

## Medicaid planning for the single person

A column published in the Boston Herald on October 21, 2004, discusses the need for single people to make financial plans as they near the need for Medicaid assistance.

The columnist, Ronald H. Surabian, a CPA and attorney, also points out how the Medicaid program discriminates against single people. Here is what he had to say.

I'll be perfectly honest, there isn't a lot that can be done to preserve the assets of a single person who needs imminent nursing home care. This is in contrast to the multiple options available to married couples to achieve immediate Medicaid eligibility.

Why is it so hard for a single person? I guess the laws, when it comes to couples, are to give additional protection to a spouse, when one of them needs nursing home care. Take the asset limit for a married couple as an example. A married couple is allowed to keep up to \$92,760 of their assets, and is adjusted annually upwards for inflation.

How much can a single person keep? The answer is a measly \$2,000, and don't ask how often it is adjusted for inflation, because it isn't.

OK, so now you know that a single person may not have more than \$2,000 to qualify for Medicaid. Most single people have more than \$2,000, so to qualify for Medicaid, they need to do something with the excess.

The nursing home would prefer that you simply pay them until you have less than \$2,000. This is an acceptable method of spending down, but not the best idea if you have family that you wanted to leave some of your assets to upon your death.

The most common planning technique for a single person who is either in a nursing home or about to go to one is called the "half-a-loaf." This is a method whereby for

every dollar you give away, you need to keep one dollar to pay for the disqualification period for having made the gift.

If the math comes out right, when the person is down to less than \$2,000, the disqualification period will have ended and the person will go onto Medicaid (MassHealth). The gifts that have been made will be able to be kept by the family with no income tax implications.

Gov. Mitt Romney is not too happy that a family can keep one half of the assets of someone who needs nursing

home care. He would prefer that you give all of your money to the nursing home, and for that reason, on Aug. 28, 2003 he filed for the Transfer of Asset Waiver, hereafter called the Waiver.

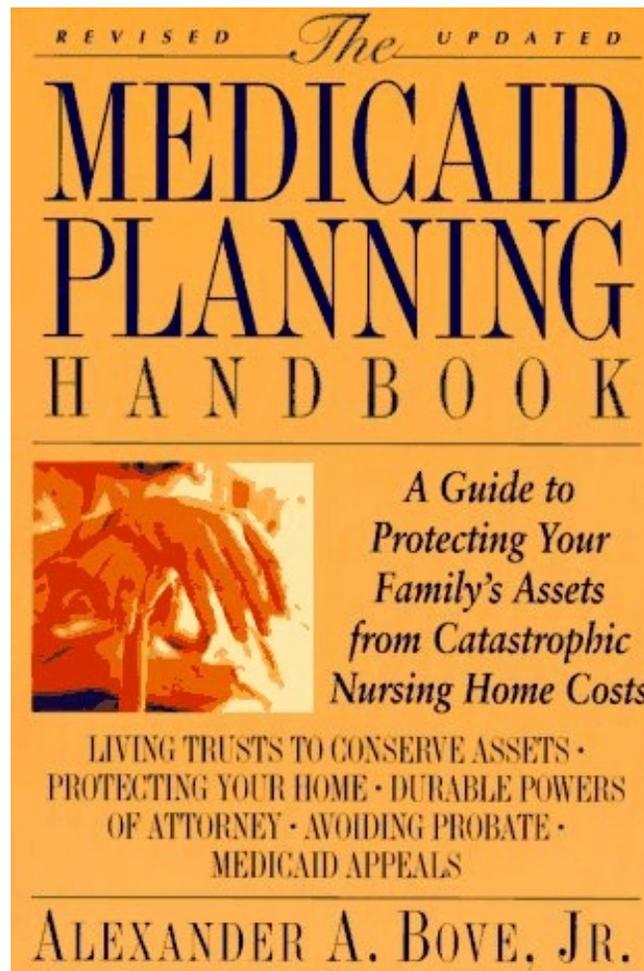
This Waiver is a request, by Romney, to the Center for Medicare and Medicaid - the federal government - asking that he be allowed to make up his own rules, instead of using the federal Medicaid rules.

