

The Guidepost

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What's the "Look-back"?

Unraveling the Confusion

Look-back periods for Medicaid have become confusing to many people. Everyone seems to know that the new law, the Deficit Reduction Act, created a 5-year "look-back" period. Few understand it.

To understand the new rule, you should know the old rule. If a gift was made before February 8, 2006, then the gift was subject to a 3-year look-back. If a person applied for Medicaid more than three years after the gift, then regulations did not take the gift into account because it was made too long ago: more than three years. Looking at it from another perspective, the gift was taken into account up to three years after the gift was made.

Some gifts that were made may still be considered today that are subject to the three-year rule. For example, if today is February 1, 2008, then a gift made on March 1, 2005 would still be taken into account until March 1, 2008, three years after the gift. After that it would not be considered when the application for Medicaid was filed.

After passage of the DRA, the law created a 5-year look back. When would the full five years be taken into account? Five years after a gift was made on or after February 8, 2006.

If a person applies for Medicaid now, can the Department take into account gifts made within the last five years? No. Why? Because a gift made five years ago would have been subject to the old law, which had a 3-year look-back rule. So, a gift on February 1, 2003 was subject to the 3-year rule only. So, that gift would not have been taken into account after three years passed or February 1, 2006!

What gifts made *after* DRA are taken into account? Those made on or after February 8, 2006. So, how far back does the new rule apply? To February 8, 2006 only and NOT BEFORE. Approximately TWO years, not five!

Here's how to know which look-back period applies. First, ask yourself if the gift was made *before February 8, 2006*? If so, the 3-year rule applies. Secondly, if not, then the gift was made *on or after February 8, 2006*. For those gifts, the look-back is to February 8, 2006 and NOT BEFORE.