

Texas Elder Law FaxLetter

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A FREE BUSINESS AND LEGAL UPDATE OF CURRENT EVENTS AFFECTING THE ELDERLY ♦ OCTOBER 2005 EDITION

NATIONAL NOTES

Medicaid Commission Makes First Recommendations

The newly formed Medicaid Commission recommended four changes: (1) asset transfers affecting eligibility; (2) cost sharing; (3) prescription drug spending; and (4) provider taxes to achieve the target of saving up to \$10 billion in Medicaid over the next five years.

The commission is advising the Health and Human Services Secretary on ways to modernize Medicaid and create savings in the program. Two options were recommended to delay Medicaid eligibility for individuals who had transferred assets for less than fair market value. First, the lookback period, during which transfers could disqualify applicants, would be extended from three to five years, with anticipated savings of about \$100 million over five years. Second, the disqualification period would begin on the date of application rather than the date of the transfer saving about \$1.4 billion during that period.



Requiring Medicaid beneficiaries above the federal poverty level to contribute more to the cost of prescription drugs not on the state's preferred list is expected to save about \$2 billion over five years.

States would have the authority to waive the co-payment in cases of true hardship or where failure to take a drug could have serious adverse effects on the beneficiary's health. The final recommendation was to prohibit states from treating taxes paid by managed care organizations differently from those paid by other providers, using illusory taxes to increase federal reimbursement. The estimated savings vary between \$399 million and \$1.2 billion.

Source: *Medicaid Commission, 9-1-05*

Full Story:

<http://www.cms.hhs.gov/faca/mc/090105rpt.pdf>

OF INTEREST

Katrina Delays Implementation of New Transfer Penalty Calculation Rules

As reported in the August issue of the *Texas Elder Law Faxletter*, the Texas Health and Human Services Commission announced that there will be partial month penalties for transfers made for less than fair market value calculated in an amount of days of Medicaid ineligibility. As indicated in the August issue of the *Texas Elder Law Faxletter*, it has been a common strategy to make monthly gifts (especially on smaller estates) to reduce assets more quickly to be eligible for long-term care Medicaid because the current rules do not have partial month penalties and one can take advantage of the "round down" (see the August issue for further explanation at www.dallaselderlawyer.com).

The new transfer penalty calculation (which divides the uncompensated transfer by \$117.08 to determine the number of days of ineligibility from the month of the transfer) was supposed to be effective for Medicaid applications made on or after October 1, 2005. However, due to the volume of demands on the Texas Health and Human Services Commission from Hurricane Katrina evacuees, this new rule has been delayed until November 1, 2005.

Since there is no "grandfathering" of the old rules, many potential applicants may be rushing to get their application in prior to November 1, 2005 to take advantage of the more favorable existing rules.

MEDI-MINUTES

2006 Medicare Deductibles, Co-Pays & Premiums Announced

The U. S. Centers for Medicare & Medicaid Services has announced the following 2006 Medicare deductibles,

premiums, and co-pay amounts as published in the *Federal Register*:

Medicare Hospital Insurance (Part A)

- Deductible - \$952 per Benefit Period (\$912 in 2005)
- Coinsurance - \$238 a day for the 61st through the 90th day (\$228), per Benefit Period; \$476 a day for each "nonrenewable, lifetime reserve day" (\$456)
- Skilled Nursing Facility Coinsurance - \$119 a day for the 21st through the 100th day per Benefit Period (\$114)
- Hospital Insurance Premium - \$393 (\$375 in 2005)
- Reduced Hospital Insurance Premium - \$216 (\$206)

Medicare Medical Insurance (Part B)

- Deductible - \$124 per year (\$110 in 2005)
- Monthly Premium - \$88.50 (\$78.20)

OUT & ABOUT

Michael B. Cohen will be speaking on "*Medicaid and Medicaid Planning in Texas - Understanding and Working with Institutional Medicaid for the Elderly in an Era of Constantly Shrinking Benefits*" on October 21, 2005 in Waco, Texas and on November 1, 2005 in Dallas, Texas at full day seminars sponsored by Medical Educational Services. Continuing education credits are given to attorneys, social workers, nurses, nursing home administrators, CPAs, CFPs, geriatric care managers, etc. For more information or to register, contact MEDS at (715) 836-9770 or www.meds-pdn.com.

Michael B. Cohen will also be speaking to the Collin County Bar Association Estate Planning Section on "*Medicaid Planning, The Laws, They Are A-Changin'*" on November 10.