

Indiana Medicaid Estate Recovery: The Rules and Changes Taking Place

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State and Federal Estate Recovery Rules and Regulations - Overview

- 42 USC 1396p and IC 12-15-9 – require State to seek recovery of property or funds in estates of deceased Medicaid recipients for Medicaid paid to recipients from age of 55 until death
- Notice provided at time of application
- Amount recovered from estates used to provide benefits to other Medicaid recipients

State and Federal Estate Recovery Rules and Regulations - Overview

- State has a preferred claim against the recipient's estate
- Payable after certain, limited funeral and burial expenses, certain expenses of last illness, and expenses of administering the estate
- Medicaid providers have 1 year to file claims with Medicaid

State and Federal Estate Recovery Rules and Regulations - Overview

- Definition of “Estate” is broader than decedent’s probate estate. Includes:
 - Real property
 - Personal Property
 - Other funds/assets included in probate estate
 - Other funds/assets conveyed through non-probate transfers

Also subject to certain limitations.

State and Federal Estate Recovery Rules and Regulations - Overview

- 60,000 deaths each year in Indiana
- 52,000 of the decedents are 55 or older
- 1/5 of the population in the state is on Medicaid
- So.... Approximately 10,400 Medicaid recipients die each year in Indiana after age 55

State and Federal Estate Recovery Rules and Regulations - Overview

- Medicaid Estate Department of FSSA increasing efforts in:
 - locating open estates
 - locating property and other assets
 - Beginning to open estates in cases where significant property or other assets located but no estate opened
- 2015 – State recovered \$15,364,494 (big increase)
- 2016 - on pace to recover significantly more

Probate Claims and Non-Probate Transfers

- At time of application – provided with Notice Regarding Rights & Responsibilities for Health Coverage
 - See Appendix A of Materials
 - Paragraph 19 – *“Benefits paid on your behalf after you become 55 years of age become a preferred claim against your estate. This claim has priority over all claims except recorded claims and taxes.”*

Probate Claims

- When Estate Recovery Department receives notice estate has been opened:
 - Analyst will file claim in the estate
- If no notice received, analyst will check Mycase and Doxpop

Probate Claims

- IC 12-15-9-1 – Affidavit of a person designated by the secretary to administer this section is evidence of the amount of the claim
- Upon request, the State will provide claim itemization

What is Recoverable?

- State can seek recovery of all real and personal property and other assets in probate estate (See IC 12-15-9-0.5)
- Can also seek recovery of any interest in real property owned by the individual at the time of death that was conveyed to a survivor through joint tenancy with rights of survivorship, if created after June 30, 2002
- Can seek recovery of amounts due under an annuity contract purchased after May 2005

What is Recoverable?

- State can also seek recovery of all real and personal property conveyed through non-probate transfer (See IC 12-15-9-0.5)
- Non-probate transfer is a valid transfer, effective at death, by transferor who immediately before death had the power, acting alone, to prevent the transfer of the property by revocation or withdrawal and use the property for his or her benefit or apply the property to discharge claims against the transferor's estate
- Examples – Transfer on Death designations on deed or through a revocable trust

What is Recoverable?

- Does not include:
 - Transfer of an interest in a tenancy by the entirety real estate
 - Payment of death proceeds of a life insurance policy
 - See IC 12-15-9-.05(B)

What is Recoverable?

- Other assets subject to estate recovery include:
 - Real estate owned by recipient
 - Funds in an annuity
 - Bank accounts
 - Retirement accounts
 - Stocks or bonds
 - Assets in revocable trust
 - Payment due on a Promissory Note
 - Funds in a nursing home account
 - Funds in a Qualified Income Trust (“Miller Trust”)
 - US Savings Bonds
 - Excess funds from a prepaid funeral arrangement

What is Recoverable?

