



**AGEWISELIVING** | Eldercare Issues Resolved  
By Choice, Not Crisis

**Barbara Friesner,  
Generational Coach and Eldercare Expert**

[www.AgeWiseLiving.com](http://www.AgeWiseLiving.com)

*Presents*

**Pooled Income Trusts**

*With*

**Jeffrey A. Asher**

*May 2008*

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**Barbara:** Welcome to the May, 2008 [AgeWiseLiving](#) Teleseminar. Tonight our teleseminar is ***Pooled Income Trusts***.

I'm Barbara Friesner, and I'm the country's leading Generational Coach. And as a Generational Coach, I work with family members struggling with their aging loved ones. And I help them know "what to do," but more importantly, I think anyway, I help them communicate effectively with their aging loved one so that their aging loved one will actually do what is in their best interest. As many of us know, that's the hard part.

My tag line is "*Eldercare issues resolved by choice, not by crisis,*" but if you are dealing with eldercare issues now, I have two very exciting things to tell you about, so you don't have to wait for a crisis. The first one is a terrific program that I run call "How to be Your Own Generational Coach." And this is an 8-week program, and it includes 8 weekly teleseminars, and audio files of each of the teleseminars so you can listen at your convenience, and private generational coaching session with me every week, and one-half hour group generational coaching at the end of each teleseminar, and you also get the 150-page workbook, "***The Ultimate Caregiver's Survival Guide***," and it has step-by-step information and worksheets, and examples, and all kinds of stuff. And CD's of all of the forms in the workbook, and eldercare tips and suggestions, and reminders, and encouragement that I email to you every day; and lots, lots more.

If you purchase each component individually, it would cost over \$1500; but when you sign up for this program, it cost less than a third of that. And really, when it comes to making your life easier, aren't you worth it! So, hopefully, you'll all sign up. The program is starting on Tuesday, May 20. Please don't wait to sign up because they only take ten people on the program. For more information, again...that's this coming Tuesday, May 20, so there's not too much time left. For more information about this incredible program and to sign up, you can go to the "shop" page of my Web site which is [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com).

And the second thing I want to tell you about is the AgeWiseLiving workbook that I mentioned before, "***The Ultimate Caregiver's Survival Guide***." It is a complete, step-by-step, do-it-yourself workbook, and it includes everything you need; worksheets, and checklists, and examples, and instructions and tips, so you can address the whole spectrum of eldercare issues including sibling issues, in a step-by-step process. If you are waiting for a better time, don't, because there is no better time than now. And especially since not only will you start resolving

your eldercare and sibling issues by choice, not crisis, but the first 100 people to order the book, will also get the free 3-CD box set of the expert interviews. So please do go to my Web site which is [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com) and it's also on the "shop" page.

Now in addition to those two great things, the 8-week program and the ***Ultimate Caregiver's Survival Guide***, to help families resolve problems before a crisis, I do live seminars, and once a month, free teleseminars. Before we start this month's teleseminar, I want to let you know that next month's free AgeWiseLiving teleseminar will be on Wednesday, June 11, and the topic will be *Advanced Funeral Planning*. A lot of good information and it sort of piggy-backs what we're talking about tonight as far as putting money away and that sort of thing, and taking care of necessary planning. So I hope all of you will join us, and please invite all of your friends to join us, too. I'll be sending out "call-in" information, and you'll also be able to get the information on my Web site. So again, the next AgeWiseLiving teleseminar will be Wednesday, June 11, so please mark your calendars.

With that, let's get started with the May, 2008, AgeWiseLiving teleseminar, ***Pooled Income Trusts***. I'm so excited to be doing this teleseminar because so many people are struggling these days to pay for their parent's care. And I'm especially delighted to have as our expert on this subject, Jeffrey A. Asher.

Jeffrey is a partner in the Trusts and Estates Group, and head of the Elder Care Practice for the law firm of Pryor Cashman. Jeffrey concentrates primarily in the areas of Estate Planning, Estates and Trusts Administration, Probate, Elder Law, Medicaid Planning, and Asset Protection. His impeccable reputation for honesty and compassion, and diligence has earned him the trust and respect of the ever-growing number of attorneys, financial advisors and accounting professionals who consult with him regularly.

Some of the things is involved with include:

- Representing clients in connection with their desire to transfer assets with minimum exposure to estate, gift and generation-skipping transfer taxes
- Preparation of wills, living trusts, irrevocable life insurance trusts
- Preparation of advanced estate planning
- Acting as fiduciary in connection with probate matters, living trusts, irrevocable life insurance trusts, and other trust and property arrangements
- Represents individuals in connection with their long-term healthcare decisions, disability protections, and need for advanced medical directives

And much, much more!

In addition, from the time that Anna Nicole Smith died to about a year ago, appeared on *Court TV*, *The CBS Early Show*, and *CNN Headline News* as their

expert probate attorney. Topics that he talked about included, obviously, Anna Nicole Smith, but he was also brought into other news items relating to the "right to die" in Florida, implications of inheritance following murder, and that sort of thing. So a wide range of experience.

Welcome Jeffrey!

**Jeffrey:** Thank you Barbara, thank you very much.

**Barbara:** And let's just jump right in, and let me ask you the first question; which is, what is a ***Pooled Income Trusts?***

**Jeffrey:** I know that this is the topic of tonight's conversation, but that is a question that has a very complicated answer, if we don't already have some foundation and some framework. So why don't we start off a little bit smaller and just get an idea of what Medicaid and Medicare is?

