KRAUSE FINANCIAL

HOW TO HANDLE

NON-COMPLIANT ANNUITIES IN MEDICAID PLANNING

An existing annuity can spell trouble for your client, but it doesn't have to derail their Medicaid plan.

Let us help.

Introduction to Annuities

Annuities are very common amongst seniors. Many older adults use annuities to invest for the future and plan for the finances they will need in retirement. Therefore, you will likely come across clients who own existing annuities who are looking to accelerate their Medicaid eligibility. Although popular in the financial planning space, annuities are not typically purchased with Medicaid in mind and can therefore threaten your client's Medicaid plan.

Annuities don't have to stand in the way of your client's Medicaid plan.

WHAT MAKES AN ANNUITY MEDICAID COMPLIANT?

Before digging into non-compliant annuities, it's important to understand what makes an annuity compliant. In order to be Medicaid compliant, an annuity must meet the requirements dictated in the Deficit Reduction Act of 2005.

The contract must be irrevocable, non-assignable, and actuarially sound. It must also make equal monthly payments and name the state Medicaid agency as a beneficiary. If the annuity meets these requirements, it is considered income to the payee of the contract. As long as the annuity payments do not cause the institutionalized person to exceed their income limitations, the contract is considered Medicaid compliant.

LET'S BREAK DOWN THE REQUIREMENTS OF A MEDICAID COMPLIANT ANNUITY.

IRREVOCABLE

The payment amount, term, and parties of the annuity cannot be altered.

NON-ASSIGNABLE

The contract cannot be assigned to another party or sold on the secondary market.

ACTUARIALLY SOUND

The term of the annuity must be fixed and equal to or shorter than the owner's Medicaid life expectancy.

EQUAL PAYMENTS

The annuity must provide equal monthly payments with no deferral or balloon payments.

STATE AS BENEFICIARY

In most cases, the state Medicaid agency must be named primary death beneficiary to the extent of benefits paid on behalf of the institutionalized individual.

If an annuity does not meet these requirements, it is not Medicaid compliant.

DOES YOUR CLIENT OWN A NON-COMPLIANT ANNUITY?

Don't worry. We can help.

First, it's important to understand the two basic types of annuities, their impact on the Medicaid planning process, and how to handle them when seeking Medicaid

Tax-Deferred vs. Immediate Annuities

Although annuities have multiple distinctions, they can generally be split into two different categories — tax-deferred and immediate. The type of annuity will determine how it is treated for Medicaid purposes and how you will handle the contract as you pursue crisis planning for your client. So, what's the difference between a tax-deferred and immediate annuity?

TAX-DEFERRED ANNUITIES

A tax-deferred annuity is designed as an investment vehicle that accumulates growth over time until the contract is annuitized. Contributions can be made in a lump sum at one time or with multiple payments over time. Until annuitization, the funds within the annuity earn returns on a tax-deferred basis. The owner of this type of contract has access to the cash value and can make withdrawals at any time.

IMMEDIATE ANNUITIES

An immediate annuity is annuitized upon purchase and begins making regular payments immediately. It is typically funded with a lump sum of cash, and many immediate annuities are structured with a lifetime payout, so payments are made until the death of the annuitant. This type of contract cannot be surrendered and does not contain accessible cash value.

The term "immediate annuity" can also be used to refer to a tax-deferred annuity that has been annuitized.

- **Accumulate growth over time until annuitization**
- **Funded with single premium or multiple payments**
- **Accessible cash value**

- **Annuitized upon purchase**
- **Funded with a single premium**
- **Cannot be surrendered**
- **No accessible cash value**

Tax-Deferred Annuities and Medicaid Planning

If your client has an existing tax-deferred annuity, it will almost always be considered a countable asset for Medicaid purposes. The only exception is if the annuity is also an IRA that is an exempt asset in your state.

Tax-Deferred Annuity = Countable Asset (in most cases)

NOT SURE IF IRAS ARE EXEMPT OR COUNTABLE IN YOUR STATE?

Log in to your Attorney Access account at ***access.krausefinancial.com*** to view your state resources.

HOW TO HANDLE A TAX-DEFERRED ANNUITY

Your client has two options for dealing with a tax-deferred annuity while seeking Medicaid eligibility. They can either **liquidate the contract** or **transfer it to a Medicaid Compliant Annuity** (MCA).