- Estate Recovery Department generally doesn't seek recovery of assets in:
 - Irrevocable Trust
 - Life Estates

Prepaid Funeral Arrangements

- Indiana Code 12-15-2-17 – Medicaid recipients who have prepaid burial and funeral trust arrangements must designate the State of Indiana or the recipient's estate to receive any remaining amounts after delivery of all services and merchandise under the contract
- If insurance policy is assigned to a funeral home or if funeral home designated as beneficiary, remaining amounts after delivery of all services and merchandise are to be paid to the estate or the State of Indiana

Qualified Income Trusts (Miller Trusts)

- 42 USC 1396p(d)(4)(B)(ii) – requires State will receive amounts remaining upon death of Medicaid recipient up to amount of medical assistance paid
 - Doesn't limit amount State can recover based on when the trust is established
- Payments to state can be made by check, money order, or cashier's check payable to:
 - Treasurer, State of Indiana, Estate Recovery Program, Indiana Family and Social Services Administration, 402 W. Washington St., W382 MS 7, Indianapolis, IN 46204

Special Needs Trusts

- 42 USC 1396p(d)(4)(A) – certain special needs trusts will not be counted as a resources for eligibility if funds remaining at death will be subject to recovery by the State
 - Applies to D(4)(A) trusts for individuals under 65 who are disabled and which established for the benefit of the individual by a parent, grandparent, legal guardian, or a Court
 - Same rules apply to pooled trusts managed by a nonprofit for a disabled person – However, 50% of the balance will be distributed to the State

Bank Accounts

- IC 32-17-11-17 – joint account belongs to the parties in proportion to the net contribution by each party to the sums on deposit
- IC 32-17-11-18 – says funds remaining upon the death of one party to a joint account belong to the surviving party, but analysis doesn't end there
 - IC 32-17-13-1 defines non-probate transfer identical to the definition in the estate recovery statute – consequently, the non-probate transfer is considered part of the estate under Medicaid law

Bank Accounts

- Additionally, IC 32-17-13-2 states (in part):
 - A transferee of a non-probate transfer is subject to liability to a decedent's probate estate for: (1) allowed claims against the decedent's probate estate... to the extent the decedent's probate estate is insufficient to satisfy those claims and allowances.

Wrongful Death Claims

- IC 34-23-1-1 – the personal representative of the estate may maintain an action for wrongful death as long as the action is brought within 2 years, and the damages recovered for reasonable medical, hospital, funeral and burial expense shall inure to the exclusive benefit of the decedent's estate for the payment thereof.
- Estate Recovery Department routinely files claims in these estates

Survivorship Actions

- IC 34-9-3 provides for continuation of personal injury actions after the death of a party
 - I.e. – nursing home resident falls and suffers wrist fracture and dies 2 years later from complications of pneumonia. Proceeds from a judgement or settlement of the action go to the estate.
 - Medicaid Estate Recovery has claim against estate.
 - However, State generally compromises these claims

Compromise and Settlement of Claims

- The State's claims may be compromised or settled
- IC 4-6-11 allows for compromise only with approval from the Attorney General's Office and the Governor's Office
- Will generally compromise or settle if they believe it is in the best interest of the State to do so

Priorities and Exemptions

- IC 12-15-9-1 provides for priority of claims.
- Common misconception that all burial expenses have priority over Medicaid's claim
 - IC 29-1-14-9(a)(2) states that reasonable funeral expenses have priority; however, if decedent received Medicaid the amount is limited
 - IC 12-4-17-4 provides exemption up to \$1750 for funeral expenses
 - IC 12-4-17-5 provides exemption up to \$400 for burial expenses
 - Total = \$2,150

Priorities and Exemptions

- IC 29-1-14-9(a)(4) provides priority for all debts and taxes having preference under the laws of the US
- IC 29-1-14-9(a)(6) provides priority for all debts and taxes having preference under the laws of the State
 - Medicaid's claim falls under this statute

Priorities and Exemptions

- Exceptions outlined in IC 12-15-9-2. Claim may not be enforced against the following:
 - Real estate of a recipient while necessary for a surviving spouse, dependent child, or dependent who is non-supporting because of blindness or disability
 - Personal property necessary for surviving spouse, dependent child, or disabled child, or dependent who is non-supporting because of blindness or disability
 - Personal effects, ornaments or keepsakes
 - Assets of an individual who purchased LTC policy that are disregarded

Priorities and Exemptions

- Exemptions:
 - No relationship requirement for dependent
 - Cannot file claim against estate of a recipient's surviving spouse
 - If a spouse predeceases the recipient, assets of predeceasing spouse may be subject to estate recovery upon death of the recipient unless a testamentary special needs trust established for the surviving spouse
 - If recipient's child survives, no recovery will be made while child under 21 or blind or disabled

