

# THE B&B ALERT

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## ***MEDICAID'S UNCERTAIN FUTURE***

**By Thomas D. Begley, Jr., Esquire**

As a result of President Bush's massive tax cuts and the war in Iraq, the United States is running unsustainable budget deficits. The President has promised to reduce these deficits by 50%. Implementing the President's policy, Congress has recently passed a Budget Resolution cutting \$10 billion from the federal Medicaid program over the next five years. The Budget Resolution is a goal, not a law. No particulars were included as to where these cuts would be made.

As of this writing Michael Lavitt, the Secretary of Health and Human Services, is in the process of appointing a Commission to study this issue and report back by mid-September. The Commission will make recommendations to Congress. Another group particularly interested in the outcome of this debate is the National Governors Association. States pay for almost 50% of Medicaid costs and these expenditures are straining state budgets. Many states have also given ill-considered tax cuts over the past few years. The National Governors Association has issued a Policy Position adopted June 1, 2005, by the NGA Executive Committee entitled "EC-16. Medicaid Reform Policy." Portions of the Policy are likely to be recommended by the Commission for inclusion in any new Medicaid statute. Important points of the NGA Policy Position include the following:

- ***Transfers of Assets.*** "Medicaid reform must include changes that increase the penalties for inappropriate transfers, restrict the type of assets that can be transferred...". This means that transfer of assets strategies are likely to be severely curtailed and this firm is encouraging all of its clients to make any transfers recommended by the firm immediately. If transfers were to be made on a gradual basis, they should be reconsidered. Even asset transfers from IRAs must be looked at in this new light. The firm is urging its clients to contact the firm with any questions regarding Medicaid transfers.
- ***Reverse Mortgages.*** The Governors are encouraging Congress to require that homeowners pay for their care from reverse mortgages before they are permitted to apply for Medicaid.
- ***Family Contribution.*** The Governors are encouraging Congress to adopt "policies that encourage individuals and their families to self-finance care rather than rely on Medicaid." This may mean that adult children may be required to contribute toward the care of an unhealthy parent.

- **Cost Sharing.** The Governors are urging Congress to adopt changes in Medicaid's cost-sharing rules to establish "enforceable premiums, deductibles, or co-pays." This would appear to require persons receiving Medicaid to pay a greater portion of their care.

- **Individual Health Care Tax Credits.** The Governors are suggesting that Congress make a tax credit available for low-income persons who would then have their employers deduct an additional payment, which combined with the tax credit would be used to purchase medical insurance. The irony of offering a tax credit to a low-income person and then requiring that the person purchase medical insurance apparently was lost on the Governors.

- **Corporate Welfare.** The Governors point out that many large multi-national corporations provide health care to their retirees. This puts those companies at a competitive disadvantage with the rest of the industrial world since other countries have universal health care and large companies in those countries do not need to pay for employee or retiree health care. The Governors are suggesting that Congress shift some of this cost from the corporations to a "reinsurance mechanism," which sounds very much like a subsidy from the government to big business.

In conclusion, persons who have begun Medicaid planning should conclude those plans while the opportunity still exists to do so. The future is murky as best.



Begley & Bookbinder, P.C. is a law firm that specializes in Elder & Disabilities Law. We are based in Moorestown, NJ, with offices in Stone Harbor & Lawrenceville.

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