



# Frequently asked questions about nursing home costs and Medicaid eligibility

*Robert Longstreet is a partner with the law firm of Siegel, Hudson, Gee & Longstreet, LLP, Hastings, where he practices in the areas of estate planning, long term care planning, elder law, nursing home rights, business transactions, real estate and general civil/criminal law.*

*In a multiple part series, Mr. Longstreet will discuss the most common questions he encounters regarding nursing home costs and the Medicaid program. He can be reached at 269-945-3495 or rlongstreet@siegelhudson.com.*

Historically, attorneys have been asked to provide estate planning advice regarding two areas: probate and estate tax avoidance. With many of our clients spending a large portion of their estate on nursing home care, a third area of estate planning has emerged at Siegel, Hudson, Gee & Longstreet: Long Term Care Planning. With clients facing the extraordinary emotional and financial demands associated with long-term care, we seek to provide reliable advice regarding this complex area of the law.

**Frequently Asked Question: I thought that I could not qualify for Medicaid because I gave my son a \$25,000.00 certificate of deposit for Christmas last year. Is this true?**

The answer depends on the timing of the gift. Although giving away assets does often create

a 'penalty period' (a period of time when the applicant is prohibited from receiving Medicaid assistance) it does not automatically disqualify the applicant if the individual is otherwise eligible at the time of application. Generally, the state will look at any gifts the applicant made in the 36 months prior to applying for Medicaid. A penalty period is then calculated by dividing the amount of the gift by \$5,043 (this is the 'penalty rate' for 2003, which changes each year). The penalty period starts running in the month that the applicant gifted the asset away.

In the above scenario, the applicant will receive a 4 month penalty (\$25,000 - \$5,043) for gifting the \$25,000 certificate of deposit. However, the penalty period began in December 2002 and expired in March 2003. Therefore, the gift and resulting penalty period will not disqualify the applicant from Medicaid benefits if the applicant applied after March 2003 and was otherwise eligible.

As such, the effect of a gift on Medicaid eligibility depends greatly on timing and should not be done without the assistance of a qualified professional.

This article and other information may be viewed at [www.siegelhudson.com](http://www.siegelhudson.com).