OPTION 1: LIQUIDATE THE ANNUITY

Liquidation allows the client to access the cash within the annuity, which they can then use to purchase or improve exempt assets during the spend-down process. However, any deferred gain on the annuity is taxable in the year of receipt, so liquidating the contract may result in significant tax consequences. Additionally, the client may owe a surrender charge for liquidating the contract.

- Gain access to the cash within the annuity
- Incur tax consequences on the deferred gain
- Potentially owe a surrender charge

Due to the immediate tax consequences of this option, liquidation is typically only done for smaller-value annuities.

OPTION 2: TRANSFER THE ANNUITY TO AN MCA

On the other hand, transferring a tax-deferred annuity to a Medicaid Compliant Annuity allows the client to avoid the immediate tax consequences of liquidating the contract by spreading them out over the term of the MCA while also eliminating the countable resource for Medicaid purposes. However, the client may still owe a surrender charge for transferring the contract.

- ✓ Disperse tax consequences over the MCA term
- ✓ Eliminate the countable asset
- − Potentially owe a surrender charge

To transfer a tax-deferred annuity to an MCA without incurring immediate tax consequences, your client can do a Section 1035 Tax-Free Exchange.

SECTION 1035 TAX-FREE EXCHANGE

1. When filling out the MCA application, the contract owner will complete additional transfer paperwork.
2. After receiving the application and transfer paperwork, the MCA insurance company will obtain the annuity funds directly from the current custodian.

Immediate Annuities and Medicaid Planning

When it comes to Medicaid planning, an immediate annuity falls into one of three categories: Medicaid compliant, divestment, or asset.

Immediate Annuity = Medicaid Compliant, Divestment, or Asset

MEDICAID COMPLIANT

If an immediate annuity meets the requirements of the Deficit Reduction Act of 2005 (DRA), it is Medicaid compliant and considered income only to the payee. The annuity must be irrevocable, non-assignable, and actuarially sound. It must also make equal monthly payments and name the state as primary beneficiary (in most cases).

- Meets the requirements of the DRA
- Considered income only

DIVESTMENT

If the annuity is irrevocable and non-assignable but does not meet the other requirements of the DRA, the premium amount will be treated as a divestment for Medicaid purposes. In most states, if the annuity was purchased or annuitized after the implementation of the DRA, the owner will incur a penalty period of ineligibility.

- Irrevocable and non-assignable
- Does not meet the other requirements of the DRA

ASSET

If your client's immediate annuity is revocable and assignable, it can be transferred to another party. Therefore, it will be considered to have value in most cases, even though the contract owner does not have access to the funds.

- Revocable and assignable
- Can be transferred to another party

How to Handle an Immediate Annuity

If your client's annuity is Medicaid compliant and considered income only, you can proceed with spending down their remaining countable assets and applying for Medicaid. However, if their annuity is not Medicaid compliant, your client must overcome a few roadblocks before they can qualify for benefits.

IRREVOCABLE AND NON-ASSIGNABLE

If your client owns an irrevocable and non-assignable immediate annuity that was purchased or annuitized after the implementation of the DRA, your client must wait out the divestment penalty period based on the amount within the annuity.

NOTE: This also pertains to irrevocable an non-assignable immediate annuities that contain IRA funds.

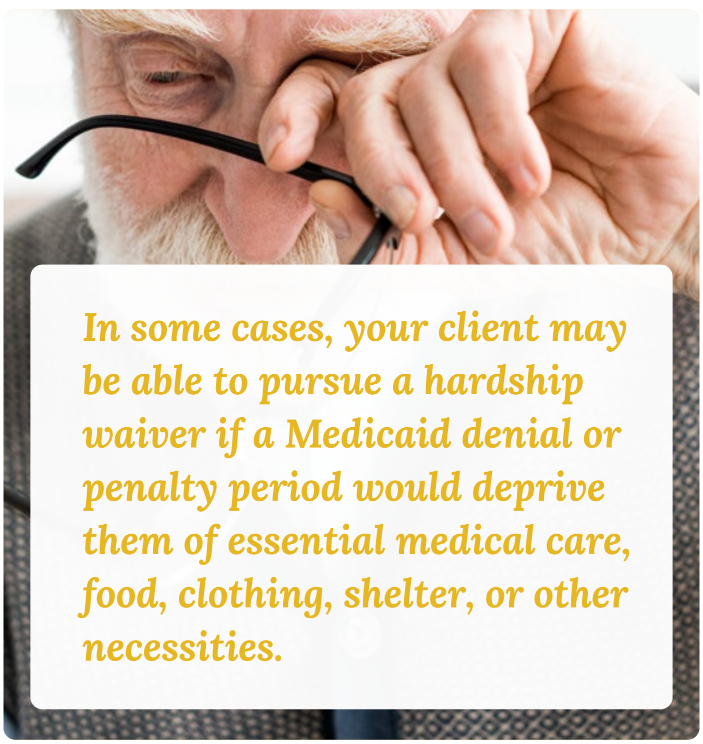
If the annuity was purchased prior to the implementation of the DRA, the annuity will be considered income to the owner, and your client can proceed with the Medicaid application.

