

NEW LEGISLATION IN NEW YORK CHANGES THE MEDICAID LANDSCAPE

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Governor Pataki signed new legislation that eliminated a few of the draconian measures affecting Medicaid that were initially included in the 2006 New York Budget Bill. Happily the option of spousal refusal is still available in New York to an individual whose spouse is seeking Medicaid home care or nursing home care. The new legislation also imposes no penalty period for home care.

The New York legislation also enacted the changes in the Medicaid law mandated by the federal Deficit Reduction Act of 2005. The most significant of these changes are:

1. A five year look-back to be phased in from February 8, 2006 adding one month to the old 36 month look-back period for every month after February 8, 2006.
2. A new start date for penalty periods incurred for gifts made prior to a Medicaid application for nursing home or waived services. The penalty period for gifts that are within the 5 year look-back will be calculated as before but the penalty period will not begin to run until the person is in the nursing home or receiving waived services and is otherwise eligible for Medicaid, that is, has only the allowable resource amount, currently \$4,150.
3. Limit on equity in the home to \$750,000.

Planning ahead is now more important than ever because of these new changes in the law. If you wish to plan for long term care payment through the Medicaid program the time to discuss planning with a knowledgeable elder law attorney is now.