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CONTROVERSIAL CHANGES TO MEDICAID TOOK EFFECT AUGUST 1, 2006.

New laws intended to severely limit access to Medicaid went into effect on August 1, 2006. The legislation will attempt to force those who suffer from chronic illness to spend their entire life savings before Medicaid, the only program that pays for long-term care, steps in.

The controversial provisions were enacted through the Federal Deficit Reduction Act of 2005. The new rules expand the "look back period" from 3 to 5 years for transfers of assets prior to a Medicaid application. New York's seniors and disabled persons will bear the increased burden of providing financial documentation for 5 years with their Medicaid applications. It is not clear what will happen if financial institutions do not retain a customer's monthly statements (including deposit slips and cancelled checks) for 5 years.

More devastating and immediate is the way the "penalty period" (the number of months of ineligibility for Medicaid.) will now be imposed. The new rules run the penalty not from the date an asset was transferred (as current rules do) but rather from the date an applicant is already in a nursing home, has spent-down to \$4,150.00 in total assets, and files a Medicaid application. In Central New York the Medicaid penalty generated by any transfer of assets within the "look back" period is one month for every \$6,232.00 gifted, which will now begin to penalize an applicant only after all other assets are spent. For transfers made prior to February 8, 2006, the penalty period will still commence on the first day of the month following the month of transfer.

Given these changes it is more important than ever that consumers and providers seek the guidance of experienced elder law attorneys.