Undue Hardship Waivers

- IC 12-15-9-6 provides for waiver of State's claim in cases of undue hardship
 - Exists if enforcement of the State's claim would result in the beneficiary:
 - Becoming eligible for public assistance
 - To remain dependent on public assistance
 - To lose an income-producing asset when there is no other source of income and the beneficiary's income does not exceed 100% of the poverty level
 - Or other compelling circumstances

Undue Hardship Waivers

- Must be determined on a case by case basis
- Does not exist where State's recovery simply results in loss of a standard of living
- Beneficiary typically must be a member of the immediate family to be eligible for the waiver
 - Includes spouse, child, grandchild, great-grandchild, parent, grandparent, brother or sister

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Undue Hardship Waiver

- Application must be filed with FSSA within 90 days of the date the executor or personal representative of the deceased's estate receives notification of the State's claim
- FSSA will review and respond within 45 days
- Appeal and request for hearing must be filed within 30 days

Medicaid Liens

- IC 12-15-8.5-2 – when it is determined that the recipient cannot be expected to be discharged from a medical institution and return home, the office may obtain a lien on the real property
 - Not applicable if recipient's parent, spouse, child under 21 or disabled, or sibling with ownership interest in the home who has lived there 12 months fully resides in the home

Medicaid Liens

- The Estate Recovery Department has not routinely filed Medicaid liens in the past
 - But this may change in the next year

Medicaid Liens

- Before obtaining a lien, notice must be provided to recipient or authorized representative
 - Recipient will have a right to a hearing
- Lien can be filed after 30 days from time the notice is provided and hearing completed, if requested

Medicaid Liens

- Office must file a notice of lien with the county recorder where property is located
- Must be filed before death of the recipient
- Must include name and place of residence of the individual
- Must include legal description

Medicaid Liens

- The lien will continue until satisfied or released
- The office can foreclose the lien during the life of the recipient if the property sells or if the recipient dies
- Lien expires if foreclosure commenced within 2 years after death of the recipient

Medicaid Liens

- The lien cannot be enforced if the following individuals reside in the home:
 - Recipient's child of any age if the child
 - Resided in the home for at least 24 months before recipient was admitted to medical institution
 - Provided care to the Medicaid recipient that delayed the Medicaid recipient's admission to the institution, &
 - Has resided in the home on a continuous basis since the date of the individual's admission to the medical institution

Medicaid Liens

- The lien cannot be enforced if the following individuals reside in the home:
 - Recipient's sibling who has an ownership interest in the home and who has lived in the home continuously beginning at least 12 months before the Medicaid recipient was admitted to the medical institution

Medicaid Liens

- The lien will be released within 10 days if DFR receives notice that the recipient is no longer residing in a medical institution and has returned to live at home
- If house sold, lien will be released at closing and will attach to the proceeds

Medicaid Liens

- Lien is void if both the following occur:
 - Written notice is provided to the office to file an action to foreclose the lien
 - The office fails to file an action to foreclose the lien in the county where the property is located not later than 6 days after receiving the notice

Non-Probate Transfers

- Non-probate transfers are valid transfers, effective at death, by transferor who immediately before death had power, acting alone, to prevent the transfer of the property by revocation or withdrawal and use the property for his or her benefit or apply the property to discharge claims against the transferor's estate

Non-Probate Transfers

- IC 32-17-13 sets out how the State's claim against non-probate assets can be enforced
 - Must commence action to recover non-probate assets within 9 months after death
 - Time limit does not apply to assets that were not reported to the county office of the division of family resources

Non-Probate Transfers

- Non-probate assets subject to recover by the probate estate to the extent the probate estate is insufficient to satisfy claims
- IE – real estate transferred by TOD Deed or assets in a revocable trust

Non-Probate Transfers

- Non-probate transferee may be subject to liability to the extent of the non-probate transfers received
 - Enforceable upon due notice
- To commence proceeding, personal representative must first receive a written demand for the proceeding from a surviving spouse, surviving child, or a creditor

Non-Probate Transfers

- To commence proceeding, personal representative must first receive a written demand for the proceeding from a surviving spouse, surviving child, or a creditor
- If the PR does not commence within 60 days, the person making the demand may commence the proceedings in the name of the estate at their expense

What Changes Are Taking Place at the State Level?

- What was once a remote possibility is now a practical reality.
- FSSA and the AG's Office have developed a more assertive and comprehensive approach
 - Increased staff
 - New processes and procedures to locate property and open estates

What Changes Are Taking Place at the State Level?