**Barbara:** Great.

**Jeffrey:** Alright. Many people seem to confuse the issue of Medicaid versus Medicare. And obviously, the confusion in the name aside, it can be quite confusing. Medicare is a program that is offered for people who are 65 years and older, or under some sort of disability. It is a government program that is offered solely as a result of that age, or disability. It has no financial eligibility quality to it; it is just simply a age-based program or a disability-based program.

Whereas Medicaid, is a program which is offered on a needs basis. A person not only has to show a financial eligibility for the program, meaning that they do not have more than a certain number of assets, but they do also have to prove a medical need for the Medicaid services. What Medicaid does is if the person does qualify, both on a financial basis, as well as on a medical basis, then Medicaid will pay for certain of their expenses. And in connection with those expenses, there are two types of Medicaid. There is the "Home Care" services, and there is the "Nursing Home" services. Home Care services are obviously to pay for care in the home, and Nursing Home services are to pay for the care at a Nursing Home. No matter which type of services, nobody can have more than \$4350 dollars of assets. A couple cannot have more than \$6400 dollars in assets. So you can imagine that the eligibility threshold is kind of low.

**Barbara:** Yes.

**Jeffrey:** And that presents a problem for a lot of our seniors in that, they usually do have assets substantially over those limits; and what do they do?

**Barbara:** Okay so what happens to a person who has assets and income over the maximum amounts?

**Jeffrey:** Well, if a person has assets over that maximum amount, imagine a person, an individual person; they can not have more than \$4350 dollars in assets. If they do have assets over that limit, then in order for Medicaid to pay for either their home care, or their nursing home care, they need to spend down that excess. They need to spend it on their care, they need to spend it on supplies, they need to do something, just get rid of the assets to below the \$4350 dollar limit, at which point Medicaid then says you financially qualify, and we will now pay for that care. If a person has income over the level—now for an individual person, that income level is \$725 dollars per month, plus they add another \$20 dollars if the person is age blind, or disabled. But imagine \$725 dollars must be the maximum amount of income that a person is allowed to have each month. That's a very low number. Especially when you consider Social Security, some times a pension, other types of interest income, it's a very low number.

The good news is; however, that having income above that number does not disqualify someone for Medicaid services as it does with assets levels. If a person has more than the \$725 dollars in income each month, they are still entitled to Medicaid services. But Medicaid will first ask the person to take their income and give it either to the care agency, or give it to Medicaid to reimburse Medicaid for it's expenditures. Now the difficulty lies for a person who is in a nursing home. A person who is in a nursing home cannot have more than \$50 dollars of income, and the argument is that a person is in a nursing home, they are not at home, they shouldn't have a home, and therefore, they should not have rent expenses, food expenses, utility expenses, etc. So while a person is at home, and receiving home care services from Medicaid, they cannot receive more than \$725 dollars, and if they are in a nursing home, they cannot have more than \$50 dollars.

Now, the Pooled Income Trusts works for people who are not in a nursing home. It works only for people who are receiving home care services, or wish to receive home care services, in their home. And the way that it works is that a person is able to keep their \$725 dollars of income, and anything above that income, they must put into this Pooled Income Trusts. And what the Pooled Income Trusts does is it pays for that person's expenses. So without a Pooled Income Trusts, what will happen is a person will receive \$725 dollars in income, but they will have to then give up the rest of their income to the aid agency, to Medicaid, in order to reimburse Medicaid for its expenditures. But with our food expenses, our shelter expenses, our clothing expenses, etc, we could have very well more than \$725 dollars worth of bills to pay. So what the Pooled Income Trusts does is it says, look, we understand that you have these extra expenses. And we're not trying to deprive you of your shelter, and of your clothing, etc. But we also understand that you cannot get Medicaid home care services and still get the benefit of keeping your income. So we will compromise. You can keep your \$725 dollars, and the excess, you will give to this Pooled Income Trusts. And as long as the Pooled Income Trusts pays your bills for you, you don't pay the bills, you

submit the bills to the Pooled Income Trusts, then you will qualify for home care services under Medicaid, *and* you will keep your income. So what this does is that it allows a person to pocket \$725 dollars a month in income, but make sure that every single one of their bills is paid for through the Pooled Income Trusts.

**Barbara:** Now backing up for a second. You mentioned about assets, and you mentioned about income. Now is there a Pooled Income Trusts for assets, and one for income, or is this all grouped together?

**Jeffrey:** No, a very good question. Yes, there is. A Pooled Income Trusts is for income. A Pooled Trust is for assets. It works basically the same way where a person has too much assets to qualify for Medicaid, so they can transfer those excess assets into a Pooled Trust, and then qualify.

**Barbara:** Yes, but is that like their house, stocks and bonds?

**Jeffrey:** Well, it is, except that I would never recommend a person do that because, number one, we can shield a home, for example, through other techniques, but at the same time, the assets that go into the Pooled Trust, they can really, not have any more benefit from. They can put the asset in, they can receive the income from it, but they are no longer going to be receiving that asset.

**Barbara:** So my understanding is that you don't recommend the Pooled Trust for assets.

**Jeffrey:** Not unless we have exhausted every other planning technique that we have. If we feel that in a certain circumstance it makes sense to do a Pooled Trust, then we will certainly do it, but it is a last resort, because there are other techniques that we can avail ourselves of.

