



The Deficit Reduction Act of 2005 and How It WILL Affect Your Medicaid Planning

The day was a Wednesday. It was much like any other Wednesday - except that on THIS Wednesday, February 8, 2006, President George W. Bush signed into a law a piece of legislation commonly referred to as the "DRA of 2005". Why should this day matter to you? Well, if you are attempting to plan for the long term care of your loved one and had previously considered professional Medicaid planning to protect assets then this law vastly affects your options. Congress has enacted a law that imposes new punitive restrictions on the ability of the elderly to transfer assets before qualifying for Medicaid coverage of nursing home care. (For the full text of the Deficit Reduction Act of 2005 in PDF format, [click here](#) - The section on the transfer provisions begins on page 222.)

One of the most significant impacts of the new law is that it extends Medicaid's "lookback" period for all asset transfers from three years to five years and makes those applicants who have a spouse living in a valuable house ineligible for Medicaid long-term care coverage. However the most troubling and significant change is that the DRA also shifts the start of the penalty period for transferred assets from the date of transfer, as is the case now, to the date when the individual would qualify for Medicaid coverage of nursing home care if not for the transfer. In other words, the nursing home resident who runs out of funds to pay for his or her care and then applies for Medicaid to pay for that care will be denied benefits for months at a time because of relatively insignificant transfers that he may have made years prior. The nursing home, in turn, not able to abandon care for a resident due to non-payment alone will be forced to provide care for a resident with now compensation for that care. (For this reason, some in the Medicaid planning field have nicknamed this law "The Nursing Home Bankruptcy Act of 2005).

This bill is brutal. It hurts people with disabilities, low-income children, families, and the elderly. It also hurts charitable organizations. These one-sided sacrifices have been inflicted on low-income Americans and the organizations that support them. A few of the likely victims of the DRA's harsh measures are: the grandfather caring for a grandchild who provides savings to help pay for the grandchild's education; the grandmother who helps her daughter to purchase a handicap-equipped van to provide for her disabled grandchild; the devoted church member who donates personal assets or even weekly tithes and offerings to the church; the family farmer or small business owner who passes on the farm or business to the next generation; the widow who lacks records of her now deceased husband's spending;



the caring sister who uses savings to help a needy sister remain in her home. These individuals will be denied Medicaid if they subsequently get sick and need long-term care.

Some believe that because of these new restrictions that there may be a landslide of what are called "filial responsibility" lawsuits. In short, thirty states have filial responsibility laws that require adult children to care for their indigent parents (including Kentucky, Ohio, and Indiana.) The National Center for Policy Analysis claims that if these statutes are enforced, adult children would have to reimburse the state programs that provided care for their indigent parents. This may be the recourse the nursing homes are forced into taking just to keep the bills paid in light of the new restrictive Medicaid policies. So, if you have been the recipient of a gift from your aging parents, in cash or property, contact Elder Advantage today to make sure that not only your parents - but YOUR assets - are protected!

The good news is that there are still ways to preserve assets IF you have the proper knowledge and act quickly! Elder Advantage has partnered with the appropriate professionals to offer unique, exclusive planning tools that you may not find anywhere else in the fight to preserve your assets even in the face of these new restrictions! Time is the most valuable asset in the Medicaid planning process. Don't let fear become the driving force behind your planning by waiting until your family is in a health care crisis to begin planning!

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