

Consumers Win Medicaid Annuity Federal Court Ruling In Ct

By [Press Release](#) | Last updated Aug 16, 2010, 4:33 pm

Federal Judge declares Connecticut's treatment of Medicaid compliant annuities is unconstitutional

Decision affects many who have been denied Medicaid coverage

Bridgeport – U.S. District Court Judge Janet C. Hall ruled Friday that Connecticut resident Mrs. Amelia Lopes of East Hartford CT did not have to sell an annuity she had purchased in order to have her husband, John F. Lopes, qualify for Medicaid coverage.

Mr. Lopes has been confined to a nursing home since November, 2008.

The Lopes had \$166,000 more of countable assets than were permitted by Medicaid law.

In order to qualify her husband for Medicaid, Mrs. Lopes purchased a single premium immediate annuity for \$166,000 in order to provide her with a fixed monthly income. That annuity purchase also reduced Mrs. Lopes' countable assets to less than the \$109,560 that the state of Connecticut allows in order to qualify for Medicaid.

The state of Connecticut contended that Mrs. Lopes should sell the annuity's income stream for a lump sum, even though such a sale would have netted only about \$98,000 and even though the annuity was irrevocable. In fact, such a sale was not possible because the contract under which the annuity was created prohibited any such assignment. It was the state's position that if the annuity income could be sold, even at a loss, Mrs. Lopes would be over the \$109,560 asset limit and her husband would not, consequently, be eligible for Medicaid.

In the suit filed in federal court by Mrs. Lopes' attorneys, Czepiga Daly Dillman LLC, she contended that federal law exempts her annuity's fixed income in determining her husband's eligibility for Medicaid benefits. In other words, what had been \$166,000 of countable assets was, through the purchase of an immediate payout annuity that complied with federal Medicaid rules, converted to exempt income for Mrs. Lopes' sole benefit.

Judge Hall ruled as unconstitutional Connecticut's policy of trying to force a healthy spouse, whose husband or wife is in a nursing home, to sell the income stream produced by the healthy spouse's annuity.

Attorneys Brendan F. Daly and Paul T. Czepiga, two of the elder law attorneys who argued the case on behalf of Mrs. Lopes, noted that the decision affirms the use of annuities to convert assets to much-needed income for many older Connecticut residents who qualify for Medicare.

“This case is significant because when one spouse enters a nursing home, the other spouse often has more assets than the \$109,560 that the state of Connecticut allows to qualify for Medicare,”

attorney Czepiga noted. “Now the healthy spouse is free to purchase an annuity to provide monthly income and still obtain the benefits of Medicaid coverage.”