



David E. Inabinett

BRINKLEY-WALSER, PLLC PRESENTS

YOU AND THE LAW

TIS BETTER TO GIVE THAN RECEIVE
UNLESS YOU LATER NEED NURSING HOME CARE

In 2006, President Bush signed into law the Deficit Reduction Act of 2005 (DRA). Under pre-DRA rules, most transfers of assets were subject to a 3-year look-back period for Medicaid eligibility purposes. In 2007 North Carolina implemented the same DRA rules. This means that gifts made within 5 years of possibly needing to apply for Medicaid to pay for nursing care or in-home care through Medicaid's Community Alternatives Program (CAP) could render an individual ineligible for those benefits.

Under pre-DRA, your home site and all contiguous property was non-countable for purposes of Medicaid qualification. Now, DRA imposes a \$500,000 cap on the value of an exempt home site when an owner is residing in a nursing home. Whereas the "family farm" could always be deemed exempt so long as the residence and all land was joined together regardless of valuation is no longer the case. DRA will force Medicaid applicants to sell sufficient amounts of land in order to meet the \$500,000 threshold or tap into the home's equity (through a home equity line or reverse mortgage) to leverage the value of the property in order to meet the new cap.

DRA has made estate and long-term care planning more complex. As if planning ahead was not already advisable, it is now a must if individuals wish to protect assets from being excessively depleted in order to qualify for Medicaid to assist with the cost of long-term care.

There is no question that estate and asset preservation planning must be done well in advance of the circumstances which might force an individual to seek Medicaid. A well thought out plan for the future will make the difference in what is available to assist you when the time comes that you may need long term care.

The author, David Inabinett, is a practicing partner at Brinkley-Walser, a local Lexington firm that has been serving Davidson County for over 120 years. Inabinett has 12 years of experience and focuses on elder care issues for his clients.

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