**Barbara:** So we're really talking about a Pooled Income Trusts.

**Jeffrey:** That is correct. And again, what is the intention here? The intention here is for a person who otherwise would be able to qualify for Medicaid home care services through one of those techniques that we have to shield the assets, but income, it is very difficult to plan with. A person is receiving social security, a person is receiving interest income, a person is receiving pension, all of which are available resources for Medicaid purposes. Now Medicaid is what they call a "payer of last resort" meaning you first have to go into your own pocket, and then you have to go into whatever insurance you have, and only after you have exhausted your own money, and whatever insurance you have, then Medicaid will pay. So if we can adequately plan for a person's assets, and bring them down below that \$4350 number, and then we can then qualify them on an asset basis for Medicaid services, but for the income, then a Pooled Income Trusts will

help them preserve the income, pay their expenses with it, qualify for Medicaid and not have to lose anything more.

**Barbara:** Okay, and what does Medicaid think of a Pooled Income Trusts, because otherwise, they would get all the money, right?

**Jeffrey:** Absolutely right, otherwise they would get all the money. But so far they are okay with it. So far there haven't been any recent challenges to it. The Pooled Income Trusts is part of regulations and laws that have been used to supplement the Medicaid rules, and so far, they are okay with it. There hasn't been any abuse of it. Obviously, each circumstance renders its own investigation, so if Medicaid does feel that a person is abusing the Pooled Income Trusts technique, Medicaid will come down hard on them. But so far, they are okay with it.

**Barbara:** And basically, Medicaid is only paying for the in-home care?

**Jeffrey:** That is correct. Medicaid only pays for your in-home care. It's the Pooled Income Trusts that is paying for all of your other bills. Now bills...we're not talking about your doctor bills, we're not talking about your pharmacy bills, your therapy bills, etc; those will be paid for my Medicaid. What we are talking about are rent, we're talking about utilities, groceries in some form, we're talking about any other daily household expenses that you may have. It could even mean credit card bills. If you owe a credit card and the bill comes in, and you've used it to pay for normal, everyday expenses, that bill can be paid for by the Pooled Income Trusts.

**Barbara:** Well that's great. And it's legal.

**Jeffrey:** Of course it is, of course it is.

**Barbara:** And is a person penalized at all by Medicaid if they use the Pooled Income Trusts?

**Jeffrey:** No, and the beauty part of it is that they are not. And think about it this way. A person could have accomplished this same result had they had a child living with them, or a child helping them with their home. And I could transfer my excess income—I can take that income and I can write a check for that income and give it to my daughter, for example, and she can use that money to pay my bills. Well, the transfer of that income to my daughter will be a transfer for Medicaid purposes resulting in a penalty period. The beauty of a Pooled Income Trusts is that while I am doing the exact, same thing, I am transferring my income on a monthly basis to this pooled trust, and they are paying my bills. Because it is an approved transaction, it is not a penalty resulting transaction.

**Barbara:** That's great. And so there's not that six year, seven year, five year, whatever it is, "look back" period that you have to wait when you've transfer the money?

**Jeffrey:** That's a very good question. There is always a "look back" period. There is always a "look back" period for nursing home services. There is no "look back" period for home care services. So since we are talking about home care services, and a person can transfer their assets and qualify, we do not have a situation like that. So no, we do not have to worry about the "look back" period.

**Barbara:** Oh that's great.

**Jeffrey:** And it is a five year "look back" period.

**Barbara:** Five year. Okay, they keep changing it, so I never know.

**Jeffrey:** Correct. I know, I know.

**Barbara:** Now where does a person find a Pooled Income Trusts because I assume that is like a legitimate entity that is set up to be a Pooled Income Trusts.

**Jeffrey:** That is correct.

**Barbara:** So how do you find one?

**Jeffrey:** Pooled Income Trusts are relatively difficult to find, and the reason why is because you cannot walk into Washington Mutual and ask for a Pooled Income Trusts. Pooled Income Trusts are only offered by charitable organizations. That's one of the caveats of this technique. The Pooled Income Trusts is only approved if it is run by a tax-exempt organization. And what happens is, is that this tax-exempt organization runs a Pooled Income Trusts. It is one trust that includes everyone else's money. That's why it is called pooled. Everyone's contributions into the Trust is pooled together. The reason why is because any income that the Pooled Income Trusts receives each month that is not used toward your expenditures, gets kept by the charity.

**Barbara:** Oh okay, or do they also pay other people?

**Jeffrey:** Well, they do.

**Barbara:** So I put in a just hundred dollars more than the minimum and somebody else puts a thousand dollars more...then-

**Jeffrey:** It is all aggregated together; it is all pooled together so that everyone's expenses can be paid. That is also why it is run by a tax-exempt organization; so that there is fairness in the distribution of funds. You can imagine if this were run

by a profit-seeking organization, there would be a lot of abuse, or potential for abuse. So in order to find the Pooled Income Trusts, you either have to know which organizations offer Pooled Income Trusts, or you need to know the right elder law attorney to put you in touch with them. But there are organizations such as the UJA is a Pooled Income Trusts, NYSARC is Pooled Income Trusts.

**Barbara:** Okay, United Jewish Appeal, NYSARC?

**Jeffrey:** UJA is United Jewish Appeal, NYSARC is one of those organizations that has abandoned what they use to be called, but they are basically an organization that assist with mentally-disabled children.

