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By David K. Fulton

BANKRUPTCY NO LONGER A LONG-TERM CARE OPTION!

The new bankruptcy reform bill taking effect October 6, 2005 will make filing for bankruptcy more difficult, and it will give creditors more recourse in many instances. Under the current law, the majority of consumers who file for bankruptcy do so either under Chapter 7 or under Chapter 13. Medical expenses are the source of many bankruptcy filings (90% of bankruptcy cases are caused by either health care costs (54%), or job loss or divorce (36%).

In a Chapter 7 bankruptcy, your assets (minus those exempted by your state) are liquidated and given to creditors, and many of your remaining debts are cancelled, giving you what's known as a "fresh start".

In a Chapter 13 bankruptcy, you're set up on a repayment plan of up to five years. Any debts not addressed by the repayment plan don't have to be paid. After October 6, 2005, fewer people will be allowed to file under Chapter 7; more will be forced to file under Chapter 13 and repayment will apply to medical expenses, credit card debt, car payments and even some mortgages.

Major Changes

A qualifying test: Currently, it's up to the court to determine if your case qualifies for Chapter 7 bankruptcy. Under the new bill, your income will be subject to a two-part means test. First, it will be subject to a formula that exempts certain expenses (rent, food, etc.) to determine whether you can afford to pay 25 percent of your "non-priority unsecured debt" such as your credit card bills. Second, your income will be compared to your state's median income. You won't be allowed to file for Chapter 7 if your income is above your state's median and you can afford to pay 25 percent of your unsecured debt.

Under current law, the court has great latitude in deciding whether debtors may file for bankruptcy in consideration of their personal circumstances. Under the new law, there will be few if any exceptions made to the means test, no matter how sympathetic your case, and this includes those who are in need of long-term care, but have the "means" to pay under the new law.

So what is Doc Holiday's Silver Bullet? Review your health and long-term care insurance coverage. It can be very dangerous to your "financial health" to be uninsured. New health insurance plans with higher deductibles and health savings accounts may be a viable option. Long-Term Care Insurance for three years (the look back period for Medicaid planning) rather than longer durations of coverage may be worth considering if more years of long-term care insurance coverage would otherwise be cost prohibitive. Remember, one in two of us will need long-term care. If your health declines, can you afford to pay for this care any other way? Give us a call, or visit us at www.lidke.com. We are happy to answer your questions. Call 800-613-4021 or 970-384-1900 and ask for David Fulton at extension 120.