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Massive Changes in Medicaid Law!



President Bush signed the Deficit Reduction Act of 2005 (“DRA 2005”) into law on February 8, 2006, which included a sweeping overhaul of the Medicaid laws. Although there’s a typographical error that’s currently being litigated in court, it’s widely anticipated that the law will stand. Here’s a summation of its most important points:

HOME. The new law limits the equity of an applicant’s home to \$500,000, but permits states to increase the limit to as much as \$750,000. (There are exceptions.)

ANNUITY. Balloon annuities are no longer allowed under the new law. For an annuity to be eligible under the new law, it must name the state as the irrevocable beneficiary. (There are exceptions.)

THE LOOK-BACK PERIOD. The new law requires that all applicants provide five years of financial records regardless of whether it was transferred. So don’t shred your records too early!

LIFE ESTATE. The new law permits individuals to purchase a life estate in the home of another individual (presumably a family member), who must reside in the home for at least one year after the purchase.

THE TRANSFER PENALTY PERIOD. Under the new law, the transfer penalty period doesn’t begin to run until the Medicaid applicant “otherwise qualifies but for the implementation of a transfer penalty.” The penalty will not begin until the applicant is residing in a nursing home and depletes his assets to the qualifying levels.

ROUND DOWN. The new law prohibits rounding down and provides that all transfers that constitute less than one-month’s penalty over any 12-month period be aggregated.

COMMUNITY-BASED MEDICAID. The new law applies all asset transfer rules and penalties currently used for institutionalized care to those applying for home-based Medicaid services.

INCOME-FIRST RULE. All states must use the income-first rule, which requires Medicaid to include the income of the institutionalized spouse with the community spouse in determining the community spouse’s income eligibility.

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KEYTLAW, L.L.C.

2415 East Camelback Road, Suite 700 Phoenix, AZ 85016
Phone 602-906-4953 Fax 602-906-1081 www.keytlaw.com

Pay Attention to Retirement Returns



Eliot Spitzer, the New York State Attorney General, has filed an interesting case against H&R Block Financial Advisors, Inc. In a lawsuit for fraudulent marketing of IRAs, he claims that H&R Block violated multiple laws through the marketing of IRA accounts to their tax clients.

FILLING A VOID

Back in 1955, the Internal Revenue Service discontinued its practice of preparing free tax returns. Henry Block saw an entrepreneurial opportunity and, together with his brother, Richard, opened H&R Block, Inc. to fill the void that was opened by the IRS. By 1978, they were preparing more than one out of every nine tax returns in the U.S.

But the true entrepreneur is never satisfied and, in the 1990s, H&R Block Financial Advisors Inc. was created to meet their goal of becoming not just a tax preparer, but a financial partner to their clients, as well.

TAKING THE ETHICS OUT OF BUSINESS ETHICS

According to Attorney General Spitzer, H&R Block opened more than 500,000 “Express IRA” accounts for their clients, who were told they would be getting great rates. Unfortunately, the unwitting clients wound up paying the company more money in fees than they earned in interest.

According to Spitzer, the company failed to properly disclose its fees to their customers and warn them that the fees may be higher than their returns. They also described the returns as “great,” even though they were less than 1 percent annually. That wouldn’t be defined as great in anyone’s financial dictionary.

How can you, the consumer, protect yourself against situations like this? Pay attention to your accounts! Read your brokerage statements, and make sure you aren’t paying more in fees than you’re getting in dividends. Staying conscious enables you to enjoy many happy returns. ■

Retirement Plan Round-Up

INDIVIDUAL PLAN OPTIONS (FOR 2006)

IRA: A traditional IRA account is a tax-advantaged personal savings plan, where your \$4,000 maximum yearly contribution (plus \$1,000 catch-up if you’re over 50) may be tax-deductible, and your money grows tax-free until withdrawn. Funds can generally be invested in anything from stocks and bonds to mutual funds and CDs.

