

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information with you.

Rules To Consider Prior To Making Gifts

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This week I'd like to tell you about a recent law change that affects seniors. The problem with this law is that the government forgot to tell you about it.

The State of Wisconsin issued a memorandum outlining their interpretation of the latest federal changes to Medicaid. On Feb. 8, 2006, the Deficit Reduction Act was signed into law by President Bush and it contains sweeping Medicaid changes for unwary seniors.

The most significant changes deal with the new restrictions on gifts made by seniors. The Deficit Reduction Act (DRA) was passed when the Republicans controlled both the House and the Senate. We are hoping that the Democrats, now in control of both the House and Senate, will undo this change. Most, if not all, seniors are unaware that any gift they make could come back to haunt them.

When it comes to making gifts to family and friends, how much can you give away? Many seniors think the answer is \$10,000 per person, per year. That is a gift tax rule and has nothing to do with Medicaid. Gifts over this amount result in a taxable gift. The \$10,000 amount was increased to \$11,000, and in January, 2006 was increased again to \$12,000 per person, per year. So, does that mean it's OK to give away \$12,000 to family and friends each year? For Medicaid purposes, the answer is no.

Before I get too far, you need to understand that these new rules apply only to those who face nursing home placement and are seeking the government to pay for their care under Title 19. Unfortunately, with many nursing homes charging over \$200 per day, many seniors will run out of money and need Title 19 coverage for their nursing home care.

The new rules say that if you made a gift within the last five years and need nursing home placement, a penalty period will be imposed and the penalty period will not begin until you are in a nursing home and have less than \$2,000 in assets. Here's an example:

Bob is 70 years old. He sold his home for \$400,000 on March 1, 2006, and moved into an elderly housing complex. Bob gave his two children \$100,000 each upon the sale of his home. On Dec. 1, 2006, Bob's health declined and went to Happy Trails Nursing Home, which charges \$200 per day.

The \$200,000 that Bob retained will be enough to pay for about 3 years of nursing home care, at which time he will have less than \$2,000 remaining. This will be the time that the penalty will commence for having gifted \$200,000 to his children. This means that the children will have to return the gifted money back to their father or he will face discharge from the nursing home for non-payment.

Under the rules that were in effect prior to Feb. 8, the children could have kept the \$200,000 and Bob would have been eligible for Title 19 after he spent the \$200,000 that he kept. This was known as a half-a-loaf, where seniors could give away about half of their assets and keep the other half to pay for the disqualification period for having given the other half away. This half-a-loaf strategy is no longer is a viable planning option.

Advance planning is now necessary to protect any of your assets in the event that you need nursing home placement. And by advance planning, I mean transferring assets out of your name at least five years before you need Title 19 coverage for nursing home care.

For the middle class, President Bush and the Republican-led Congress decided that if you need nursing home care you should be required to spend all of your assets on nursing home care and not be allowed to leave anything to your children. We are hoping that the new Democratic majority in the House and Senate will reverse this change.

**“Those Who Plan Ahead Win.
Those Who Don’t Plan Ahead Lose.”**

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

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