

# The "Daily Plan-It"™

ESTATE & BUSINESS LAW GROUP, P.C.

Volume 8, Issue 7

4/6/2006

## Massive Changes in Medicaid Law!!! Part Two

President Bush signed the Deficit Reduction Act of 2005 ("DRA 2005") into law on February 8, 2006, which included a sweeping overhaul of the Medicaid laws. A typographical error calls into question its legality. It is widely anticipated that the error will be corrected and the law will be effective. Here is part two of our explanation of the changes:

### The Transfer Penalty Period

The most comprehensive change under the new law is the change in the start of the transfer penalty period. Under Medicaid law, giving away assets constitutes an uncompensated transfer. If this occurs, an individual is "penalized" and ineligible for Medicaid benefits. The penalty is calculated by dividing the amount of the uncompensated transfer by the average cost of one-month's nursing home care in the region where the applicant lives. The previous law provided that the penalty period began in the month the uncompensated transfer was made.

Under the new law, the penalty period doesn't begin to run until the Medicaid applicant "otherwise qualifies" but for the implementation of a transfer penalty." Now the penalty will not begin to run until the applicant is residing in a nursing home and depletes his assets to the qualifying levels.

These changes will have a drastic impact on all of our clients. Do your clients know what transfers they made five years ago? In theory, if they made a \$5,000 donation to their church, and four and one-half years later apply for Medicaid benefits, they would be ineligible. The same applies if an applicant paid for a family member's education, wedding, a down payment on a first home, etc.

**Round Down.** Under previous laws, many states rounded down the penalty period to the whole number. For example, if an individual transferred \$9,000, the transfer penalty would be 1.8 months (\$9,000/\$5,000, assuming a \$5,000/month cost). In a

round-down state, the penalty would be one month. The new law prohibits rounding down and provides that all transfers that constitute less than one-month's penalty over any 12-month period must be aggregated, thereby eliminating the ability to round down.

**Community-Based Medicaid.** Prior law applied the asset transfer rule only when an individual was applying for institutionalized Medicaid benefits (i.e., in a nursing home.) Home-based Medicaid services were exempt from the asset transfer rule. The new law applies all asset transfer rules and penalties currently used for institutionalized care to home-based Medicaid services.

Stay tune for part three of our series, which will cover the Income-First Rule, Long Term Care Insurance, and Loans.

## Workshop Schedule

### The Truth About Estate Planning Fundamentals of Proper Planning

Cost: no charge  
Time: 7:00 to 9:00 p.m.  
Dates: 4/11/06 Tuesday  
5/9/06 Tuesday  
6/13/06 Tuesday

**Registration:** Contact Mary Lang at (847) 367-4460

### The Truth about Estate Planning, LHS Adult Education

Cost: small fee  
Time: 7:00 to 9:00 p.m.  
Dates: 2/21/06 Tuesday

**Registration:** Adult Education Office at (847) 932-2176

For online information about Estate Planning,  
please encourage your clients to visit us at  
<http://eblawgroup.com>

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