Roth IRA: A Roth IRA differs from the traditional IRA in that you deposit after-tax funds in exchange for tax-free withdrawals after age 59½. The contribution limits, which are the same as the traditional IRA, start to phase out for household incomes of \$150,000 for married couples filing jointly, and \$95,000 for single tax filers.

SMALL BUSINESS CHOICES

Keogh: Keogh plans are a lot like IRA plans for self-employed workers. Initial setup involves a paperwork blizzard, and this added difficulty has made the Keogh plan rather unpopular despite its significantly higher contribution limits—the smaller of \$40,000 or 100 percent of net earnings from a business (up to a maximum of \$200,000 of net earnings).

SEP IRA: A Simplified Employee Pension plan (SEP) is designed specifically for self-employed people and small business owners, who can make contributions in the names of their employees. Contributions are tax deductible. High contribution limits—up to 25 percent of annual income up to \$44,000 in 2006—and simple setup and administration make this a popular choice.

SIMPLE IRA: The Savings Incentive Match Plan for Employees, or SIMPLE, lets employers and employees contribute directly to a retirement savings account. Employees can set up salary reduction contributions, and the employer will then dollar-match part or all of these contributions. The account itself works much like a standard IRA.

EMPLOYER-SPONSORED PLANS

401(k): These company-sponsored retirement plans allow pre-tax contributions through direct salary withdrawals. Funds grow tax-free until withdrawn and the company may match part of your contributions. 401(k) plans are available in Roth versions, as well.

403(b): Think of the 403(b) as a 401(k) plan for government and non-profit businesses. It comes in traditional and Roth flavors, and provides the same tax benefits as its more common cousin.

457: A 457 plan is another choice available to non-profit and government businesses. There’s no early withdrawal penalty, but there’s no company match, either. The 457 is not considered a qualified retirement plan, so funds in a 457 don’t count towards annual retirement contribution limits, and the account cannot be rolled over into an IRA. ■



Did You Know?

All About Baby Boomers

Baby boomers represent 28 percent of the American population

Only 36 percent think they'll have enough money to live comfortably when they retire

Male boomers are more likely than females to think they'll have enough money in retirement

46 percent advise future parents to spend less time at work and more time with their kids

27 percent would not let their grown children move back in with them

28 percent would charge their adult children rent if they moved back home

Source: *delwebb.com*

Early Withdrawals Are Not Created Equal

The purpose of a retirement plan is simple: help an individual save for the day when he can kiss the 9-5 lifestyle goodbye. However, the government allows certain types of early withdrawals just in case someone needs access to these accumulated funds before that golden day arrives.

The Internal Revenue Service has set forth specific guidelines overseeing early withdrawals from 401(k)s and IRAs. These include such situations as permanent disability or death of the IRA owner; paying for non-reimbursed medical expenses; funds to pay for a first-time home purchase; and assistance in paying for higher education costs, to name a few. While there are similar and overlapping conditions between the various retirement plans, they're not always the same.

ACCOUNTANTS SHOULD KNOW BETTER

An accountant named Keith Jones learned a tough lesson. Back in 1999, he resigned from his position at a top accounting firm to pursue a PhD. In 2001, he withdrew a total of \$30,369 from his 401(k) plan to pay for his education. While Jones properly reported the distribution as income on his tax return, he failed to pay the required 10 percent early withdrawal penalty.

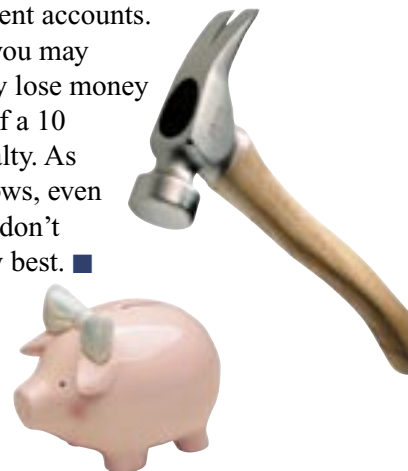
The eagle-eyed IRS saw the error and sent Jones a delinquency notice. Jones, believing he was in compliance with the rules, filed a petition in the Tax Court. What Jones didn't realize is that the waiver on the early withdrawal penalty for education expenses only applies to distributions from IRAs, not 401(k)s.

