

Financial Perspectives

CHANGES IN STORE FOR MEDICARE AND MEDICAID

Special points of interest:

- *There are three major changes to the eligibility rules.*
- *It will be harder to transfer assets to others in order to qualify for Medicaid.*
- *Seniors may need to look at other options for care.*

President Bush signed into law in February the Deficit Reduction Act, otherwise known as the fiscal year 2006 budget reconciliation bill. That law, which contained more than \$39 billion in cuts, including \$6.4 billion from Medicare and \$4.8 billion from Medicaid, has plenty of changes in store for seniors.

Under the new law, for instance, most Medicaid beneficiaries would be required to pay higher co-payments for health care services and could be denied service for lack of payment. Provisions affecting Medicare include higher premiums for beneficiaries, with greater increases for higher-income beneficiaries, and a freeze in payments for home health care providers. The bill also cancels a scheduled cut in Medicare reimbursements to physicians and provides medical care to some hurricane survivors.

Here, according to Bernard A. Krooks, founding member of *Littman Krooks* in New York City and White Plains and Harry Margolis, founder and president of *ElderLawAnswers.com*, are the three major changes to Medicaid eligibility rules under the new law.

1. THE LOOK-BACK PERIOD WILL BE 60 MONTHS FOR ALL ASSET TRANSFERS

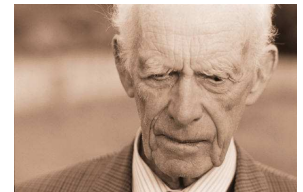
Under the old law, outright transfers were subject to a 36-month look-back period and transfers to or from certain trusts were subject to a 60-month look-back period.

Under the new law, the look-back period – though some asset transfers will be grandfathered – has been increased from 36-months to 60-months for all transfers. And all transfers made within the look-back period will have to be documented and explained to Medicaid authorities.

2. START OF ELIGIBILITY DEFERRED

Under the old law, the “penalty period” for institutional Medicaid started on the first day of either the month in which the transfer is made or the first day of the following month. But the new law postpones the beginning date for any transfer penalty to the first day of the month in which the individual is (1) in a nursing home or receiving

“waivered” home care, (2) has



spent down his or her savings, and (3) would be eligible for benefits but for the transfer.

States do have, however, the option of starting the penalty period in the month of asset transfer or in the month following asset transfer. For example, in New York, it's the month following the month of transfer and in Massachusetts it's the first day of the month in which the transfer occurs.

The point, basically, is this: Imagine you transfer \$50,000 that would normally disqualify you for 12 months based on your state's costs. Before, if you transferred \$50,000, you'd be free and clear after a year (measuring from transfer date). Now, the measuring doesn't even start until the person would otherwise be eligible (but for the transfer), so they will have to wait an entire year from the date they are already impoverished and seeking care, or will have to wait for the five-year period (from #1 above) to ex-



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CHANGES IN STORE FOR MEDICARE AND MEDICAID(continued)

pire. This could even unwittingly affect gifts for someone made years earlier before they even anticipated needing Medicaid.

The upshot of this change? Individuals, in most states, must own less than \$2,000 in non-exempt resources when applying for Medicaid. To establish this date, the nursing home resident or any prospective applicant must apply for Medicaid coverage and be approved (but for the transfer).

3. EQUITY IN HOME WILL COUNT

Under the old law, a person's home was exempt regardless of value, if certain conditions were met. Under the new law, the equity in a Medicaid applicant's otherwise exempt home will be countable to the extent it exceeds \$500,000. Thus, a person with equity in a home of more than \$500,000 would not

be eligible for Medicaid. Of note, states will have the option to raise the limit to \$750,000.

Seniors and their adult children may need to consult with qualified and competent professionals who can evaluate issues and recommend potential solutions, including long-term care insurance, reverse mortgages and home equity loans.

Another provision of the new law will give all states the authority to set up Long Term Care Partnership programs, or programs that encourage residents to buy private long-term care insurance by relaxing Medicaid nursing home benefit qualification rules for private policy holders who exhaust private benefits. Up till now, only California, Connecticut, Indiana and New York have been permitted to operate partnership programs.



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