- Locating Property and Assets:
 - Pursuant to IC 29-1-7-7 and 7.5, notice received from attorneys and personal representatives
 - When notice not provided, analysts discover assets in the following ways:
 - Communications from family or title companies
 - Online searches of Mycase and Doxpop
 - Court Clerks that send notices for all estates to the Department of Mental Health and Addictions
 - Notices from nursing homes
 - State databases – lists of deceased Medicaid recipients
 - Etc.

What Changes Are Taking Place at the State Level?

- Locating Property and Assets:
 - 3-4 months after recipient dies, identifying information is accessible through State databases
 - Estate Recovery Department conducts extensive research
 - Accruint, County property cards, Beacon and Zillow
 - Internal databases – includes information provided during the eligibility determination and redeterminations
 - Trust documents, funeral agreements, bank statements, deeds, etc.

What Changes Are Taking Place at the State Level?

- Locating Property and Assets:
 - Indiana Unclaimed is searched – Estate Recovery will file claims
 - The amount recovered here is significant

What Changes Are Taking Place at the State Level?

- IC 4-6-2-1 – Attorney General shall prosecute and defend all suits instituted by or against the State
 - Estate Recovery works closely with the AG's office to open estates or pursue litigation that arises in estate recovery cases

Opening Estates

- As of April 2015, when analysts located significant property and no estate had been opened, the Estate Recovery Department started opening estates to recovery assets
 - Usually applicable when there is a substantial ownership interest in real property
 - May also apply if there is a lesser amount of assets but it is relatively easy to collect
- In 1.5 years, the State has opened over 300 estates

Opening Estates

- IC 29-1-7-4 – any interested person may petition the court for appointment of an administrator for the estate
 - Interested person includes the FSSA where it has a preferred claim
- AG's Office files the Petitions to open the estates and appoint an administrator and an attorney – *to represent the estate*
- State is not required to pay a filing fee

Opening Estates

After the estate is opened, the State files its claim and the case proceeds like any other probate estate

Time Limits for Claims

- Typically, the cases are referred to the AG's office within 3-4 months from date of death
- Estate must be opened within 5 months after the date of death in order to be able to obtain a court order to sell the property and apply proceeds to the State's claim

Time Limits for Claims

- IC 29-1-14-1 sets time constraints on claims
 - 3 month limitation after first published notice to creditors or 9 months after death of decedent
 - US, State or subdivision of the State, cant be barred by this
 - FSSA can seek recovery up and until the estate is closed and can have estates reopened in some instances

Attorney/Administrator's Perspective

- State's efforts in opening estates is still a new practice – comes with some logistical complications
 - Courts/Clerks have had to be educated on certain rules and regulations
 - Publication, appearance, etc.
 - Most resolved Easily
 - Some still exist:
 - Petitions filed but no letters issued within deadline
 - Summarily closing estates

Attorney/Administrator's Perspective

- Some issues still exist:
 - Petitions filed but no letters issued within deadline – ripe for litigation
 - Claims properly filed but Courts not acting timely
 - No appellate opinions
 - AG's office has briefed and argued the issue twice – trial court found letters were “taken out” if Petitions were timely filed
 - Court found that Petitioner had no control over court or admin and it would violate the Petitioner's due process rights if subject to a time bar
 - Summarily closing estates

Attorney/Administrator's Perspective

- Once estate opened and letters issued, Court must publish Notice of Administration
 - Also serve by first class postage prepaid mail on each heir devisee, legatee, and known creditor
 - Often difficult to identify – Admins don't usually have personal knowledge of family or the decedent
 - Must serve within 1 month after publication or as soon as possible after

Attorney/Administrator's Perspective

- After notice, Admin must begin investigating the decedent, the family, and the assets
 - Estate recovery often supplies certain information regarding possible assets
 - Have to look for mortgages, liens and other debts to make sure enough equity exists
 - Have to make sure the property has value

Attorney/Administrator's Perspective

- Attempt to communicate with heirs is one of the biggest challenges
 - Some believe the property belongs to them
 - Some reside in the property (and have been there a long time)
 - Common that the property is already in their name
 - Can be challenging and emotional
 - Best cases tend to be the ones where the family has worked with an attorney and is aware of estate recovery

Attorney/Administrator's Perspective

- Educating the heirs
 - Must reach out and explain the process and their rights
 - Advise them of their options
 - Assist with hardship waivers
 - Help negotiate or settle the claims against the estate on behalf of the heirs
 - Assist third parties in the purchase of assets

Attorney/Administrator's Perspective

- Worst case scenarios:
 - Eviction
 - Filing police reports
 - Threats to estate assets
 - Bringing suit against heirs to return assets
 - Other miscellaneous activities

Attorney/Administrator's Perspective

- Collecting assets of the estate
 - Westlaw offers great technology for people and asset searches
 - Must investigate and determine what still exists and how things are titled
 - Bank accounts require Letters, Death Certificate and an EIN
 - Change locks, secure and investigate real estate
 - Get creative!