TELL IT TO THE JUDGE

In his defense, Jones argued that he always had the ability to transfer the funds in his 401(k) to an IRA ... he just didn't. The Tax Court held that, even though the difference between a 401(k) and IRA are only a matter of form, the penalty exemption applies exclusively to an IRA. And no matter how you slice it, a 401(k) is not an IRA. Jones paid the penalty.

LESSONS LEARNED

It's imperative that you consult your financial advisor before making any early withdrawals from your retirement accounts. Otherwise, you may inadvertently lose money to the tune of a 10 percent penalty. As this case shows, even accountants don't always know best. ■



Massive Changes in Medicaid Law! *Continued from Page 1*

LONG-TERM CARE INSURANCE. Under the new law, all states will be permitted to offer long-term care partnership policies.

LOANS. The new law requires loans made by the Medicaid applicant to be actuarially sound to avoid having them considered "available resources" when determining eligibility. ■



Arthritis Tips and Tools

Arthritis, which literally means “joint inflammation,” is the leading cause of disability in adults. More than one out of every three adult Americans suffers with arthritis pain. Are you one of the more than 70 million people who do?

THE FOLLOWING COMBINATION OF TREATMENTS IS OFTEN EFFECTIVE TO MINIMIZE DISCOMFORT:

Medication: Non-steroidal anti-inflammatory drugs work at blocking the production of prostaglandins, which cause inflammation.

Exercise: Low impact exercises, like swimming, walking, biking, and golf, help to nourish the joints, strengthen bones, and reduce weight.

Stress Reduction: Our daily life is filled with pressure. Fortunately, it’s also filled with many options to help alleviate it. Examples include meditation, relaxation therapies (like yoga), support groups, and massage.

Heat and Cold: Heat treatments work best for soothing stiff joints and painful muscles, while cold works best for painful flare-ups, because it numbs the area and decreases inflammation.

Joint Protection: Don’t pressure your delicate joints! Carry your grocery bags using your forearms instead of your fingers. Use assistive devices for better leverage. Losing weight, if you’re carrying too much, will reduce the stress on your joints.

Arthritis doesn’t have to stop you from living your life. By following these simple steps, you’ll be able to control the joint, instead of having your joints control you. ■

WILLS, TRUSTS & ESTATE PLANNING

Attorney-Prepared Custom-Drafted Arizona Estate Plans

For more information about Wills, Trusts and estate planning for Arizona residents, visit the online Arizona estate planning library on the internet at www.keytlaw.com/ep. Some of the articles about Arizona estate planning on Richard Keyt’s website are:

ARIZONA ESTATE PLANNING LIBRARY -- www.keytlaw.com/ep

ARIZONA ESTATE PLAN FREQUENTLY ASKED QUESTIONS -- www.keytlaw.com/ep/epfaq.htm

LEGAL FEES & SERVICES OFFERED FOR WILLS & TRUSTS -- www.keytlaw.com/ep/epservice.htm

BIOGRAPHICAL INFORMATION

Arizona estate planning attorney Richard Keyt prepares Wills, Trusts and simple and complex estate plans for Arizona residents on a fixed fee basis. Rick, a former partner in one of the largest law firms in Arizona, has practiced law in Arizona since 1980.

RICHARD KEYT
Esplanade
2415 East Camelback, Suite 700
Phoenix, Arizona 85016
Voice Phone: 602-906-4953, extension 101
Fax Phone: 602-906-1081
rk@keytlaw.com
www.keytlaw.com