

THE SKETCHLEY LAW FIRM, P.A.

Providing Compassionate Support & Guidance Through Elder Law & Guardianship

CHANGES TO MEDICAID

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Due to significant reforms under the federal Deficit Reduction Act of 2005, Florida has recently implemented changes to Medicaid. These changes affect Medicaid recipients of long-term care, particularly recipients in skilled nursing homes. The formal rule changes took effect on 11/1/07, and revise the current rules to be consistent with federal regulations regarding the treatment and transfer of assets.

Imposition of the penalty period

Previously, Medicaid imposed a penalty period for the transfer of assets from the date of transfer. Now, periods of ineligibility (penalty periods) begin with the later of: the day the individual is eligible for medical assistance and would otherwise be receiving institutional level care based on an approved application for such care but for the application of the penalty period; or the first day of the month in which the individual transfers the asset; or the first day following the end of an existing penalty period. This includes gifts and charitable contributions.

Home equity

Previously, the homestead was not counted as an asset for Medicaid eligibility. Now, only the first \$500,000 of equity is uncounted. Any equity over the limit is considered an asset.

Annuities

Individuals and their spouses must disclose their ownership interest in any

annuity, and now must name the State of Florida as a remainder beneficiary for than the total amount of medical assistance paid on behalf of the Medicaid recipient or in the second position after the community spouse and/or minor or disabled child unless the spouse, child or their representative disposes of the remainder for less than fair market value.

A purchase of an annuity is now considered a transfer of assets unless certain criteria are met (including no balloon payments).

Life estates

A life estate interest purchased in another individual's home is now considered a transfer of assets for less than fair market value.

If the individual has not lived in the home for at least one year, the full amount of the purchase price paid for the life estate will be considered an uncompensated transfer. Different rules apply if the individual has resided in the home for at least one continuous year.

Loans

Notes, loans and mortgages are transfers of assets for less than fair market value unless they meet certain criteria (again, balloon payments are no longer possible).

If you would like one of our attorneys to come and speak to your group or organization about this topic, please contact Tracy Powell at (850) 894-0152. Past newsletters can be found at www.sketchleylaw.com.