Attorney/Administrator's Perspective

- Inventory of the Assets
 - Must be prepared within 60 days of the Letters
 - If supervised, must be supplied to distributee who requests a copy unless filed with the Court
 - Must indicate FMV of each item (often difficult in the early stages of a case)
 - Assessed value often inaccurate
 - CMA's often inaccurate
 - Must include known liens and other charges
 - Must classify property by type

Attorney/Administrator's Perspective

- Inventory of the Assets
 - “*may* employ a disinterested appraiser”
 - May be ripe for issues
 - Will Court require if estate is insolvent or has no liquid assets?
- Common for property to be vacant, broken into, ransacked, trashed, emptied, gutted, etc.
 - Usually not maintained unless a family member is living there or taking care of it

Attorney/Administrator's Perspective

- When the State opens these cases, they must be supervised estates
 - Provides very little independent authority to act
 - Must petition to sell, mortgage, exchange, etc.
 - Usually no authority from a Will

Attorney/Administrator's Perspective

- Petition to Sell, Mortgage or Lease Real Property
 - Court required to hold a hearing
 - Requires notice to all heirs and lienholders unless they waive notice
- Court order must:
 - describe the property
 - direct whether sale is public or private
 - Direct if FMV if private sale or no less than 2/3 FMV if public sale

Attorney/Administrator's Perspective

- IC 29-1-15-9 provides exception:
 - Perishable property or personal property which will depreciate in value if not disposed of promptly, or which will incur loss or expense by being kept... may be sold without notice, and title shall pass without prior authorization
 - But... Personal representative shall be responsible for the actual value of the property unless, after making a report of such sale, and on a proper showing, the Court shall approve the sale

Attorney/Administrator's Perspective

- Certain actions also require approval by the FSSA, AG's Office and Governor's Office
 - Settling the State's claim
 - If a party is willing to settle for a reasonable amount and it will prevent future costs/fees/risks to the estate, State is likely going to be open to settlement
 - Common when the heirs want to keep the real estate
 - AG's Office and Governor's Office can only settle or compromise if they believe it is in the best interests of the State

Attorney/Administrator's Perspective

- Administrator must make distribution of assets after administration
 - If supervised, cannot do until entry of the final decrees of distribution and upon filing the Final Account
 - May petition for partial distribution if the property is perishable in nature, would materially depreciate, or if estate funds would be required to store the asset

Attorney/Administrator's Perspective

- Supervised estates must be closed within 1 year of the Admin's appointment – can be done once claims are paid, settled or disallowed
 - Must file Final Account and petition court for a decree of final distribution
 - Notice must be provided to all interested parties
 - Court will set hearing
 - Heirs can waive notice of the accounting and permit the court to act immediately

Ideas for Preventing Estate Recovery

- IN exempts or excludes property from estate recovery that was subject to a non-probate transfer that the DFR determined was exempt/unavailable or was transferred out of the probate estate before May 1, 2002

Ideas for Preventing Estate Recovery

- Gifts before eligibility
 - If assets no longer in the estate, they cannot be subject to estate recovery
 - Beware of penalty periods if within 60 month lookback period
 - Unless an exception applies

Ideas for Preventing Estate Recovery

- Gifts to a Spouse or to a trust for the “sole benefit” of a spouse = no penalty
 - Useful when a community spouse will be able to keep certain assets

Ideas for Preventing Estate Recovery

- Disabled Child
 - Transfers to disabled child or trust for “sole benefit” of disabled child are exempt
 - Must meet SSI disability criteria
 - Does not have to be receiving SSI
 - Does not apply to a stepchild of the applicant

Ideas for Preventing Estate Recovery

- Gift to a Trust for a Disabled Person
 - No penalty if disabled person is under 65
 - No relationship requirement
 - Unclear whether trust must pay back to the State to make it a sole benefit trust