Under Romney's proposed rules, the look-back period would be extended from three years to five years unless a trust was used then the period would be extended from five years to 10 years. Any gifts made during these extended look-back periods would have to be returned.

What happens if the money is no longer available? What happens if your grandson paid his college tuition with the money? I think this rule is completely unworkable and perhaps that is why the federal government has not

granted his request. The fact that it is still pending has a chilling effect on people making charitable gifts and gifts to families and Romney likes that.

My personal feeling is that we should ignore this requested change and deal with the law as it stands today, permitting gifting as an allowable method of spending down your assets for Medicaid (MassHealth).



The half-a-loaf approach works well for cash type assets and also works for real estate. Many times, if there is an equal amount of cash and real estate, we may recommend gifting the real estate first.



The primary reason for this is that Medicaid (MassHealth) allows us to use the assessed value of the real estate to determine how much property has been gifted and usually, the assessed value is less than the actual market value.

So, let's say your house is assessed for \$220,000, you have cash of \$220,000, you are 72-years-old and

have just landed in the nursing home. Let's further assume that your house is actually worth \$300,000. What should you do?

One possible solution would be to start by gifting the home to your children, while retaining a life estate. A life estate is a transfer of your property, usually to your children, but it can be to anyone. You retain the right to live in the property for the rest of your life. You are making a gift of the remainder interest and by doing this you are able to reduce the disqualification period.

This is because you are not giving away your entire interest in the property, you are keeping the right to live in it for the rest of your life. By doing this you will have protected the home and created a disqualification period of only 13 months, versus a 30 month disqualification period if you had transferred the entire property outright to the children.

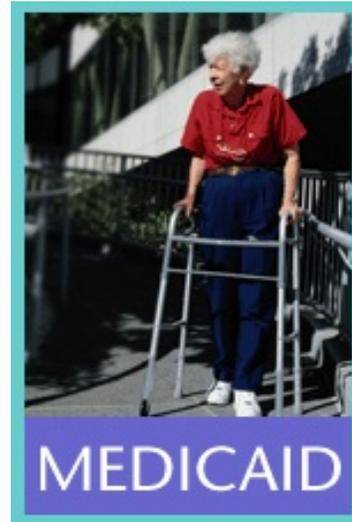
This means that you will have protected the home, and because the life estate reduces the disqualification period, you will also be able to save about \$70,000 of the cash. This isn't too bad a result considering that no planning had been done in advance.

For some single individuals whose main asset is their home, doing nothing is sometimes the best route to take. If you indicate on your application that you intend to return home, your home will be non-countable.

Although it will be non-countable for purposes of determining eligibility, a lien will be placed upon the home for the costs of your nursing home care that are paid by the commonwealth. Because the commonwealth pays far less than a private individual does, that means the lien grows slower than someone who is private paying.

For those who are in extremely poor health and not expected to live long, it might make sense to allow the commonwealth to pay for your nursing home care at their discounted rate rather than sell the house and pay at the private pay rate. The private pay rate might be close to twice as much as the commonwealth is paying. This is usually a tough choice for a family because to do this you are betting on a loved one to die sooner rather than later. Most families do not want to make this bet.

One final word that applies to all seniors is to please make sure that you have a valid durable power of attorney. If you have done one in the past, make sure that the people you appointed are still alive. If it is old, consider updating it.



Some banks have a real problem letting people use a power of attorney that they consider being stale. If you do not have an adequate durable power of attorney and become incompetent, then your family will have to get a guardian appointed and get court approval for any transfer and preservation of your assets.

This can be a time consuming and costly process. No gifting can be done until a guardian is appointed and the court approves the transfer of the ward's assets.

*Ronald H. Surabian is a CPA and attorney who works at the Elder Law Center in Saugus. He also holds a Masters in Accounting and a Masters in Tax Law. He currently serves on the Board of Directors of the Massachusetts Chapter of the National Academy of Elder Law Attorneys. He can be reached at [soccercoach@verizon.net](mailto:soccercoach@verizon.net).*

