

A Modest Proposal for Medicaid Reform

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Some may well ask why Medicaid needs to be reformed. The problem is that too many people who could afford to deal with their risk of needing long-term care services by purchasing insurance instead decide to arrange their assets in such a way as to qualify for Medicaid. See my article on Government Programs and Medicaid Planning for a more detailed discussion of this and some of the pitfalls I suspect aren't adequately understood by many who do such planning.

While my opinion is that Medicaid Planning is immoral, it certainly is not (*currently) illegal. You might well ask then, "Why shouldn't people arrange their assets so that they are preserved for their heirs rather than having to spend them paying for long-term care services?" In my opinion, it is because the taxpayers can't afford it. Funding Medicaid is a severe burden on both the Federal and the State budgets. If it is allowed to continue, it will only grow much worse.

A number of approaches have been tried to prevent those who could afford to take care of their own Long Term Care needs from qualifying for Medicaid including one attempt to criminalize Medicaid planning and it appears to me that none of them have worked. What can be done about it?

The crux of Medicaid planning has been using one device or another to transfer assets out of your name, typically to a trust or to heirs, so that when long-term care is needed you have little or no assets in your name and rapidly qualify to have Medicaid pay for your care.

I suggest that to make such transfers (gifts) unattractive, we should make any gifts that exceed the annual gift tax exclusion of \$10,000 per donor per donee per year permanently recoverable. If you make a gift large enough that a Federal Gift Tax return must be filed, and you subsequently require long-term care services so that Medicaid would have to pay for your care, the recipient of the gift should be required to pay for your care until they have paid back everything they received as a gift. If they are unable or unwilling to pay for that care, Medicaid should pay and a Federal lien should be placed on the recipient of the gift. Interest should accrue and be added to the lien annually from the time the lien is placed. Anyone subject to such a lien should be prohibited from making any gifts until the lien is repaid and if it is not repaid, it should be charged to the estate upon death. To be effective, it should be jointly applied to couples, (Or trust, or other legal device).

With all such gifts being recoverable, I believe nearly all Medicaid planning would cease. The taxpayer would no longer be forced to pay for the care of people who could have arranged to pay for their own care. Medicaid funds could be preserved for those who truly need the help.

No doubt this proposal will annoy a lot of people. If you think it wouldn't work, I'd love to hear why. Send an e-mail to by clicking on "Comments". If you decide to write just because you think the government should take care of you while you enrich your kids, don't bother. I'm not interested. There is no moral justification for forcing the taxpayer to pay for your care if you had the assets to take care of yourself. It is not "the government" taking care of you, it's the taxpayer. The government has no resources other than the ability to tax, and that resource is already strained to the point where it is having a negative impact on civil society.

Not intended to provide legal or accounting advice. Long Term Care is a complicated subject. It takes time to consider the implications of many of the options available. In addition to any necessary legal or accounting advice from the appropriate professional you should discuss your financial situation and objectives regarding long term care with a knowledgeable agent.