**Barbara:** And they do these Pooled Income Trusts not just for children, it's for anyone?

**Jeffrey:** The beauty of it is that you do not need to suffer from their quote "disability cause," to take part in their Pooled Income Trusts because after all, while you are receiving the benefits yourself, you are ultimately giving the benefit to the charity.

**Barbara:** Oh that's great.

**Jeffrey:** When a person passes away, for example, whatever is left in that Trust for them, goes to that charity. So the charity gets not only the benefit of having that excess income, but they also have the benefit of having that income in a pooled account that they can now invest, they can now use at a bank to obtain financing, etc.

**Barbara:** And other than going, you mentioned going to an elder law attorney who would know this, and is there a place on the Web site that you can look for, or you should really go to an attorney?

**Jeffrey:** You should really go to an attorney because there are no places currently offer either a listing for a Pooled Income Trusts, or offer some sort of information on where to find them. You have to be really clever in your search terms to find it, but if you go to the right attorney, they'll have a list of them, and we can pick and choose which one is the right one.

**Barbara:** Okay and so how does one get started with a Pooled Income Trusts? What do you do?

**Jeffrey:** What we do is we first determine which one is most appropriate for the client. And most appropriate is in terms of what we are looking to do, what we are looking to get from it, etc, and also the timeframe because some of them have their own timeframe as to how soon a person can get qualified for it. And then we contact that company, we get the forms; we fill out the forms. We start making

contributions. The way that the Pooled Income Trusts works is the first few go arounds; this is on a monthly basis, keep in mind, on a monthly basis, a person receives their income. A person then cashes in that income, and writes a check or at least, tells the companies possibly to send checks to, depending on the organization. But for the most part, a person will write a check for that excess income, each month will know how much income has to go to that Pooled Income Trusts. They will then write a check to that Pooled Income Trusts, stick it into an envelope that many of these Pooled Income Trusts will provide to you, along with the bills you want them to pay, they will then deposit the check, pay your bills, period. Now the first month, the first two months, the first three months, it might take a while for them to understand what it is you're trying to do, it might take some time for you to get into a cycle of doing it regularly, and doing it efficiently, but after a while, they should be able to understand and anticipate your expenditures, and work out a plan for you of when a check should go in, when bills should go in, and make sure you understand that there is a lag time between when a check should go to them, be deposited, be cashed, and ready for disbursement.

**Barbara:** So once you sign up with them, they have to actually receive your money, before they can pay your bills.

**Jeffrey:** That is correct. They are receiving your excess income. If a person has a thousand dollars of income and they are only allowed to keep \$725 of that; that means they have excess income of \$275 dollars. They write a check for \$275 dollars to the Pooled Income Trusts. They send it in an envelope along with their bills. The Pooled Income Trusts takes that \$275 dollars and pays their bills.

**Barbara:** So they actually have to send the bills with the money.

**Jeffrey:** Yes.

**Barbara:** Okay, and what if they don't have enough money to pay the bills? They send in \$500 dollars worth of bills with the \$275 dollars they are sending in each month.

**Jeffrey:** It depends on the Pooled Income Trusts, but for the most part, they are okay with that. Now obviously, if you are receiving a thousand dollars, and you're keeping \$725, and you're sending in \$275 dollars to the Pooled Income Trusts, but you're giving them bills for \$500, the Pooled Income Trusts might very well say to you, can you please pay the excess amount from your own money because you are actually keeping...

**Barbara:** \$725 dollars.

**Jeffrey:** Right. Which you would normally use to pay for your own bills.

**Barbara:** And so when you pick a Pooled Income Trusts, you'll know which ones do that and...

**Jeffrey:** That's right. All of that is going to be spelled out in the very beginning and we will have a plan, which is also why you don't want to deal solely with the Pooled Income Trusts. You want to have a representative such as a generational coach, or you want to have a representative such as an attorney, so that that way, we can actually come up with a plan and make sure that you fully understand what the process is.

**Barbara:** Okay, and are there fees to set up a Pooled Income Trusts?

**Jeffrey:** Yes, there are fees to not only set up a Trust in the beginning, but there are also monthly fees, and those monthly fees are paid out of those checks you send to them. Again it depends upon the Pooled Income Trusts as to how much they pay, or how much they charge, and for what. So again, it's better to come to someone who can give you a list of them, along with their fees, so we can pick the most appropriate one.

**Barbara:** Okay, and you mentioned earlier, what bills can be paid and what bills can't be paid?

**Jeffrey:** Well, very good question because people are very hesitant to ask the question, what bills can be paid. But the truth of the matter is, anything relating to your daily care can be paid, other than medical expenses. We have, for example, we're doing a Pooled Income Trusts right now for a woman who doesn't drive, but her nephew does. And she has retained a parking space in her building so that when her nephew comes over, he can park his car. The parking space, even though it is not hers, or she doesn't use it, the parking space can be paid. Her nephew sometimes goes out and buys things for her, and we can present the receipts of what he has purchased for her to the Pooled Income Trusts, and they will then write a check to him, and reimburse him, for his out of pocket expenses. So it really is almost anything that is related to your day-to-day care, other than medical, they will pay for. Now what they won't pay for is, they will not buy alcohol, they will not buy firearms, and they will not buy tobacco.

**Barbara:** Okay, but you're keeping \$725 dollars so if you need any of those, you go out and buy it yourself. Now is there backups that you need to have? For example, the nephew says I need this parking space, and he's renting it out to his friends.

**Jeffrey:** I've never had any kind of follow up. I've never had them confirm that he actually does drive her around, I've never had them confirm that he actually doesn't rent out the space, if it appears legitimate, and there is no other indication of abuse, I've never had a problem.

