



THE LAW OFFICES OF
HOYT & BRYAN, LLC
FAMILY WEALTH & LEGACY COUNSELLORS

MARGARET "PEGGY" R. HOYT, J.D., M.B.A., B.C.S. ‡†*
RANDY C. BRYAN, J.D., B.C.S. ‡†
SARAH S. AUMILLER, J.D.
MICHELLE A. ADAMS, J.D.

‡ BOARD CERTIFIED IN WILLS, TRUSTS & ESTATES
† BOARD CERTIFIED IN ELDER LAW
*CERTIFIED LEGACY ADVISOR™

New Restrictive Medicaid Transfer Rules Implemented in Florida

Effective November 1, 2007 protecting your life savings, even your home, from the catastrophic costs of long-term care has become much more difficult. Florida's Department of Children and Families promulgated new rules that officially implemented the Deficit Reduction Act of 2005, which among other provisions places severe new restrictions on the ability of the elderly to transfer assets before qualifying for Medicaid coverage of nursing home care. The law extends Medicaid's "lookback" period for all asset transfers from 3 to 5 years and changes the start of the penalty period for transferred assets from the date of transfer to the date when the individual transferring the assets enters a nursing home, is otherwise be eligible for Medicaid coverage and actually applies for Medicaid benefits.

Based on the new Medicaid changes, seniors should ask themselves the following questions:

- Do I have a plan in place to pay for my long term care needs?
- Do I have Long Term Care Insurance? If not, is it because I am uninsurable or the policy is unaffordable?
- If I do not have Long Term Care Insurance, have I met with a Board Certified Elder Law attorney to consider whether Medicaid planning is appropriate?
- Do I have a plan that not only considers long term care planning but also lifetime planning? Do I have a comprehensible Durable Power of Attorney, Health Care Surrogate and Living Will? Is my Will or Living Trust actually relevant given my life and the law as it exists today or is it still based on my life and the law when it was signed several years ago?

If you answered "NO" to any of the questions above, then you need to take steps to protect yourself. Remember, planning for your long-term care, to include the potential need for Medicaid, is your right. Nobody is obligated to pay more taxes than she owes, or is criticized for tax planning to minimize taxes. Similarly, individuals should not be criticized for Medicaid planning and arranging their affairs so as to be eligible for benefits that will protect them and their family. As one Court of Appeals has stated, "no agency of the government has any right to complain about the fact that middle class people confronted with desperate circumstances choose voluntarily to inflict poverty upon themselves when it is the government itself which has established the rule that poverty is a prerequisite to the receipt of assistance in the defraying of the costs of ruinously expensive, but absolutely essential, medical treatment."

The Law Offices of Hoyt & Bryan assists families in the protection of their loved ones by focusing their practice in the areas of Estate Planning, Probate and Trust Administration, Elder Law including Medicaid and VA Planning and Special Needs Planning, Pet Planning, Business Succession Planning and Real Estate. The founders, Peggy Hoyt and Randy Bryan, are both dual board certified by the Florida Bar in Wills, Trusts and Estates as well as Elder Law. Hoyt & Bryan is the only law firm in Florida with the distinction of two attorneys with these certifications. We offer many complimentary educational workshops each week in our Learning Center at The Law Offices of Hoyt & Bryan and monthly workshops in the Auditorium of One Senior Place in Altamonte Springs. For more information please contact our office at 407-977-8080 or visit our website HoytBryan.com.