REVOCABLE AND ASSIGNABLE

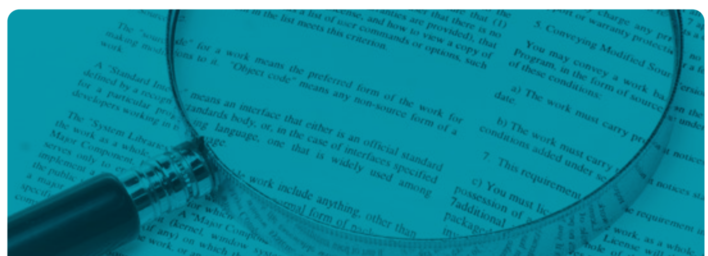
If your client owns an immediate annuity that is revocable and assignable, the contract can typically be sold on the secondary market.

SELL THE ANNUITY ON THE SECONDARY MARKET

1. A third party purchases the annuity for the fair market value of the remaining payments.
2. Your client receives a lump sum of cash for the contract.
3. They can then use the funds to purchase a Medicaid Compliant Annuity or pursue a different crisis Medicaid planning method.



In some cases, your client may be able to pursue a hardship waiver if a Medicaid denial or penalty period would deprive them of essential medical care, food, clothing, shelter, or other necessities.



NOT SURE HOW YOUR CLIENT'S ANNUITY WILL BE TREATED FOR MEDICAID PURPOSES?

Use our helpful cheat sheet to determine whether it is a countable asset, a divestment, or Medicaid compliant.

Non-Compliant Annuity Cheat Sheet

Knowing how your client's existing annuity will be treated is a crucial part of any Medicaid plan. This chart is designed to help you and your client determine whether it is a countable asset, a divestment, or compliant for Medicaid purposes.

Can the owner surrender or liquidate their investment

- **YES** → The annuity is a countable asset. **Consider transferring the annuity to an MCA or surrendering the account.**
- **NO** → **Is the annuity assignable?**
  - **YES** → The annuity is *NOT* Medicaid Compliant. **Consider selling it on the secondary market or to a family member.**
  - **NO** → **Does the annuity meet the remaining requirements of the DRA?**
    - **YES** → The annuity is a Medicaid Compliant Annuity and is treated as countable income only
    - **NO** → **The annuity may be considered a divestment for the premium amount. Contact our office to discuss this case further.**

NEED HELP SELLING YOUR CLIENT'S CONTRACT FOR CASH?

Our complimentary annuity valuation service is designed to help you eliminate your client's problem asset.

Annuity Valuation

At Krause Financia, we are the experts in annuities and Medicaid planning, and we specialize in more than Medicaid Compliant Annuities. When it comes to non-compliant annuities, we are committed to doing what we can to eliminate this troublesome asset and ensure your client can continue on the path toward Medicaid eligibility.

That's why we offer our complimentary annuity valuation service, where we review your client's annuity contract and assess its fair market value. Then, we present cash offers for the contract and assist with the sale. From there, your client is free to proceed with their crisis Medicaid plan.

OUR COMPLIMENTARY SERVICE INCLUDES:

- A thorough review of the annuity contract
- An evaluation of its fair market value
- Assistance with the annuity sale
- A plan for moving forward in the Medicaid planning process

AN AVERAGE PROCESSING TIME OF 5 TO 14 DAYS!

When it comes to Medicaid planning, time is of the essence. And the same is true when a non-compliant annuity is derailing your client's plan. We care about your client's financial situation, and we want them to get paid and become eligible for benefits as quickly as possible. That's why our annuity valuation service is timed to your client's spend-down plan.

From the initial contract review to sending the funds to your client, we have an average processing time of **less than two weeks**. Meanwhile, other companies can take as long as two months!

- Timed to client's spend-down plan
- Best offer guarantee
- 5-14 days average processing time

AT KRAUSE FINANCIAL, WE CARE.

We care about your client's financial situation.

We care about their Medicaid eligibility.

We care that they get the benefits they deserve as soon as possible.

