What You and Your Family Need to Know

Tax, Legal, and Financial Considerations

The Myositis Association Conference
September 15-18, 2011

Handouts

- Sample Tax Return (4 Pages)
- Doctor Letter - Home Improvements
- Doctor Letter - Caregiver
- Simple Holographic (Unwitnessed) Will
- Simple Witnessed Will
- California Statutory Health Care Directive (Page 1 Only)
- California Sample HIPAA Waiver
- California Statutory POLST form (2 Pages)
- Life Expectancy Tables
- Resources
Medical Expenses in General

- Deductible on your 1040
- 7.5% Floor
- Commonly deductible medical expenses

Commonly Deductible Medical Expenses

- Hospital services.
- Nursing services (including nurse's board when paid by the taxpayer).
- Medical, laboratory, surgical, dental and other diagnostic and healing services.
- X-rays.
- Medicine and drugs (limited to prescription medicine and insulin).
- Artificial limbs.
- Ambulance hire.
- Transportation to and from medical facility.
What is “Medical” and What is Not? – Examples

- Alternative or holistic expenditures – yes
- Administered by non-physician - yes
- Physical therapy and personal trainer – yes
- Vitamins – no
- Attending this conference
  - Registration and transportation – yes
  - Meals and lodging - no

Medical Expenses: How Does 7.5% Floor Work?
# Medical Expenses (Cont’d)

## Table: Medical Expenses

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital Stay</td>
<td>$1,200</td>
</tr>
<tr>
<td>Doctor’s Visit</td>
<td>$500</td>
</tr>
<tr>
<td>Prescription</td>
<td>$300</td>
</tr>
<tr>
<td>Physical Therapy</td>
<td>$200</td>
</tr>
<tr>
<td>Dental Services</td>
<td>$150</td>
</tr>
</tbody>
</table>

*Note: All amounts are in USD.*

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**Total Medical Expenses:** $2,350

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# Medical Expenses (Cont’d)

## Table: Medical Expenses (Cont’d)

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laboratory Tests</td>
<td>$75</td>
</tr>
<tr>
<td>Home Care</td>
<td>$250</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>$300</td>
</tr>
<tr>
<td>Vision Care</td>
<td>$100</td>
</tr>
<tr>
<td>Other Services</td>
<td>$150</td>
</tr>
</tbody>
</table>

*Note: All amounts are in USD.*

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**Total Medical Expenses:** $2,350

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# Medical Expenses (Cont’d)

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<table>
<thead>
<tr>
<th>Item Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Insurance</td>
<td>$1,000</td>
</tr>
<tr>
<td>Deductions</td>
<td>$100</td>
</tr>
<tr>
<td>Miscellaneous</td>
<td>$50</td>
</tr>
<tr>
<td>Total</td>
<td>$2,350</td>
</tr>
</tbody>
</table>

*Note: All amounts are in USD.*

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**Total Medical Expenses:** $2,350

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Medical Expenses (Cont’d)

Capital Expenditures in General

- **Definition**
- **Example**
- **Basic Rules**
  - Primarily for medical care
  - Substantiated
- **Two Types**
  - Tangible personal property
  - Home improvements
Tangible Personal Property Deductible as Medical Expense

- Non-motorized wheelchairs
- Motorized scooters and wheelchairs
- Modification of automobile to accommodate a medical condition
- Crutches
- Canes
- Walkers
- Inclinators
- Specialized utensils, such as grippers
- Eyeglasses
- Detachable (i.e., window) air conditioner for the sole use of patient

Home Improvements Deductible As Medical Expenses

- Constructing entrance or exit ramps.
- Widening doorways at entrances and exits.
- Widening or otherwise modifying hallways and interior doorways.
- Installing railings, support bars, or other modifications to bathrooms.
- Lowering or otherwise modifying kitchen cabinets and equipment.
- Altering the location of or otherwise modifying electrical outlets and fixtures.
- Installing porch lifts and other forms of lifts.
- Modifying fire alarms, smoke detectors, and other warning systems.
- Modifying stairs.
- Adding handrails or grab bars whether or not in bathrooms.
- Modifying hardware on doors.
- Modifying areas in front of entrance and exit doorways.
- Grading of ground to provide access to the residence.
Home Improvements

- Sample Letter from Doctor – Need For Home Improvements (see Handouts).