**Barbara:** What happens to the income left over at the end of the month? We talked about that.

**Jeffrey:** We talked about that; it goes to the charity.

**Barbara:** It goes to the charity, and then, if you have an extraordinary amount that you have to pay—like for example, if you were to have to pay, once a year you have to pay the person who handles your taxes.

**Jeffrey:** The good news is, for the most part, you aren't going to have taxes, because while you are receiving the income, you're also now making a contribution to a charity. So it usually works out for the people who are paying into a Pooled Income Trusts, they really won't have a tax liability at the end of the year, but if there is a tax liability for whatever reason, then yes, the Pooled Income Trusts can pay those taxes.

**Barbara:** Wow, and so that's a one month thing that is very unusual, it's not every month. I have to actually send you the bills and some months it can be more, and some months it can be less.

**Jeffrey:** Yes.

**Barbara:** And it really doesn't make any difference. They're getting the bills and paying them once a month.

**Jeffrey:** That's right. And it's a trade off. You know, Medicaid understands the plight of our seniors. They understand what it means to be at home, fearing the nursing home, but not having enough income, or having too much income for Medicaid's purposes, and still wanting their bills paid. They understand that. And there is really nothing for a person to do but take advantage of a technique like this, like a Pooled Income Trusts, where a person can know that their bills are paid, they can know that their income is preserved, that yes, they may not get the benefit of that income, or their children, their grandchildren, may not get the benefit of that income, but sometimes, it is more important to get their home care now.

**Barbara:** That's absolutely, because their kids might be paying for their care now if they didn't do this.

**Jeffrey:** If we did it any other way, then there would be probably nothing left over for the children, anyway.

**Barbara:** Is this something that people—are there Pooled Income Trusts per state, and so they have to know for their own state? Do the Pooled Income Trusts charities cross state lines, like UJA is in many states, but is that something

that, like somebody from Florida could pay into something that is headquartered in New York?

**Jeffrey:** That's a very good question, and I don't know the answer to that question. But I do know that there are Pooled Income Trusts in several states. I know that UJA has Pooled Income Trusts in several states. I do not know, however, if a person could pay into New York's Pooled Income Trusts. I would imagine no. But at the same time, keeping in mind that Medicaid, while it is a federal program, it is given to the states to administer separately. So I would venture a guess that the most prudent course would be to look into your individual state to see if they offer an approved Pooled Income Trusts.

**Barbara:** If some charity within your state does that?

**Jeffrey:** That is correct. Or contacting a charity such as the UJA, such as the NYSARC, such as the National Institute for People with Disabilities, more national organizations that might be able to offer you their Pooled Income Trusts in the state in which you reside, or offer you a suggestion on how to find them.

**Barbara:** And then we did sort of briefly talk about this earlier, but what happens when the person passes away? Part of that question is also, you mentioned about the money; that goes to the charity, but is there something where the family can submit bills for funeral expenses, and closing up the house, and you know, those kinds of things? Is it something that continues on for a period of time to finish up with the seniors affairs?

**Jeffrey:** No, at that point, whatever is left, goes to the charity. And for the most part, it really isn't a large amount.

**Barbara:** But that happens the day the person dies and so, anything that happens after that, it's up to the family?

**Jeffrey:** Right, any expenses for probating the person's estate, if there is one, any expenses for selling the home, for example, all of which would now be the families responsibility.

**Barbara:** And I imagine that would be another reason why it's important to talk to an elder law specialist because you also, there are things that you can do so that you minimize those expenses, as well.

**Jeffrey:** And obviously, any discussion on the Pooled Income Trusts should absolutely be a part of a larger discussion of proper planning. As an elder law attorney, I would never want to just enter into a Pooled Income Trusts without discussing those other issues.

**Barbara:** Right, oh absolutely. So it's a whole *advance planning* plan, and this is just one part of it.

**Jeffrey:** A Pooled Income Trusts is one part. Having a proper Will is another part, having health care proxies, Living Will's etc, all of that is part of a more protective plan.

**Barbara:** Now if they go into a nursing home, if at some point they can no longer live at home, and they go into a nursing home, at that point, does it change?

**Jeffrey:** Well, it doesn't change. It can be modified to suit the purposes for the home care, and what I mean by that is, if a person can have no more than \$50 dollars a month going into the nursing home, then all we would have to do is change the amount of the income going to the Pooled Income Trusts. But at that point, we might want to do some other types of planning since we're not going to have a lot of the home expenses, we're not going to have a lot of the utility expenses any longer, because the person is now residing in the nursing home. So if that were to happen, it would require a new conversation with your elder law attorney, just to make sure we're doing it properly.

**Barbara:** Okay, making the shift over.

**Jeffrey:** The shift, that's right, because you're making the shift over from one program to another. So it's not just calling Medicaid up and saying I'm going into a nursing home, can you move me from home care to nursing home care. It requires a complete reapplication for the new benefit.

**Barbara:** Oh I'm sure. Nothing is easy.

**Jeffrey:** Nothing is easy and especially for an organization that whose model is we are the payers of last resort. They really don't want to get involved if they don't have to. And if that means coming up with another procedure, another process, they'll do it.

**Barbara:** Yes, absolutely fascinating, and a very interesting way to make sure your loved one can stay at home, and gets all of their bills paid. Now is there anything else that I haven't asked you that I should have asked you?

