

# HELPING CLIENTS PLAN FOR THE GOLDEN YEARS



Wells County  
Community Center  
4-H Park, Bluffton  
Indiana  
May 22, 2013

May 13, 2013

[www.dhblaw.com](http://www.dhblaw.com)

# MEDICAID—SINGLE PERSON

- Countable resources less than \$1,500 as of the first day of each month
- Income goes to pay for nursing home care except for:
  - \$52.00 personal needs allowance
  - Cost of supplemental health insurance
  - Medicare Part D premium over \$37.22
  - Example:

Social Security	\$1,000
Pension	<u>250</u>
Total	\$1,250
Personal Needs	- 52
Supplemental Insurance	- 150
Medicare Part D (\$85.22-\$37.22)	<u>48</u>
Total	\$1,000

# ASSETS THAT DO NOT COUNT—SINGLE

- Proper prepaid funeral arrangements
- Income-producing property
- Vehicle used for medical care
- Home if certain persons live in the home

# MEDICAID—MARRIED COUPLES

- **MCCA**
  - Institutionalized Spouse
  - Community Spouse
- **Snapshot Date**
- **Different rules for assets and incomes**

# ASSETS THAT DO NOT COUNT—MARRIED

## ■ Exempt:

- Home
- Automobile
- Prepaid Funeral Arrangements
- Income-Producing Real Estate

## ■ Countable:

- Bank Accounts
- Investment Accounts
- Retirement Accounts
- Annuities
- Jointly Owned Non-Residential, Non-Income Producing Property

# INCOME RULES FOR MARRIED COUPLES

- Spouse at home is entitled to a minimum income of \$1,892, increasing to \$1,939 as of July 1, 2013
- Income allocation increase if excess shelter expenses
  - Mortgage/rent/independent living/assisted living
  - Real estate taxes
  - Homeowners' insurance
  - Utilities
- Name on Check Rule

# EXAMPLE

## HUSBAND

\$1,800 Social Security

700 Retirement

\$2,500

- 1,492 →

\$1,008

- 52 Personal Needs

- 130 Supplement Insurance

- 29 Part D premium (\$66.22-\$37.22)

\$ 797 Liability

## WIFE

\$ 400 Social Security

0 Retirement

\$ 400

+1,492

\$1,892

# MEDICAID WAIVER PROGRAM

- Medicaid covered services for individuals who meet the financial criteria for Medicaid eligibility and meet nursing home level of care.
- Spousal Impoverishment Rules apply for married couples
- Income limit of \$2,130
  - Miller Trust for excess income above \$2,130



# LOOKBACK AND PENALTY PERIOD

- **Lookback: 5 years for transfers after 11/1/09**
- **Penalty Period: No limit if you file for Medicaid within the lookback period**



# DATE OF GIFT: PRE NOVEMBER 1, 2009

- Gifts do not have to be disclosed unless made from a trust
- Penalty period started the month after the gift was made so a gift from trust of less than \$200,000 will not create a problem



# POST NOVEMBER 1, 2009, GIFTS --Houston We Have A Problem--

## Compute The Penalty...

- A.** Add all “nonexempt transfers” made after October 31, 2009, together (will be full five years as of November 1, 2014)
- B.** Subtract gifts of \$1,200 per year, total, to family members
- C.** Divide total by \$5,353 (current average cost of nursing home care, increases to \$5,549 July 1, 2013) to determine penalty period
- D.** Round up fractional amounts 2 decimal places, then multiply fractional amount by 30.42 and round

# POST NOVEMBER 1, 2009, GIFTS --Houston We Have A Problem--

## Start The Penalty...

- A.** Mom must be in nursing home or approved for Medicaid Waiver;
- B.** Mom must be eligible for Medicaid—non-exempt resources less than \$1,500;
- C.** Mom must apply for Medicaid;
- D.** Mom must get approved for Medicaid; except for the gift;
- E.** Penalty period does not stop once started.

# POST NOVEMBER 1, 2009, GIFTS --Houston We Have A Problem--

## Example...

### A. Mom gifts:

- I. \$10,000 to son on 11/1/09
- II. \$10,000 to son on 11/1/10
- III. \$10,000 to son on 11/1/11
- IV. \$10,000 to son on 11/1/12

**B.** Total gift \$40,000 – (\$1,200 × 4) = \$35,200

**C.**  $\$35,200 \div 5,353 = 6.575$  Mom ineligible for Medicaid for nursing home care or waiver services for 6 months, and

**D.**  $.58 \times 30.42 = 17.64 = 18$  days

# POST NOVEMBER 1, 2009, GIFTS --Houston We Have A Problem--

## Exempt Transfers

- A.** Purpose of gift is for a reason other than to qualify for Medicaid
- B.** Gifts to disabled children
- C.** The home (certain circumstances)
- D.** Return of gift
- E.** Funeral trusts for family members
- F.** Household goods worth up to \$2,000 total

# POST NOVEMBER 1, 2009, GIFTS --Houston We Have A Problem--

## Traps for Estate Planners

- A.** Annuities—name the State of Indiana as beneficiary
- B.** Promissory notes
- C.** Family loan
- D.** Improper purchase of life estate in family home

# GOT IT?

$$x = \frac{-b \pm \sqrt{b^2 - 4ac}}{2a}$$

$$(1 + x)^n = 1 + \frac{nx}{1!} + \frac{n(n-1)x^2}{2!} + \dots (x + a)^n$$

$$= \sum_{k=0}^n \binom{n}{k} x^k a^{n-k}$$



# THE END QUESTIONS?

