

Good news for a change!

Since last March, Mass Health imposed a penalty rule for seniors age 65 and over for utilizing pooled trusts as a long-term care planning tool. From my perspective as an Elder Law Attorney this meant that one method, I used in most successfully in short term efforts for my clients to preserve assets in the face of crushing long term care costs was off the table. The impact was that we had restricted means to assist those clients who came to us late in the process of acquiring MassHealth. Very frustrating.

But on Friday September 6, 2024, Governor Healey signed a provision into law that restores our ability to utilize pooled trusts for seniors ages 65 and older! This awesome development was added as new law to Section 28 of G.L. 118E, and replaces the harsh penalty rule MassHealth had put in place last March 1st.

The law will go into effect in 90 days. It may be that MassHealth will try to impose age penalties on pooled trusts created during this period. This would be ridiculous since anyone penalized for this could simply re-apply and seek retroactive eligibility for a pooled trust after the 90- day period (December 6). But as many of us know MassHealth has done bone-headed things like this before!

There are several pooled trust programs in Massachusetts, and each will decide whether to accept new accounts before December 6. At Lannik Law, we are acquainted with each of these and are pleased that we may utilize their services for clients once more.

What I do want my readers to know is that advocacy around this issue has taken 8 years. Many groups and individuals were involved in working against the attempt by MassHealth to deprive our clients of the use of the pooled trusts, which kept rearing its ugly head during those 8 years. I am very proud of the Massachusetts Chapter of Elder Law Attorneys (MA NAELA) in particular for this achievement.

This new legislation fell under the aegis of the Omnibus long-term care bill. It also put into law MA NAELA's recommended changes to Estate Recovery Rules and a mandate to the Department of Public Health to complete a study of public guardianship over the next ten months.

Watch this newsletter for other provisions related to the Long-Term Care law that have been passed!