LEGAL EASE

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Do many seniors actually spend down to apply for Medicaid?

There is a perception, at least among those in our government, that many seniors are transferring assets in order to achieve Medicaid eligibility. This perception appears to have been the precipitating factor behind the passage of the Deficit Reduction Act of 2005 which changed the rules for the "look back" period and for eligibility upon transfer of assets for less than fair consideration. Many studies have shown that there are not significant numbers of seniors spending down their assets, including a new study reported in the "for attorneys" section of Elder Law Answers (www.elderlawanswers.com).

The latest study is a national survey of 21,853 seniors over the age of 50 years done by RTI International for the SCAN Foundation. Of the participants, surveyed during the time period of 1996 to 2008, only ten percent who were not already qualified for Medicaid spent down assets in order to qualify for Medicaid. Additionally, 46.1 percent of Medicaid-eligible seniors never used any Medicaid long term care monies at all, even if they met the financial qualifications. The conclusion was that those beneficiaries who had spent down their assets and qualified for Medicaid were not in good financial shape to begin with. This does not match the perception of members of the U.S. Congress who believed that millionaires were giving money away to qualify for Medicaid. The study indicated that the median total wealth, exclusive of a house and retirement accounts, was $33,000 for those who spent down as opposed to $135,000 in the non-spend down group. Even the median net value of house equity in the non-spend down group was significantly higher ($68,000) than the "spend down" group ($17,000).

Medicaid is a joint federal-state program for which people who meet certain income and asset requirements can qualify for assistance with medical care costs, particularly long term care. It is an expensive program, and there are always proposals to help reduce costs. Spending down is the process of reaching the required asset limit. Gifting is an obvious way most people see to spend down, but is it not an acceptable method if done within five years of entering long term care and applying for Medicaid.

The study also confirmed that clear majority of persons (46.9 percent) who transferred money to children or other family never actually qualified for Medicaid since they did not apply. About 25 percent who eventually spent down gave their children $500 or more during the survey period. Note however, that the survey covers a time period before the new eligibility requirements for gifts came into full force and effect. In 2013, it is important to be careful with any gifting done within five years prior to a potential nursing home admission since gifts made in this time period will result in a potential period of ineligibility for Medicaid at the point that all of the spend down would have been accomplished.

An obvious issue with this particular study has been pointed out, in addition to the repercussions due to the change in the law, is that the youngest participants were only 50 years old and the study followed them for 10 to 12 years. That would mean that the youngest participants were only in their 60's in which case had not yet begun to accumulate large long term medical costs in most cases. Nevertheless, the study highlights the fact that those with more assets are less likely to spend down than those with less assets and income.