How to Get Started

Does your client own a non-compliant annuity? Would you like our help reviewing the contract and assessing its value? If so, you are in the right place.

1 SEND US YOUR CLIENT'S ANNUITY.

When you send us a copy of your client's annuity contract, we'll review it and determine if it can be sold on the secondary market. In order to be sold, it must meet the following requirements:

- Funded with non-qualified, post-tax dollars
- Annuitized and making regular payments
- No cash or surrender value option available
- Not an IRA
- Making payments for a guaranteed period OR include a guaranteed cash benefit payout option upon the contract owner's death

Information Needed for Valuation

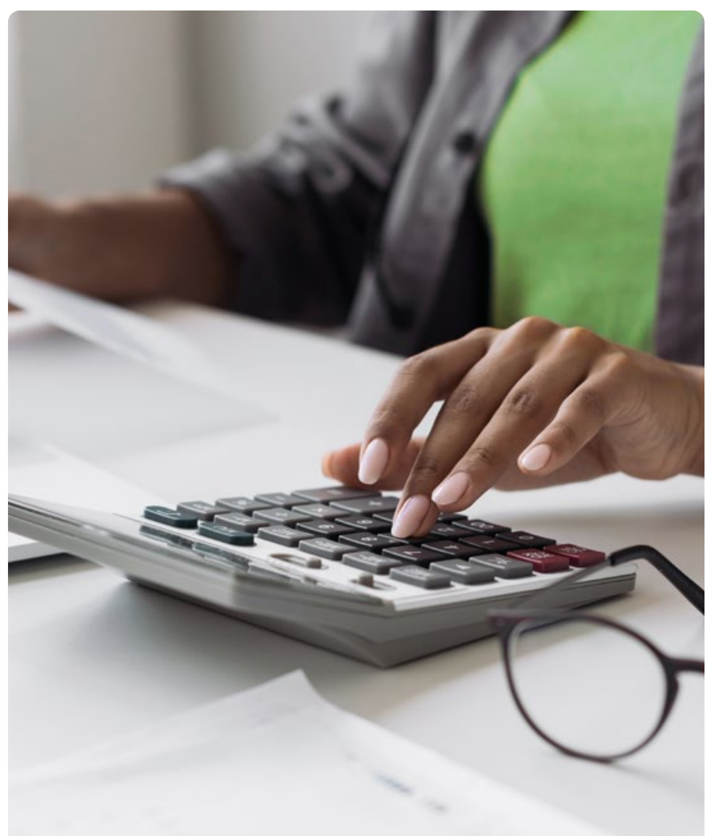
In addition to providing your contact information, we also need the contract owner's name and state of residence as well as some basic information about the annuity, including:

- **Insurance company**
- **Type of funds in the annuity**
- **Payment frequency**
- **Next and last payment dates**
- **Number of remaining payments**

On the form, you also have the opportunity to upload a copy of the annuity contract and provide any relevant documents and additional comments about the annuity.

2 ASSESS THE CONTRACT'S VALUE AND PRESENT MULTIPLE OFFERS.

If the annuity meets the necessary requirements, we'll assess its value on the secondary market. To do so, our office will send the contract details to companies that regularly purchase annuities in exchange for offer letters. We typically secure at least three separate offers to establish the contract's Fair Market Value and ensure the transaction is not penalized for Medicaid purposes. Our sister company, Krause Annuity Services, may also bid on the contract. Once the offers are compiled, we'll send them to you to present to your client.



3 YOUR CLIENT ACCEPTS AN OFFER AND COMPLETES THE PAPERWORK.

Your client then chooses an offer to accept, and our office assembles the necessary paperwork. After all documentation has been completed and signed and the contract ownership has been transferred, the secondary market company will release the funds to your client, either by wiring the funds or mailing a check. The secondary company then takes over the contract and receives all remaining payments.

4 YOUR CLIENT RECEIVES THE CASH AND FUNDS A MEDICAID COMPLIANT ANNUITY.

Once your client receives the funds from the sale, they can purchase an MCA or pursue other spend-down strategies to achieve Medicaid eligibility. Although the timing can vary, when you work with us the typical timeframe for the entire process is 5 to 14 business days.

ARE YOU READY TO ELIMINATE YOUR CLIENT'S NON-COMPLIANT ANNUITY?

Let us help.
Simply complete the intake form online OR contact our office directly at
(866) 605-7437.

It's free.

It's easy.

It's what's best for your client.

krausefinancial.com/intake

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