Ideas for Preventing Estate Recovery

- Gift to a Pooled Self-Settled Special Needs Trust
 - Wont be counted when determining eligibility for Medicaid
 - Wont be subject to estate recovery
 - Trust will be able to retain assets for other disabled persons after death
 - Must be irrevocable

Ideas for Preventing Estate Recovery

- Pooled Trust
 - ARC of Indiana – known as one of the best in the nation
 - Particularly useful for personal injury awards, retroactive Social Security awards, inheritance

Ideas for Preventing Estate Recovery

- DeMinimus Gifts
 - Use in almost all cases
 - \$1,200 per year to a family member or a nonprofit organization will be exempt
 - Does not apply to each person
 - “family member” includes relation by blood, adoption or existing marriage
 - Supply a birth certificate and proof of the gift

Ideas for Preventing Estate Recovery

- In general, transfer of real estate for less than FMV will create a penalty
- Exempt Gifts of the Home:
 - To a child under 21, blind or disabled
 - Child residing in home for 2 years before institutionalization and child provided care
 - To a sibling with an equity interest who resided in the home for at least a year

Ideas for Preventing Estate Recovery

- Gifts Exclusively for a Purpose other Than to Qualify for Medicaid = Exempt
 - Cant be used to escape estate recovery or lien
 - Must submit sufficient evidence
 - Determined on a case by case basis

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Simple way to convert available resources to exempt resources or avoid penalty

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Reserve funds for funeral and burials
 - Set up irrevocable funeral trusts
 - Irrevocably assign life insurance to fund a funeral trust
 - Can purchase for applicant, spouse, and/or immediate family (“individual’s minor and adult children... brothers, sisters, parents, adoptive parents, and the spouses of those individuals”)

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Tips for reserving funds for funeral/burial
 - Funeral trusts normally revocable for 30 days. Make them immediately irrevocable for eligibility right away
 - Must designate the state or the applicant's estate as beneficiary of remaining assets after payment of funeral and burial expenses
 - Cannot use funeral trusts where the purchase of services will be made after death

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Pay off Debt or Mortgage
 - Pay off existing mortgage, in whole or in part
 - Investing in real estate is often a good option because the home may be an exempt resource
 - Principal resident of recipient, spouse, minor children, adult disabled or blind child, or parents if applicant is a minor
 - Owned solely by community spouse
 - If intend to return home
 - Home is listed for sale or rent
 - Income producing
 - Used to produce food for home consumption

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Pay off Debt or Mortgage
 - Consider updating a home to allow applicant to remain home
 - Beware – do not increase equity in home too high because DRA has home equity cap
 - Currently \$552,000

Beware – Estate Recovery if over \$40,000 equity

Asset Conversion Technique: Loan Repayment or Pay Expenses

- Purchase Household Goods or Personal Effects
 - In general, exempt
 - Valuable collectible items not exempt

Exempt Asset Purchases

- Transfer Real Estate to a Community Spouse
 - All real estate owned solely by the community spouse is exempt
 - Additionally, a claim cannot be filed against the estate of a recipient's surviving spouse
 - Tip – Consider using a Special Needs Trust in the community spouse's Will

Exempt Asset Purchases

- Purchase of a Life Estate in real estate of a family member
 - Must reside in the home for a period of 1 year after date of purchase
 - If the purchaser does not reside in the home for the full 12 months, there will be a transfer penalty

Exempt Asset Purchases

- Life estate example:
 - Mom moves in with son who owns a home that he paid \$200,000 for and is now worth \$250,000.
 - Son owes \$150,000 on a home mortgage and has a mortgage payment of \$1,700 per month.
 - Mom is 75 years old and purchases a life estate for \$130,372.50
 - Son will not incur taxes on the \$130,372.50 because he has sold a partial interest in his home for less than the \$250,000 exclusion of gains under the IRS rules.
 - Son can pay off his mortgage, drastically increase net worth and reduce his monthly expenses.

Exempt Asset Purchases

- Life estate – additional considerations:
 - Applicant must offer life estate for sale or rent if cant remain in the home
 - Income tax on gains on the sale of a principal residence of up to \$250,000 are generally excluded for an individual every 2 years
 - Can be coupled with a Personal Services Agreement
- At this time, the State is not seeking recovery against life estate interests

Thank You!

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