Knox McLaughlin Gornall & Sennett, P.C.
Erie • Pittsburgh • Jamestown, NY
814-459-2800 • www.kmgslaw.com

Medicaid Eligibility: Can I Gift Cash To My Children?

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How the IRS Annual Exclusion Affects Medicaid

What Is the Gift Tax?

A gift occurs when a person, or the donor, gives something of value to another person, or the donee, without receiving market value payment in return. This applies to any property including cash, real estate or personal property. By federal regulation, the Internal Revenue Service (IRS) requires that a gift tax be paid by the donor of any gifts the donor gives. The gift tax rate is between 18% and 40% based on the amount gifted.

The IRS has set up two exemptions allowing donors to avoid paying the gift tax. The first is the **lifetime exclusion** of $11.7 million (or $23.4 million for a married couple) that each donor can give before gift tax is due. For the vast majority of donors, a gift tax will never have to be paid, as this lifetime exemption is not reached.

The second exemption is the **annual gift tax exemption**, which allows donors to gift $15,000 (or $30,000 for married couple using gift splitting) to any person during the year. There is no limit of how many people can receive $15,000 from the donor. As long as the gift does not exceed $15,000 to a single donee, a gift tax return is not necessary, and the lifetime exemption is not reduced.

How does this concern Medicaid Eligibility?

Pennsylvania has determined that any transfer or cumulative transfers within sixty months (or five years) of the Medicaid application's date is examined before approval. The Department of Human Services (DHS) analyzes any month's transfers that exceed a total of $500. This can be through one transfer or multiple transfers that add up to over $500 during the month. If a month is found to have over $500 in transfers, DHS will assume the transfers were done in order to qualify for Medicaid. It is up to the applicant to prove the transfers were made for market value and were not gifts.

The previous paragraph also applies to the annual gift tax exemption.

?Many people make the incorrect assumption that the $15,000 annual exclusion avoids the Medicaid lookback period; it does not.

If a donor gifts $15,000 to his two sons and applies for Medicaid two years later, the $30,000 total counts as a gift and creates an ineligibility period for the donor's Medicaid eligibility. The donor privately pays for the ineligibility period out of his own pocket or through the purchase of a Medicaid Compliant Annuity.

I can give money to my church or favorite charity, right?

Sadly, DHS will still consider donations to any nonprofit as transfers. If the amount is included in a monthly expenditure that does not exceed $500, though, the donation will not trigger an ineligibility period.

How does this affect my Medical Assistance eligibility?

For every $11,099.04 that an applicant gifted away in the previous five (5) years, DHS will penalize the applicant for one month of long-term care costs. The $11,099.04 figure represents the average monthly cost of a nursing home in Pennsylvania in 2021. For every month that the applicant is penalized, the applicant will be required to privately pay for his/her care. At the end of the penalization period, the applicant will be eligible for Medical Assistance (Medicaid) to pay for his/her needs.

Example

A man who is entering a nursing home has gifted away $100,000 to his children and various charities. The man did not receive property or services in return for this money. DHS will see the $100,000 gift and assess a penalty period during which the man will be ineligible for Medical Assistance coverage. The ineligibility period is calculated by the amount of gifts divided by the average monthly cost of a nursing home. Here, the man will be ineligible for nine months ($100,000/$11,099.04). For the next nine months, the man will have to privately pay for his long-term care. Medical Assistance (Medicaid) will begin to pay for the man's care in the tenth month.

See also: What is Medicaid?,How Do I Qualify for Medicaid?, Transferring Assets: In Trust or to Children?, Look-Back Period vs. Period of Ineligibility, and What Transfers are Exempt from the Medicaid Transfer Penalty?

A more detailed discussion on Medicaid can be found here: Demystifying Medicaid Planning

If you have questions about Medicaid eligibility or have other Elder Law or Estate Planning concerns, please contact one of our Elder Law Attorneys or call 814-459-2800.

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