

Allerton House

Assisted Living Community

Information on Tax Deductibility of Assisted Living Costs

As you may know, prior to January 1, 1997, the cost of long-term care was deductible only if medical reasons were the primary reason for an individual's placement in a long-term care facility. If the placement was for personal or family reasons, only that part of the fee, which was directly tied to medical services, was deductible.

In 1996, Congress passed and the President signed the Health Insurance Portability and Accountability Act (the "HIPAA"), which, in some cases, acts to refine and expand the laws covering health benefits. This law, among other things, clarifies the proper tax treatment of long term care services.

Our accountants have advised us that according to the HIPAA, for tax years beginning 1996, qualified long-term care services are tax deductible from gross income as an itemized deduction subject to the limitation that when added to any other unreimbursed medical expenses for the year, only that amount that exceeds 7.5% of adjusted gross income in an itemized deduction.

For the purposes of the HIPAA, the following definitions apply:

Qualified Long-Term Care Services

"Qualified long term care services" are defined as necessary diagnostic, preventative, therapeutic, curing, treating, mitigating and rehabilitative services, and maintenance or

personal care services that are required by a chronically ill individual and that are provided pursuant to a plan of care prescribed by a licensed health care practitioner.

"Maintenance or personal care services" are defined as any care whose primary purpose is providing needed assistance to a chronically ill individual with any of the following disabilities resulting from such illness (including protection from threats to health and safety due to severe cognitive impairment).

A "chronically ill individual" is one who has been certified within the previous 12 months by a licensed health care provider as (1) being unable to perform (without substantial assistance) at least two activities of daily living (hereinafter "ADL") for at least 90 days (in the future) due to a loss of functional capacity, or (2) requiring substantial supervision to protect such individuals from threats to health and safety due to severe cognitive impairment, or (3) having a similar level of disability as determined by future regulations to be promulgated by the Secretary of the Treasury.

"Activities of Daily Living" are defined as eating, toileting, transferring, bathing, dressing and continence.

"A licensed health care practitioner" is a physician and any registered professional nurse, licensed social worker or other individual who meets the requirements as may be prescribed in future regulations to be promulgated by the Secretary of the Treasury.

Individuals With Cognitive Impairment

The Congressional Conference Committee report indicates that those individuals with cognitive impairment such as Alzheimer's disease, but who are physically able, should be treated similarly to an individual who is unable to perform (without substantial assistance) at least two ADLs. The cognitive impairment must be severe, with deterioration or loss in the following areas: (1) intellectual capacity in short or long-term memory, (2) orientation to people, place and/or time, and (3) deductive or abstract reasoning. In addition, it is intended that such deterioration or loss place the individual in jeopardy of harming self or others, and therefore require substantial supervision by another individual.

As a result of the HIPAA, our accountants have advised us that subject to final regulations to

be promulgated by the Secretary of the Treasury, maintenance or personal care services that are required by an individual who is unable to perform at least two ADLs, or suffers from severe cognitive impairment, and who requires supervision to protect self and others from threats to health and safety are deductible as an itemized medical expense if those services are provided pursuant to a plan of care prescribed by a licensed health care professional.

For **assisted living care**, the HIPAA now provides some clarity. In order to deduct assisted living care, there must be an ADL deficiency or cognitive impairment and the plan of care must be prescribed by a licensed health care practitioner. For assisted living communities like Allerton House, it would appear that the entire monthly cost may be deductible for those residents who meet the criteria.

**We hope this information is helpful.
Should you have further questions on these issues,
please take this memorandum to a
qualified tax planner or financial advisor.**

NOTE: This information should not be treated as tax advice. All residents and prospective residents should consult their own income tax advisor before making any long-term care decision based on the possible tax deductibility of assisted living costs.



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