

IRA M. LEFF

AND ASSOCIATES

ATTORNEYS AT LAW

1800 CENTURY PLACE, N.E.
SUITE 100
ATLANTA, GEORGIA 30345

IRA M. LEFF

FACSIMILE: (404) 634-4300

DIRECT DIAL: (404) 633-1801

May 8, 2008

ELDER LAW MINUTE

Medicaid in Georgia is governed primarily by the OFI Policy Manual, Volume II. The Manual is updated, corrected and revised four or five times per year making it a challenge to keep up to date with the rules and regulations. On May 1, 2008, the 30th amendment to the current Manual was released. MT 30 made several technical corrections but it also contained some substantive changes to policy.

For example, Sections 2324 and 2399 were amended to indicate that tax refunds no longer count as income but do count as resources the month following receipt. In the past, tax refunds generally counted as income and had to be paid to the nursing home.

MT 30 also updated two key financial limits. The average private pay billing rate at Georgia nursing homes is used to calculate the length of a transfer penalty if an applicant applies for assistance within five years of making a gift. The rate increased effective April 1, 2008, from \$4,358.57 to \$4,614.90. That means that nursing homes went up in cost by 5.9 percent last year. It also means that if you transferred assets and are about to apply for Medicaid, your penalty will be less than you originally anticipated.

A gift of \$100,000 prior to April 1, 2008, used to result in a 22.94 month period of ineligibility. But as of April 1, 2008, the period is now 21.67 months. This 1.27 month difference could result in a savings of \$7,620 if you are in a \$6,000 per month nursing home.

The other key figure that changed was the dependent family member need standard. It increased from \$1,712 to \$1,770 per month. This is the amount of income that can be diverted to certain family members of the Medicaid recipient including minor and dependent children, and dependent parents and siblings. Diverting income to these individuals reduces what the recipient is required to pay to the nursing home.

Several of my readers have asked whether the 2008 Tax Stimulus Payments will count as income or assets for Medicaid recipients. They will not count as income and will not count as resources for three months. That means that you have three months to enjoy the money and spend it before it counts toward your \$2,000 resource limit.

The bottom line is that in order to practice in the Medicaid area, you need to stay up to date. The Manual is available on line at WWW.ODIS.DHR.STATE.GA.US/3000 which makes that task considerably easier to accomplish.

Member of the National Academy of Elder Law Attorneys