

The Five-Year Look-Back and Long-Term Care

It started out as a three-year look-back. In 2006 it became five years. What is a look-back and what does it mean is the focus of this article. The average cost of a nursing home in Pennsylvania is approximately \$9,000 a month. Few can afford that and those who can watch their life savings deplete quickly at a rate of over \$100,000 a year. Given an average nursing home stay of 2.5 years, one can go through a quarter of a million dollars in long-term care expenses.

Medicaid, also known as Medical Assistance or MA in Pennsylvania, is the largest payer of nursing home care in the commonwealth. This is because most people do not have the financial ability to pay for very long. It is at this point, when someone is out of money, that the five-year look-back comes into play and causes nightmares for families.

The five-year look-back is an audit period where any gifts the applicant for Medicaid has made during that period are presumed to be gifts made in contemplation of getting Medicaid benefits. Any gifts of any value, to the extent that total gifts in a calendar month are greater than \$500, will be aggregated together and a non-payment of Medicaid will commence when the applicant is down to only a couple

thousand dollars in assets. Some believe that gifts less than \$14,000 a year are permissible. However, the \$14,000 per person per year figure is a gift-tax law and has nothing to do with Medicaid.

The five-year look-back is essentially an audit period. Any transfer for less than fair market value made within the five years preceding the Medicaid application will cause a penalty. The caseworker examining the application will aggregate all transfers during this period. If there is an expenditure that cannot be clearly shown to be a payment for a service or item, it will be deemed a gift and added to the penalty amount. The legal phrase is "transfers for less than fair market value" although I may use the term "gift" in this article. Thus, if a father sells his \$25,000 car to his son for \$100, the father has made a transfer for less than fair market value in the amount of \$24,900.

Let's look at a specific example: Mary, age 86, gives her grandson \$20,000 for college tuition assistance. Three years later, she falls and fractures her hip. She goes into a nursing home and spends the remaining funds she has over the subsequent year. When Mary applies for Medicaid, the look-back shows that she made a \$20,000 gift to her grandson. The caseworker approves the application but with a two-month penalty beginning when Mary is effectively out of money. So, for the next two months the nursing home will not be paid by Medicaid, and Mary does not have the money to pay the bill. Question: who pays? The nursing home has a dilemma. Its likely course of action will be to pursue the grandson who was given the money. It may even sue the grandson. It's a big problem faced by many families.

So what can be done? The best bet is to get guidance and plan as early as possible. On a daily basis, we are helping people apply for Medicaid and use a variety of legal techniques to help extinguish the penalty as long as we are brought in early enough. Under the right circumstances, and with enough time to address the matter, we can often cure some, if not all, of the gifts, even though they fall inside the five-year look-back.

There are other legal proceedings as well. Medicaid appeals and Undue Hardship petitions are a few other methods that can be used to gain eligibility despite any gifts. They are not simple matters however. Your best bet is to create a plan well ahead of time with your lawyer to avoid the penalties and the dire consequences that can follow.

Nursing Home Worries?

Are You Worried about Losing Your Home or Life Savings to the Cost of a Nursing Home?

Are You Concerned About How to Pay for Your Loved One's Expensive Nursing Home Care Without Going Broke?

Do You Want to Avoid Placing Your Loved One in a Nursing Home?

Are you a Veteran and Interested in Possibly Receiving an extra \$2100 a Month?

Are you the Spouse of a Veteran and Interested in Possibly Receiving an Extra \$1100 a Month?

In Pennsylvania, the Average cost of a Nursing Home is over \$97,000 per year.

How Much Can You Afford? Are You Prepared? Call Zacharia & Brown



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