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## ELDER LAW MINUTE

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The last few weeks we have been commiserating about how unconstitutional, illegal, and unfair it is for the Georgia Estate Recovery Department ("ER") to seek recovery from property in which the Medicaid Applicant/Recipient ("A/R") had a lifetime interest.

Craig Bonnell of Rincon, Georgia, proposed throwing out the life estate tables found in MEDICAID MANUAL § 2322 because they do not appear to be sound. He compared them to the tables used by the IRS and found huge deviations. I am delighted to report that this approach was successful. The ER Department allowed Craig's client to use the IRS tables and in so doing agreed that his client's life estate interest in property was worth less than \$25,000, and therefore was exempt from recovery.

I have a client in Greene County, Georgia who held a life estate in property worth over \$300,000. Two days before she died, her agent conveyed the life estate interest to one of her children. When ER asks if the estate is worth less than \$25,000, we will say yes.

As you know, the ER regulations say that *transfers of real or personal property, on or after the look-back dates defined in 42 U.S.C. § 1396p, by a Member of such aid, or by their spouse, without adequate consideration are voidable and may be set aside by an action in court.* DCH Regs. 111-3-8-.04(14). I will let you know if ER challenges the gift.

I have another client in Gwinnett County who died owning a homeplace which the county appraised at \$119,300. We are attempting to obtain two appraisals reflecting the current economic reality with regard to real estate in Snellville. If the appraisals come in under \$65,000, then A/R will have less than a \$25,000 estate after taking into account all of her debt.

As you can see, Estate Recovery is becoming a major practice area for Elder Law Attorneys. Let's continue to share our ideas in an effort to serve all of our clients as well as possible.

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