

## **Rethinking your client's access to Medicaid**

*Medicaid: Marketability of annuity can affect eligibility.*

By John Zepeda

*Guest Contributor*

If your clients have a plan in place regarding future qualification for Medicaid benefits, it may be time to revisit it — especially if they own an [annuity](#).

The change in the landscape that makes a second look prudent is the changing attitudes among state Medicaid administrators. Specifically, the notion that annuities are illiquid investments, and therefore unavailable assets when calculating eligibility, is open to new scrutiny.

The reason for this is simple: State administrators have recognized the existence of a secondary market for annuities, and based on this new found liquidity, are changing their notions about who qualifies for Medicaid benefits.

### **The sooner the better**

Seeing how this change may affect your clients is sensible because it may enable them to avoid a “perfect storm” down the road. Specifically, an immediate need for nursing care may arise that precludes waiting until the details of Medicaid eligibility are sorted out. The onset of illness, frailty or senility will make the process of recalibrating their plan for access to Medicaid benefits all the more difficult and painful.

Second, if your clients become one of the increasing numbers of individuals who are required to liquidate annuities to pay for care, they don't want to be in the position of having to make a distress sale. Annuities are like many other assets in this regard — the best value can be realized when sellers are afforded the opportunity to shop, compare prices, options and features.

Third, evolving criteria for income and asset qualifications does not eliminate access to Medicaid benefits per se. Rather, these changes make access to Medicare benefits dependent on a more carefully constructed estate plan; under this scenario, the sooner planning begins, the greater the likelihood for success.

### **If you must sell . . .**

With the notion that your clients may need to liquidate some or all of their annuities to qualify for Medicaid benefits, here are some strategies and tactics to keep in mind regarding the secondary market.

First, someone should call the insurance company to verify the cash surrender value of the annuity, if there is one. In most cases, the insurance company won't provide a lump sum from an immediate annuity once the periodic payments have started. If your client owns a deferred annuity, it's important to learn if the annuity has “surrender charges” that lower the current cash value, or if the annuity requires that payments be taken over a minimum of five or 10 years to get the full value.

Next, determine if the policy can be sold in the secondary market. There are plenty of misconceptions about which types of annuities can be sold, so it's important to contact a reputable buyer of annuities in this market to verify whether the annuity has any cash value.

Keep in mind, the language in annuity contracts can be confusing. Specifically, some annuities that appear to have no cash value may in fact be salable in the secondary market for a cash lump sum. So, while it's important to get information from the issuing insurance company, it's even more important to consult with experts in the secondary market when considering the salability and value of a policy in this marketplace.

One of the most formidable qualifications regarding salability is an annuity's tax status. Specifically, annuities with a qualified retirement tax status — because, for instance, they are part of a 401(k), 403(b) or IRA — cannot be sold in the secondary market. However, other than this qualification, most other annuities can be sold in this marketplace, and the seller's job is simply one of determining how much a given policy is worth. As is the case is with most other industries, certain buyers specialize in certain types of policies (e.g., not all providers can buy a life only payment stream or a variable annuity). Because of this, you shouldn't limit your research to one buyer if you hope to get an accurate picture of what your client's annuity is worth.

Next, for annuities in payout, consider how much of the current payment is needed versus the asset and income level needed for your client to qualify for Medicaid benefits.

One of the real advantages of the secondary market is how much flexibility it offers annuity owners. Clients don't have to sell their entire payment or the full term. They can sell just a portion. If they can live on less than their annuity currently pays — which could become increasingly feasible if they qualify for Medicaid benefits — it may be possible to qualify for Medicaid by selling just a portion of the annuity.

Finally, understand and convey to your client the tax impact. When considering whether or not to sell an annuity, there is a bit of a cost benefit analysis regarding taking action versus not taking action. This is true because while annuities may or may not be counted when calculating your eligibility for Medicaid benefits, they are clearly counted as part of an estate. If an estate is above the \$2 million threshold for exclusion from federal estate taxes, the annuity — or, for that matter, most other investments — will be heavily taxed.

If you are positioning clients to receive Medicaid benefits, it's unlikely that their estate is above the \$2 million threshold for exclusion from federal estate taxes. Nonetheless, their annuity may still present taxing issues for their heirs since all of the deferred income in the annuity will pass on as ordinary income to the beneficiaries. If the heir is a top earner, they may face a 35% tax bite on the deferred income of the annuity.

While taxes are always important with respect to helping your clients qualify for Medicaid, they may become a secondary factor, or perhaps a silver lining, if they must sell their annuities. That is, by selling the annuity, they may qualify for Medicaid benefits when they otherwise may not have, and they'll be buoyed by the knowledge that in all likelihood, their estate will avoid taxes associated with transferring the annuity to their heirs.

#### **About the author**

John Zepeda is senior sales representative for J.G. Wentworth. For more than 15 years, J.G. Wentworth has been purchasing annuities and [structured settlements](#) from individuals. During this time, the company has paid out more than \$2 billion in cash to clients for the purchase of future payment obligations. The company's annuity backed notes are AAA by Standard & Poor's and Aaa by Moody's. Contact J.G. Wentworth toll free at 800.535.0195 or [SupportDesk@JGWentworth.com](mailto:SupportDesk@JGWentworth.com).