**Jeffrey:** I can't think of anything. I think we pretty much covered it. I do just want to stress that many people—the first question I get when I speak with somebody about their home care Medicaid services is, do I have too much income to get the Medicaid? And I just want to stress again that if a person has more than that income level, they will be disqualified for Medicaid. But a person cannot be disqualified for Medicaid because they have too much income. All that Medicaid will do is make you pay that income to the aide agency, to Medicaid, etc. They will not disqualify you for those benefits, because of that income. But the dangers

lies in if I'm home, and I now need to give to Medicaid the excess over the \$725, I may not have enough money to pay my bills. So going back to what we discussed, which is, stay at home and keep your income, that's what the Pooled Income Trusts does. It lets you stay at home, it lets you keep your income, meaning use it for your care, without having to give it up to Medicaid and be without it, and all your bills are paid. So for those people who believe that income, or too much income will disqualify you for Medicaid, this technique shows you that's not true.

**Barbara:** And you can still pay your bills, you can still live at home, and you can still give to a charity.

**Jeffrey:** And you can still give to a charity and you can still remain as independent as possible, for as long as possible.

**Barbara:** That's great. Now Jeffrey, if anyone wants to contact you directly, because I know there is a lot more information, but for anyone who wants to contact you directly, how can they do that?

**Jeffrey:** They can call me. I can give my telephone number. It's 212-326-0817. That's a direct dial right to me. If they want to email me, they can email me at [jasher@pryorcashman.com](mailto:jasher@pryorcashman.com). They can also peruse our Web site at [www.pryorcashman.com](http://www.pryorcashman.com)

**Barbara:** That's great. This is a whole new area that I did not know anything about. Now before we take questions, because we do have some time to take questions, but before we do, I want to remind everybody that just because you know about Pooled Income Trusts doesn't necessarily mean that your aging loved one will be eager to set it up. So to help you with that, or any other elder care issues, you can give me a call, you can go to my Web site which is [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com) and look at the one-on-one generational coaching, take a look at my 8-week program on ***How to be Your Own Generational Coach***, and this program starts this coming Tuesday, May 20. You can also take a look at my ***Ultimate Caregiver's Survival Guide***, which is a workbook that will help you, it's a step-by-step guide to help you work your way through and resolve your elder care issues, by choice, not crisis. That's [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com).

I also want to remind you that next month's teleseminar is on ***Advanced Funeral Planning*** which is part of the advanced planning package. And that will be on Wednesday, June 11. And I hope that you will all join us, and please invite all your friends to join us and I'll be sending out more information about it, and you can also get information about it on my Web site which is again, [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com).

I also want to mention also that tonight's teleseminar will also be up on my Web site, hopefully tomorrow, and that I will be sending out an announcement letting

you know that it is ready for it to be listened to. So hopefully, if there is anything that you want to go back and listen to, you can listen to that on my Web site, [www.AgeWiseLiving.com](http://www.AgeWiseLiving.com).

So with that, let's take some questions. Does anybody have any questions for Jeffrey Asher about Pooled Income Trusts?

**Caller No. 1:** I have a question. Typically, doesn't Medicaid have limits as to how much they will pay for home care services?

**Barbara:** You mean the individual, home care person like a certain amount per hour, that kind of thing?

**Caller No. 1:** Right.

**Jeffrey:** Well, it depends on the state. Can I ask you, what state are you calling from?

**Caller No. 1:** Missouri

**Jeffrey:** Okay Missouri. It really does depend on the state. In New York for example, Medicaid has relationships with the different aid agencies that provide the attendants. So those dollar figures have already been worked out and contacted for. In New York, it translates into Medicaid limits are in the number of hours they can give you. And they do that solely on what they call a medical basis. So Medicaid will come in and evaluate the situation and they will say, you will only get 12 hours of care, or 8 hours of care, or in some cases, you are entitled to 24 hours a day of care. They will do it on a medical basis because they have already contacted for those hours with the agencies. Different states do it different ways. Missouri could very well be a state where they set those limits. But it doesn't change the fact, however, that it has nothing to do with, a Pooled Income Trusts being able to pay your bills, with the income that you've provided them on a monthly basis.

**Barbara:** So if you have additional money that you've put into the Pooled Income Trusts, can you use that money to pay for additional hours, or a higher level of care, or something like that?

**Jeffrey:** Yes.

**Barbara:** Oh, okay.

**Caller No. 1:** I thought you said that the Pooled Income Trusts would not pay for anything medical.

**Jeffrey:** Well again, we're talking about home care. And home care attendants are not medical, they're not nurses; they're just attendants. They're not provided skilled nursing care, they're just attendants. So if you wanted to use either—most likely what happens is, and most often, is you would use part of that \$725 dollars in order to pay for that attendant out of your own pocket. But I do want to make just one caveat, which is, numbers change from state to state, also. I'm talking about \$725, and these income levels, etc, but those numbers will change from state to state. I should have made that clear at the very beginning that we are talking about New York numbers.

**Barbara:** So if Medicaid will pay for, let's say, that you can only have four hours of skilled nursing, and they pay for the four hours of skilled nursing, you can submit bills to the Pooled Income Trusts for an attendant who doesn't provide the skilled nursing.

