

Support Common-Sense Reforms to Medicaid

November 7, 2005

Dear Colleague:

As you know, many lawyers don't think much of plans to reform the Medicaid welfare program. That's hardly a surprise. Their ability to twist the rules in order to qualify the wealthy as eligible for this welfare program is a problem with our Medicaid system that must be fixed.

Overall, Medicaid has grown so expansive that even the nation's governors recognize that the future without reform is grim. The proposed reforms are hardly draconian. It amounts to slowing the growth rate by .3 percent. Medicaid will still grow by 7 percent.

Columnist Jane Bryant Quinn focused a bright light on the asset-transfer rules when she once wrote this in the *San Francisco Chronicle*: "One of America's greatest financial shell games is played, unseen, in the offices of lawyers and accountants who counsel the elderly. One minute you see a pile of money. Zip, zip, zip, the next minute it's gone."

Even our colleague, Rep. Henry Waxman, was offended. "I am offended by wealthy individuals--with the aid of lawyers...taking advantage of the Medicaid program for the poor to finance the transmission of wealth to their heirs at federal and state taxpayer expense. I believe we need to stop this abuse," he was quoted as telling The ElderLaw Report. (October, 1993, p. 3)

As we take up the debate over Medicaid reform, I thought you might enjoy the comments of a few experts as they explain how to bamboozle the taxpayers:

- "So is there any practical way to juggle assets to qualify for Medicaid—before losing everything? The answer is yes! By following the tips on these pages, an older person or couple can save most or all of their savings, despite our lawmakers' best efforts.... Here are the best options: Hide money in exempt assets...Transfer assets directly to children tax-free...Pay children for their help...Juggle assets between spouses...Pass assets to children through a spouse...Transfer a home while retaining a life estate...Change wills and titles to property...Write a durable power of attorney...Set up a Medicaid Trust...Get a divorce...Purchase a long-term care insurance policy." (Excerpted from *Avoiding the Medicaid Trap: How to Beat the Catastrophic Costs of Nursing Home Care*, by Armond Budish.)

- "We have committed an act of piracy -- we have broken into the Fort Knox of Government benefits and uncovered the best legal strategies available to you for claiming your share of the gold from the Government's treasure chest....With this book we are handing you the treasure map, deciphered from a mine of unintelligible government rules and regulations." (Armond and Amy Budish, Golden Opportunities: Hundreds of Money-Making, Money-Saving Gems for Anyone Over Fifty, Henry Holt and Company, New York, 1992, p. xiii.)
- "It's common...for people to have undocumented and untraceable assets, such as cash and bearer bonds. If these items were to become surreptitiously transferred, their existence would probably not become known to the authorities." (Peter J. Strauss, Robert Wolf, and Dana Shilling, Aging and the Law, Commerce Clearing House Inc. Chicago, 1990)
- "Extreme though the strategy may be, for some couples divorce may be preferable to depleting the estate... particularly if the nursing home resident spouse is beyond comprehending the circumstances." (James H. Young, "Medicaid Eligibility," Maine Bar Journal, Vol. 5, No. 4, July 1990, p. 227)
- "So if you want to confuse, completely confuse, the Medicaid authorities, they may just approve you on the basis they haven't got a clue what's going on. [laughter] And it looks so fancy it must be right. Just don't mention my name when you do it." [laughter] (Alex Bove, "Advanced Medicaid Planning and Related Issues," National Academy of Elder Law Attorneys (NAELA) Advanced Elder Law Institute, Nashville, TN, November 6-9, 1997)

Help end "Medicaid Trusts" by voting for the Deficit Reduction Act.

Sincerely,

JOHN SHADEGG
Member of Congress