BERWITZ & DiTATA LLP

Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 ● Facsimile (516) 747-3727

Lawrence N. Berwitz Maureen R. DiTata

Question from Readers: IRA Accounts

One of our readers, Warren M., writes: "Traditional IRAs have required minimum distributions after reaching 70½ but not Roth IRAs. I have been told that Roth IRAs are also subject to required minimum distributions re Medicaid nursing home costs. They use a single table vs. IRS using the joint table? True or not?"

Beginning at age 70½, traditional IRA account owners are required to take annual minimum distributions based upon their life expectancy. The IRS has established various tables to determine the life expectancy of the account owner in order to calculate the minimum distribution. What was formerly the IRS table utilized by a married account owner is currently utilized by both single and married individuals. If a married individual has a much younger spouse/beneficiary, a different table may be utilized to calculate the annual required minimum distribution. In contrast, no distributions are required to be taken by the account owner of a Roth IRA.

Generally speaking, the value of the assets in either a traditional or Roth IRA are not utilized in determining eligibility for Medicaid benefits *provided* that the account is in "pay-out status." Pay-out status means that yearly distributions are required to be taken from the account. For account owners of a traditional IRA, the account is in pay-out status upon reaching 70 ½ years of age. A Roth IRA, or a traditional IRA owned by someone who has not attained the age of 70 ½ years, can only be in pay-out status if the account is annuitized, meaning that distributions must be made from the account at least annually. In Nassau, Suffolk, New York City and many of the other counties in New York State, the local Medicaid office requires the utilization of a table created by the Social Security Administration (SSA), not the IRS, to determine the annual required minimum distribution for Medicaid applicants. The SSA table contains shorter life expectancies, resulting in larger annual distributions. There are some counties that will allow the IRS table to be utilized.

The distributions made from the retirement account are considered income in the year received and must be accounted for in determining Medicaid eligibility and budgeting. Additionally, distributions are considered taxable income in the year taken and could increase income tax liability for that year.

Our thanks to Warren M. for his question. Just a reminder: obtaining Medicaid benefits for those who are indigent may be a straightforward process. But obtaining benefits for those who have assets that they wish to protect can be a minefield that, if incorrectly handled, can result in significant financial problems and the delay or denial of benefits. It should be done with the assistance of an attorney who has a complete understanding of the Medicaid eligibility rules.