Parents' Medicaid application may be affected by gifts to kids

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As your parents get older, they may decide that keeping the large house is too much work and they may desire a change of lifestyle. They may sell their house and then they decide to give some of the net proceeds to their children. As time goes on, if their health declines, they may need nursing home care. Can the gift that mom and dad made be spent or must it be held for a certain number of years? How does this gift impact mom and dad qualifying for Medicaid in the event that they need nursing home care?

The gift that you received from mom and dad can be used by you in any manner that you wish. However, if your parents enter a nursing home, they could be left in a bind. This is due to the Deficit Reduction Act, which was enacted last February, which tightened the rules for qualifying for Medicaid help with their long-term care after making gifts to family members.

The basic rules for applying for Medicaid to assist in the payment of the bills for long term care are that an individual must typically use up all but $2,000 of their cash and investments. One way to accomplish this is for the parents to make gifts to someone else, usually to their children. There were limitations on this practice in the past, which included a three-year "look-back" period, in which any gifts made within three years of the date that the individual tries to qualify for Medicaid assistance may be used to determine if they have met the threshold. Under the past laws, a government regulator could examine gifts made in the past three years and assess a penalty. (If a parent spends down the amount for their regular living or medical expenses, the rules set forth in this article do not apply).

Under the new rules, this "look-back" period has been extended to five years. The regulators now can examine any gifts made within that five-year period and then determine if a penalty should be assessed.

What kind of penalty can be assessed? The penalty is a number of months that Medicaid will not pay for the long-term care that is necessary, such as nursing home care. If a gift was made of $18,000 about a year prior to the date of application for Medicaid and assuming that nursing home care is about $6,000 per month, the penalty period would be a three-month window in which Medicaid would not cover the nursing home care. Under the old rules, the penalty began from the date that the gift was made. Under the new rules, however, the penalty begins on the date of application for Medicaid assistance. This application date may be at a time when your parents are already in a nursing home and your parents do not have the funds to pay for the nursing home care.

One way to handle the penalty period is to have the recipients of the gifts pay for the nursing home care for the penalty period. While no one can force the kids to return the money by paying the amount of the nursing home care, this may be the only way under current law to have a parent cared for in a nursing home setting. Alternatively, while waiting out the penalty period, the kids may have to care for mom and dad in their own home. If your parents had thought ahead, they may have purchased long term care insurance, which may help in offsetting the heavy cost of nursing home care.

In making later life decisions, it is always good to plan far ahead. Now, you just need to plan even further ahead in making the decisions that will be right for you and your family.

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