**Jeffrey:** Well it's very difficult because for home care services, Medicaid really will not provide skilled nursing care. If you are in need of skilled nursing care, then you are better off in the nursing home. Skilled nursing care meaning persons is on a respirator, a person is receiving an intravenous medication, a person is receiving care that only a skilled nurse can provide. Whereas the majority of the care that a person receives in their home, is just an aide, an attendant, a companion, to make sure that the person can get out of bed, and get showered, and get dressed, and get fed, to get out, can move around, and live an active life. If a person is in need of those more skilled cares, then we might have an issue, qualifying that person for home care services on a medical basis. But if your state limits the amount of time, or the amount of money that can be devoted to that aide, to the workers, and you wanted to provide for an additional aide, you can certainly do that out of the funds you keep, and depending on the Pooled Income Trusts, probably out of the funds that you pay them. Again, that's not necessarily a medical expense.

**Barbara:** Great, did that answer your question?

**Caller No. 1:** Yes.

**Barbara:** Great, terrific. Any other questions?

**Jeffrey:** Either I adequately explained it, or I put everyone to sleep.

**Barbara:** No, I think you adequately explained it. It's something that seems very clear, very basic and somewhat cut and dry. Is that true?

**Jeffrey:** It is relatively cut and dry because you are dealing with an established procedure. Unfortunately, it is not something that a lot of people know about. And again, it is not something that you can walk into your bank and ask for a Pooled Income Trusts. It is not like you can walk into your Senior Center and ask for a

Pooled Income Trusts. A lot of people just don't know that it exist. And that's a problem in the society, but it is a problem that will hopefully be rectified by more of these teleseminars as you, Barbara, hold these teleseminars, and as people get the information, maybe it will start trickling down to the people who need to hear it. Namely, our administrator, our politicians, the people who can open the floodgate and give us this information.

**Caller No. 1:** I have another piece of information. When you talked about NYSARC? Here in Missouri, I can tell you what the name of that organization is. It still ends in "ARC." I'm trying to find it here so I can tell you because I don't know if it is the same nationwide or not, just a second I can tell you. I think you mention that it had changed their name or something.

**Jeffrey:** They did. NYSARC is New York State, but it is part of a global organization basically called ARC.

**Barbara:** So NYSARC is New York State-ARC, maybe Missouri is MOARC, and in Florida, FL.

**Caller No. 1:** Here it is. Hold it. ARCare. That's one of those, the trust that you are talking about. They call it a Special Needs Trust.

**Jeffrey:** Right, and a Special Needs Trust is...a Pooled Income Trusts is a Special Needs Trust. ARCare is the organization in Missouri where they deal with children with disabilities. They do have an Arc trust. They have an Arc Trust I and an Arc Trust II. And mainly, an Arc Trust I and an Arc Trust II deal with leaving properties to children, or at least preserving assets. Because they are Special Needs Trust, they are designed for you to leave funds for your child without jeopardizing their benefits.

**Barbara:** Leaving it to the child with the special needs?

**Jeffrey:** Correct. And we would have to do some more research to see if they have a special type of Trust for us to leave our assets to, without jeopardizing our benefits.

**Caller No. 1:** Well apparently they do. Because that's what I've heard about that's here, in fact I just heard that recently in the last few days, and it was in the context of this being something like you just described in this program.

**Jeffrey:** Right, because it is one thing to offer a Special Needs Trust which is designed for a specific person, or a person who has money, property, has contributed to a Special Needs Trust and preserves their benefits. But we, our seniors, us, and when we need this service, we need to find the Trust for our own income, for our own assets, to protect our own benefits. And if you say they offer it, then that's fantastic.

**Barbara:** And certainly something to look into in each state, as you say as an elder law attorney because that is something that, with a slightly different name, it sounds like it is across the US.

**Jeffrey:** Absolutely right. And again, if a person happen to come to me and say, "I need to set up one of these Trust and oh by the way, my mother lives in Missouri," because after all, the majority of the questions that I get regarding the income versus the asset eligibility, is because that person wants to find out about mom. Now mom may not live in New York. Mom may live in Missouri. So if a person came to me in New York and said, "I'd like to find out about setting one of these up in Missouri," the first place that I'm going to look, if I didn't know about ARCare, the first place that I'm going to look is my person, my elder law attorney that I know of in Missouri. And I'm going to suggest speaking to that person because they are going to be the best person to get me the breath of options.

**Barbara:** Wonderful. Thank you so much for the information. Any other questions?

**Caller No. 2:** I have a question. My name is Adrienne, and both mom and I both live in New York, and I'm just trying to clarify what you were explaining about the monthly—well let me give you an example. Let's say you put a thousand dollars a month into the Pooled Trust, above and beyond your \$725 dollars. And in the first month, you only submit \$800 dollars worth of bills. Are you saying that the \$200 dollars, basically, it's sort of, for that month, use it or lose it?

**Jeffrey:** No, again. It does depend on each individual Pooled Trust. But some of them will allow you to roll over those amounts, some of them don't.

**Caller No. 2:** Okay, because it also seems like—I kind of thought I heard the impression that if the next month you have a larger bill with your thousand dollars a month, it will be paid. And that seems like it could lead to abuse where essentially, you're putting in a thousand dollars a month, but maybe your expenses come to \$1500 dollars a month, every month.

**Jeffrey:** Well, if that is the case, those are the kinds of things that will be brought to light at the beginning. If in one month you happen to have expenses that exceed that amount, then there are accommodations for that. But if at the beginning, we can already identify, or the Pooled Income Trusts organization can already identify that's going to be an issue, then they may very well say, "No, we're not going to accept this application."

