day.

The annual Gallup-Healthways Well-Being poll for 2013 showed that perennial “happiest state”, Hawaii, has been knocked out of the top spot and fell all the way to 8th. The top 2 spots are held by North Dakota & South Dakota, probably because of the booming economies. But the next three states are from the same region: Nebraska, Minnesota & Montana.

The saddest state was West Virginia. Michigan ranked 37th.

Harvard School of Public Health Researchers found that consumption of processed meats, such as bacon or sausage, leads to a 19% higher risk of developing type 2 diabetes and a 42% higher risk of developing heart disease. Homer Simpson beware!

And a Harvard Medical School study of women found that drinking 2-4 beers a week reduced the risk of developing rheumatoid arthritis by 31% compared with women who never drank beer.

Finally, a study (of rats) reported by the Institute for Functional medicine found that sugar is 8 times as addictive as cocaine!

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MERS LATEST INVADER FROM OVERSEAS

Michigan Social Security recipients, as well as those from other states, have dealt with a series of flu-like respiratory illnesses over the past few years. There was the bird flu, the swine flu & SARS (severe acute respiratory syndrome). The latest is MERS, an acronym for Middle-East Respiratory Syndrome. MERS belongs to the same family of illnesses as SARS.

MERS is so-named because of its origins in Saudi Arabia and elsewhere in the Middle East. It is a respiratory illness that begins with a flu-like fever & cough but can lead to shortness of breath, pneumonia & death.

MERS has been found in camels. Public health officials do not know how it has spread to humans. Not everybody exposed gets sick but it has been especially deadly in the Middle-East. The first U.S. case was

diagnosed in May in a man who had traveled to Indiana from Saudi Arabia. The second case involves a Florida man.

Given the large concentration of persons from the Middle-East in Southeastern Michigan it would not be surprising to see MERS appear here.

EXPEDITED DISABILITY FOR VETERANS

This spring the Social Security Administration announced it would expedite claims for veterans receiving service-connected VA benefits who had a disability rating of 100%. This only applies to vets with service related disabilities. Non service-connected Claimants are not eligible for this program.

The VA rating only expedites the process. It does not guarantee an allowance.

LUCKY TIGER FANS USED ATTORNEY CRAWFORTH'S SEATS

It's been a roller coaster year for the Detroit Tigers. As this issue of *SS&Y* is being written the Tigers are 2 games behind the Kansas City Royals and barely hanging onto the second American League Wild Card slot. Nevertheless, these fans entered the Win Attorney Crawforth's tickets contest this season.

Wesley & Dale from Ypsilanti
James from Monroe
Jim from Dexter
Sherrie from Canton
Linda from Ann Arbor
Paul from Ann Arbor
Kim from Roseville

