

Significant Changes on the Horizon for the ALTCS Program

March 2006

On February 8, 2006, President Bush signed the Deficit Reduction Act of 2005 ("DRA"). While the DRA affects many programs, for purposes of this newsletter, we will only discuss those that relate to the state Medicaid (ALTCS) program. Also, at this time, we can only tell you what the law says. We do not know when the state of Arizona will start to enforce the rules or exactly how they will be enforced in Arizona. We suspect that the State will enforce the new laws for any and all ALTCS applications as soon as they are administratively able to do so. Most of the provisions of the DRA are effective for applications and activities done on or after February 8, 2006. This newsletter only highlights some of the changes.

Lengthening the Look Back Period . The look back period has been changed to a period of 60 months (5 years) for all financial transactions. The look back period is like the rear view mirror on your car. It is the time period within which ALTCS is able to review financial transactions that occurred prior to the filing of the application. Financial transactions that occur outside of the look back period are not part of the application process. The current look back period is a two-tiered approach. For example, under the old rules if you applied for ALTCS benefits on April 1, 2005, the ALTCS office was entitled to ask about all transfers that occurred to individuals starting on April 1, 2002 and back to April 1, 2000 for transfer involving trusts. The new rules allow a review of five (5) years of gifts or other transfers for less than fair market value.

Beginning Date for Period of Ineligibility . This is by far the most difficult area to explain. Under the current rules, if you transferred money or other property to someone for less than fair market value, you could simply wait until the "period of ineligibility had expired." For example, a gift of \$11,000 to your daughter on January 1, 2005 meant that you could not be

The new rules require that for a non-married person, the state must be named as the remainder beneficiary in the first position for the total amount of assistance paid on behalf of that individual. For a married person, the spouse that does not need ALTCS benefits can be named as the annuitant or primary beneficiary (or a minor or disabled child can be so named), but the state must be named as the second beneficiary. In other words, if an annuity (single premium immediate annuity) with a term of 10 years was purchased and the "well spouse" lived for 8 years, he/she would have received payments for those 8 years. In year 9, the state would receive payments until the annuity expired or the state was paid back for all of the services it provided. However, remember, there are no interest payments that need to be paid to the state and the pay back is only at the discounted rate paid by the State.

Disqualification for Significant Home Value . A person who has equity in a home in excess of \$500,000 (or up to \$750,000 as set by the State) will not be eligible for benefits. A married person whose spouse, minor child or disabled child is residing in the home is exempt from this requirement. The person can use a reverse mortgage or home equity loan to reduce the person's total equity interest in the home.

This article provides a brief overview of the new changes, but does not cover all of the changes.

Making the decision about purchasing any type of investment is important. We do not provide financial, tax or investment advice. If you would like such advice, we recommend you seek the advice of a professional who can provide such advice and information.

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eligible for ALTCS benefits until March 1, 2005. Under the new rules, the penalty period does not start to run until the person is financially and medically eligible for care. Also, multiple transfers in more than one month are all added together, regardless of how much was transferred. Under the old rules you were entitled to transfer less than the average cost of care each month without it having any effect on eligibility.

Treatment of Annuities. Under the current rules and the new rules, only annuities that meet certain requirements are considered to be “exempt” assets for ALTCS purposes. In general, the annuity must be irrevocable, non-assignable, actuarially sound, pays out the same or substantially the same amount during its term, with no deferral or balloon payment, and is paying income to the annuitant currently.

planning, conservatorships and guardianships.

The Estate Planning and Elder Law

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