

# Planning Partners Press<sup>TM</sup>

KETRA A. MYTICH, LTD.

Volume 8, Issue 14

7/19/2006

## New Medicaid Law Dramatically Changes Long-Term Care Planning

Part 8 of 10

So far in this series, we have discussed eight changes to Medicaid law that have been brought about by the enactment of the Deficit Reduction Act of 2005:

- Changes the “look-back” period to five years for all transfers
- Postpones the penalty start date for transfers within the five-year look-back
- Eliminates the “rounding-down” technique for monthly transfers
- Restricts the use of annuities
- Limits the value of Medicaid Applicant’s homestead
- Requires use of the income-first rule in providing support to the Community Spouse
- Includes new rules on the treatment of the “buy-in” at Continuing Care Retirement Communities
- Restricts the use of notes, loans, and mortgages

The next change is that the Act:

### 9. Permits the purchase of a life estate in real property

This change to the federal law is another area that may actually increase planning opportunities in many states. A life estate is the right to live in a home and/or enjoy the benefits of that property for the rest of one’s life, with the remainder interest passing to a third party – typically a family member. Although the old law contained provisions for the valuation of life estates in real property, it was somewhat ambiguous as to how the purchase of life estates would be treated for Medicaid eligibility. As a result of the ambiguity, states implemented the rules regarding life estates very differently.

In some states, for example, you were able to exempt the value of a life estate in real property for Medicaid purposes, as long as the Medicaid applicant owned the underlying property in fee simple BEFORE they gave away the remainder of the property, retaining

the life estate interest. However, if the individual attempted to buy a life estate in their child’s home (or the home of any other person), that purchase, regardless of its actuarial soundness, would be deemed a transfer of assets with a corresponding penalty period for Medicaid purposes.

The new federal law, however, now specifically addresses the treatment of life estate interests in real property that are purchased in the home of another individual.

Under the new law, the Medicaid applicant can purchase a life estate in a family member’s home and that purchase will NOT be considered a gift for Medicaid purposes when two criteria are met: (1) the purchase of the life estate is actuarially sound (does not exceed the life expectancy of the Medicaid applicant); and (2) the Medicaid applicant actually lives in the home for at least one year after the date of purchase.

## KETRA A. MYTICH, LTD.

*Please look for further seminar dates, including an upcoming seminar on IRA Beneficiary Designations. We truly appreciate the opportunity to enhance your client relationships.*



**KETRA A. MYTICH LTD.**  
6809 N. KNOXVILLE AVE.  
SUITE B.  
PEORIA, IL 61614-2866  
Phone (309)673-1805

**We will be announcing the June dates for educational series at the law office of Ketra A. Mytich, Ltd. in our June issue.**