

# Properly Structured Annuity Guidelines

Are you in a properly structured annuity that will protect your assets from nursing home spend-down costs\*?

Under OBRA '93 for a deferred annuity to be considered an "unavailable asset" it **must be irrevocably annuitized, non-assignable, non-commutable and payable on a period certain basis not exceeding life expectancy.**

"All payments distributed from the annuity are considered income in accordance with Section 505507, Title 22, CCR. The undistributed balance of the annuity shall be unavailable if the annuity contract is annuitized on the life expectancy of the individual or spouse or for a shorter period of time. The life expectancy of the annuitant shall be determined in accordance with life expectancy tables specified by the Secretary of the Department of Health and Human Services. Any payment scheduled to occur beyond the life expectancy of the individual or spouse, as determined in accordance with the above shall be considered a transfer of assets." *Source: OBRA '93: Title 42, United States Code 1396 (p)*

The Community Spouse must be the **owner and annuitant** to prevent the annuities income from becoming part of the Medicaid Beneficiaries "Share of Cost".

## **A properly structured deferred annuity has the following contractual features:**

- 1. The owner must be able to change the ownership of the annuity at any time prior to annuitization.**
- 2. The owner must be able to change the annuitant at any time prior to annuitization.**
- 3. The owner must be able to make these changes without incurring a penalty.**
- 4. Spouses must be able to make these changes without it being a taxable event.**
- 5. The annuity contract must be able to be annuitized at any time under a settlement option "period certain", using a period certain no greater than the specific life expectancy table required by your state of residence.**

*Source: OBRA '93: Title 42, United States Code 1396 (p)*

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By signing below the agent and/or company agrees that your existing annuity contract or contracts are properly structured and will meet the five qualifications listed above.

Name of Annuitant:

Policy Number:

Name of Owner:

Insurance Company:

Agents Signature:

*\*Not an available option in all states.*

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