

Don't Confuse Federal Tax Law With Florida Medicaid Law

Florida Medicaid law is complex with constantly changing rules. Federal tax law is even more cryptic. It's difficult to understand each one separately. But if you confuse the two, it could be a costly mistake if you apply for Medicaid long-term care benefits.

Let's address federal tax law first. The annual gift tax exclusion allows you to give up to \$15,000 per year to as many people as you wish with no reduction in your lifetime unified estate and gift tax exemption (currently \$11.4 million per individual). For example, Mrs. Smith can give each of her three children \$15,000 this year without reducing her lifetime exemption. If she gives one child \$50,000 in a given year, \$35,000 (the excess over \$15,000) will be deducted from her \$11.4 million although no tax is due.

All of this is irrelevant for most of us whose estates fall far short of taxable levels. But what is relevant—and dangerous—is assuming those tax rules relate to Florida Medicaid gifting rules. They don't!

Under Florida Medicaid law, any gifts made to anyone within the 5-year lookback period prior to application are used to determine a penalty period. This is the number of months that benefits will be denied even if the applicant is qualified in all other respects. An example: let's say Mrs. Smith wants to reduce



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her assets to help establish Medicaid eligibility. Thinking that any gift of \$15,000 is exempt for Medicaid purposes, she gives each of her three children \$15,000. If she applies for Medicaid within 5 years of making those gifts, they will count against her and a penalty period will be imposed. During that time she will have to use her own funds to pay the nursing home. There is one bright spot for Mrs. Smith, though: our experienced elder law attorneys may be able to remedy her problem.

Please consult a Florida Bar

Certified Elder Law Attorney if you are worried about protecting your assets from nursing home costs, even if you have a loved one who is currently in a facility. Do not go it alone. We have helped families for over 25 years to obtain these valuable benefits.

Joseph S. Karp is a nationally certified and Florida Bar-certified elder law attorney (C.E.L.A.) specializing in the practice of Trusts, Estates and Elder Law.

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Read The Florida Elder Law and Estate Planning Blog at www.karplaw.blogspot.com.

Listen to Joe Karp and Anita Finley on Saturday, February 23 from 7:30-8:00 AM on WSB 740AM and WNN 1470AM and on our YouTube Channel: BoomerTimes Presents.

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