



Annual Harvest Fair this weekend at Norman Bird Sanctuary

Cross the monkey bridge, brave the mud pit, scale the greased pole, ride the "Mabel Express" Barrel Train, listen to great music, and taste some great local beer! These are just a few of the activities at the Norman Bird Sanctuary's 40th Annual Harvest Fair! Featuring over 60 artisans and crafters, a home and garden competition, children's crafts and games, field games, hay rides, contests of strength and skill, fabulous food, and family-oriented entertainment, this weekend-long event is a good old-fashioned country fair.

New this year, is the addition of a Harvest Fair Beer Garden brought to you by Pour Judgement.

Musical Acts include Clara Maurer, Spindle Rock River Rats, Pitcher's Garage Band, The Rank Strangers, Chuck Ciany and Natasha Harrison on Saturday, Oct. 4; Dylan Sevey and the Gentlemen, Allysen Callery, Haunt the House, Bob Kendall, Smith and Weeden on October 5.

Come celebrate the fall season and see why so many have made the NBS Harvest Fair a favorite family tradition!

SENIOR NEWS

Have assets? Want Medicaid? Read this

What you need to know about Medicaid's asset transfer rules

To qualify for Medicaid, you cannot have recently gifted assets. Congress does not want you to move into



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a nursing home on Monday, give all your money to your children (or whomever) on Tuesday, and qualify for Medicaid on Wednesday. As a result, Congress has imposed a penalty on people who gift assets without receiving fair value in return.

The penalty is a period of time during which the person gifting the assets will not qualify for Medicaid. The penalty requires the person who made the gift to privately pay for a nursing home during the penalty period (up to \$400/day/\$12,000/month in R.I.) The penalty period is determined by dividing the amount gifted by what Medicaid determines to be the average private pay cost of a nursing home in Rhode Island.

Example: For example, if you live in a state where the average monthly cost of a nursing home is determined to be \$9,000, and you give away property worth \$90,000, you will be ineligible for Medicaid benefits for 10 months (\$90,000 / \$9,000 = 10).

A person applying for Medicaid must disclose all gifts made during the last 60 months — frequently called the "look back" period. The penalty period is calculated by taking the total amount of gifts made during the last 60 months and dividing that number by the average cost of a nursing home in R.I. However, the Medicaid law includes a very

complex determination of when a penalty period begins to "run." In the example above, the 10-month period will not begin until the person: (1) lives in a nursing home, (2) owns no more than \$4,000, (3) has applied for Medicaid, and (4) has been approved for Medicaid but for the fact a penalty applies.

For instance, if an individual gifts \$90,000 on October 1, 2014, moves to a nursing home on October 2, 2014, spends down to \$4,000 on October 1, 2015 and then applies for Medicaid, the 10 month penalty period does not start to run until October 1, 2015! The year between the making of the gift and the Medicaid application did not reduce the penalty in any way.

In other words, the penalty period would not begin until the nursing home resident was out of money, meaning there would be no money to pay the nursing home during the penalty period. In 29 states, including Rhode Island, "filial responsibility" laws exist permitting nursing homes to seek reimbursement from the residents' children. These rarely-enforced laws hold adult children responsible for the financial support of indigent parents and, in some cases, medical and nursing home costs. Many of the cases I have read enforcing such laws involved an adult child who had received a large gift during the look back period.

Exceptions

Gifts to certain individuals will not trigger a period of Medicaid ineligibility. These exempt recipients include the following:

- A spouse (or a transfer to anyone else as long as it is for the spouse's benefit)
- A blind or disabled child
- A trust for the benefit of a blind or disabled child
- A trust for the sole benefit of

a disabled individual under age 65

In addition, special exceptions apply to the transfer of a home. The Medicaid applicant may freely transfer his or her home to the following individuals without incurring a penalty:

- The applicant's spouse
- A child who is under age 21 or who is blind or disabled
- Into a trust for the sole benefit of a disabled individual under age 65
- A sibling who has lived in the home during the year preceding the applicant's institutionalization and who already holds an equity interest in the home

■ A "caretaker child," who is defined as a child of the applicant who lived in the house for at least two years prior to the applicant's institutionalization and who during that period provided care that allowed the applicant to avoid a nursing home stay.

Congress has created a very important escape hatch from the transfer penalty: the penalty will be "cured" if the gifts are returned to the Medicaid applicant or the penalty will be reduced if gifts are partially returned. Other options exist for curing gifts made during the look back period. These rules are complicated and a consultation with an elder law attorney would help to determine if any of these options exist in a particular situation.

Attorney Macrina G. Hjerpe is a partner in the Providence law firm Chace Ruttenberg & Freedman. She practices in the areas of Estate Planning, Probate, Estate Administration, Trust Administration, Trust Litigation, Guardianship, Business Succession Planning, Asset Protection Planning, Elder Law and Estate Litigation.

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