Caregivers

- Comply with State and Federal law:
  - Immigration Law
  - Labor Law (Overtime, etc.)
  - Worker’s Compensation Insurance Law
  - Payroll Tax Law

- Obtain a letter from your doctor (see Handouts) for income tax purposes.
Other Income Tax Issues

- Early withdrawal from IRAs and employer retirement plans on account of disability.
- Early withdrawal from IRAs and employer retirement plans to pay medical insurance and out-of-pocket expenses.

Essential Legal Documents — Property

- In General
  - Consequences of no will
  - Small estate exception
  - Joint tenancy
  - Pay on death accounts
- Simple Wills
  - Holographic
  - Witnessed
- Living Trust
Simple Wills

- Simple Holographic (Unwitnessed) Will (California) – (see Handouts).

- Simple Witnessed Will (see Handouts).

Health-Related Documents

- Two Types of Documents
  - Those not requiring a physician’s signature
  - Those requiring a physician’s signature
Documents Not Requiring a Physician’s Signature

  - Living Will
  - Personal Directive
  - Advance Directive
  - Advance Decision
  - Durable Power of Attorney for Health Care
- Statutory AHCD (see Handouts)
- California Medical Association AHCD Kit (see Resources Handout)
- HIPAA Waiver (see Handouts)

Documents Requiring a Physician’s Signature

- POLST—Physician’s Order for Life-Sustaining Treatment
  - a.k.a. Do not Resuscitate or DNR
- Issues addressed by POLST
  - Not breathing and no pulse
  - Pulse or breathing
  - Whether to artificially feed
- California Statutory POLST (see Handouts)
- CMA POLST Kit (see Resources Handout)
Long-Term Care

- Help in performing basic activities
  - Dressing
  - Bathing
  - Eating
  - Toileting
  - Continence
  - Transferring
  - Walking
- Not covered by Medicare
- Paying for it

Tax Treatment of Qualified Long-Term Care Insurance

- Premiums deductible (subject to limits)
- Benefits excludable from income
- Employer provided LTC insurance excludable from income
“Qualifying” Long-Term Care Insurance

- Income Tax Definition of “LT Care Services”
- Income Tax Definition of “chronically ill”
- Income Tax Requirements for LT Care Insurance
  - No buildup of cash surrender value
  - Only long-term care provided
  - Costs covered do not include Medicare-covered costs

Public Benefits in General

- Plan in Advance
- Qualifying for Medicaid
  - Eligible for at least $1 of SSI
  - Satisfy income test
  - Satisfy resources test
- Income Test
- Income Cap States
Varies by state. Can be as low as $2,000.

Excluded Assets – see separate slide.

Your home (and appurtenant land);
Household goods and personal effects;
Automobiles;
Property necessary for self-support;
Burial plots;
Portions of certain life insurance surrender values;
Retroactive Title II and Title XVI payments (for nine months after receipt);
Replacement values for certain lost, stolen, or damaged resources;
Pension funds (IRAs, work-related pension plans, Keogh plans) of an ineligible spouse; and
Miscellaneous exclusions.
Resources Test (Cont’d)

- Spouse assets
  - Count in determining Medicaid eligibility
  - Subject to exclusions, must be spent down to ceiling
- Gifting assets—36 month look-back
- Third party trusts
  - Established and funded by person other than disabled individual or spouse
  - Payments not paid directly to disabled person
  - Payments not used for food
  - Payments not used for shelter

Public Benefits – The Cost

- If you do receive public benefits, the state will have a lien on your home and other assets (if any).

- The state must be repaid on the death of the disabled person or his or her spouse.
Consult with an Elder Law Specialist.

Life Insurance in General

- Term Insurance
- Whole Life Insurance
- Blended Insurance
Advantages of Life Insurance

- Advantages – All Life Insurance
  - Income replacement
  - Forced savings
  - Known medical condition may make it sound investment
  - Proceeds at death income tax-free

- Advantages – Whole Life
  - Tax deferred buildup of income “inside” policy
  - Potential estate tax benefits

Disadvantages of Life Insurance

- Commissions are high.

- The annual administrative cost is high.

- The rates of return are not competitive.
Assets & Sources of Income

- Life Expectancy Tables (see Handout)

- Need for Budget
  - Assets
  - Liabilities
  - Income
  - Expenses
  - Changes over time
  - Make sure to take long-term care into account

- Online software available (see Resources Handout)

Contact Information

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