**Caller No. 2:** Okay. It doesn't seem that people's lives and expenses are quite that much regimented to be able to nail it down that closely.

**Jeffrey:** You can't. Well, at least you can for the basic necessities. But there is always going to be something beyond. But it's also, when you get to the point where a Pooled Income Trusts becomes necessary, but for many of the medical expenses, there really should not be too much of a fluctuation in the amount of expenditures each month.

**Caller No. 2:** Okay, thanks.

**Barbara:** Even with mine they are high, but I can count on a certain amount every month. I certainly know that the mortgage and the utility, and the television, they're pretty much a set amount each month.

**Jeffrey:** That's right. And you could argue that we don't know if the car is going to break down this month and we may need to do a repair. But for the most part, the people that we are doing this for, don't drive. For the most part, the people who we are doing this for don't go on many trips where they need money to pay for travel. The people we are doing this for don't have a bill each month for food, for example, that fluctuates greatly.

**Caller No. 2:** Right.

**Barbara:** Good question. Thank you. Other questions? Anyone else?

**Caller No. 3:** Is there minimum funding for a Pooled Trust?

**Jeffrey:** Some of them do have minimum requirements. Some of them have relatively minor minimum requirements, others have very large minimum requirements. It just depends again, on the appropriateness of what we are looking for, and that is something that we just go down the list, we take a look at what they ask from us, and pick one.

**Barbara:** But if they need.

**Caller No. 4:** Can you tell us what the general fee range would be to have one of these set up?

**Jeffrey:** I really can't because of the number of organizations that offer these Pooled Income Trusts. I have never really analyzed them that way. But I can tell you, for example, I'll read to you the one that we just set up. Now the fees I'm reading to you, I think are the old fees, but they are pretty much the right—You're talking about a one-time enrollment fee of \$200 dollars. There is a \$50 annual fee every year, you pay \$50 dollars. And then the monthly fees that you need to pay to the Pooled Income Trusts on a monthly basis, for their accounting, and bookkeeping, etc, vary depending on how much money you are depositing. If you are depositing under \$350 dollars each month, then the monthly fee is \$30 dollars. If you are depositing, for example, anywhere between \$751 dollars and

\$1200 dollars, your monthly fee is \$60 dollars. But at the same time, it's better to pay those fees, and have your bills paid, than to say it's too expensive I can't pay that, and then your out not only your income, but you are also out your Medicaid services. Sometimes.

**Caller No. 4:** And what about a range of your fees, or typical legal fees for setting this up?

**Jeffrey:** It really depends on what it is we are setting up. Our fees range simply because of our hourly fee. Sometimes, depending on the work we are doing, we will come up with a flat fee. It is difficult for me to tell you what that range is. And I really don't want to do that without knowing all the facts. What I can tell you; however, is that if anybody living in New York wants to discuss this option, they are free to call me up at any time without being billed; they are free to come into my office and speak to me about it, and I do offer that free consultation, for them. So before we get into an issue of how much it is going to cost, let's first figure out what it is we can do, and then, I'll give you my proposal.

**Barbara:** Yeah, because I would imagine it also depends on whether or not they are other services you are providing that would be advance planning—the Wills, and the Trusts, and you know, the whole estate planning package; that would make a difference.

**Jeffrey:** And it also depends on the cooperation and participation of other family members. If I'm dealing with a person who is 85 years old, and really cannot help me in this process, it's going to cost a little more money. But if there are children involved who can take some of that burden from me, then it helps.

**Barbara:** And gather a lot of the information, and get a lot of that stuff for you, sure.

**Jeffrey:** Correct. That is correct. It also matters if I'm traveling to go to the person's home every time to sit down, or whether I can meet with the children in my office and just communicate to mom or dad the information.

**Caller No. 4:** And this is just the Pooled Trust, not the part about applying for Medicaid.

**Jeffrey:** Applying for Medicaid is a part, and parcel of the whole plan, but right now, we are only talking about the Pooled Income Trusts to get a person prepared to qualify for Medicaid.

**Caller No. 4:** So do you recommend that those two things happen together or Medicaid come first, and then second...?

**Jeffrey:** No, I recommend that we come up with a plan, whatever that plan may be. And that plan can be, certain techniques for the asset, and the Pooled Income Trusts for the income. Once we have that plan, once we are all on the same page as to what we have to do, then we make a Medicaid application.

**Caller No. 4:** But you don't do that. We would do that with some other provider.

**Jeffrey:** It all depends on who could be available to us.

**Caller No. 4:** I see. Okay, thank you.

**Caller No. 1:** Do the Trust invest into equities, or mutual funds, or government securities with the money they get?

**Jeffrey:** Truthfully, I don't know what their investment schemes are.

**Barbara:** Because that's really something that has to do with the charity itself.

**Jeffrey:** It has to do with the charity. Charities funds are protected, so there is very little risk. As far as I know, you are still FDIC insured. But there is very little risk. First of all, the charities have their own rules when it comes to those investments. So there really is very little risk of losing that money.

**Barbara:** Great, any other questions? Well, great questions, and really terrific information. I can't thank you enough. This is Jeffrey Asher, and thank you so much. If you have any additional questions for him directly, you have his information, and I want to thank you all for joining us tonight and I wish you a great Memorial Day. Can you believe that it is just a few weeks away?

**Jeffrey:** And thank you, Barbara very much for this program. It was fantastic.

**Barbara:** You bet. Thank you, and take care everybody and have a good night. Good-bye.