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## ELDER LAW MINUTE

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What do you do if you are cash poor and in a nursing home but you own two homes? Prior to February 1, 2007, you could rent out the second home and it would become excluded as property essential to self support. Since that date, only \$6,000 can be excluded as rental property.

In today's real estate market you may not be able to sell the property at a reasonable price for many months. If that property happens to be on a lake front lot at one of North Georgia's dried up lakes it may take several years to be able to liquidate the property. How do you pay the nursing home in the meantime?

The Medicaid Manual provides a solution to this predicament. Section 2304-2 instructs the Department of Family and Children Services (DFCS) to exclude property for any month in which the Medicaid applicant is making a *bona fide* effort to sell the property.

The applicant can either list the property for sale with a realtor. Place a *For Sale* sign on the property. Or advertise the sale in the newspaper. The listing price can be no more than current market value which is the value determined for county property tax purposes. However, the applicant can use a higher value if he gets two estimates from knowledgeable sources such as real estate professionals.

The property remains excluded for Medicaid purposes as long as the applicant does not receive an offer greater than or equal to two-thirds of the value of the property.

In today's soft real estate market, I find this obscure technical rule to be very helpful. If I can be of assistance to you or any of your clients, please do not hesitate to contact me.

*Member of the National Academy of Elder Law Attorneys*