

Palo Alto,
California
Winter 2004

**** MEDI-CAL ALERT **** **RULES ARE CHANGING**



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Medi-Cal regulations are on the verge of change in California. Gilfix & La Poll Associates obtained an “underground,” first draft of proposed regulations last month. The Director of Medical-Cal regulations cautions, however, that there will be changes to the draft which was not intended for dissemination. Changes may be effective as early as March 1, 2004.

Are there any hints in the draft? You bet!

1. The opportunity to gift or transfer assets will be greatly restricted. It can still be done, but even more planning will be necessary.

2. The “look-back period,” the time in which Medi-Cal reviews transfers, will be extended to 36 months (or even 60 months) from the current California policy of 30 months.

3. It appears the Department of Health Services, which oversees the Medi-Cal program, may alter the current policy of allowing transfer of the residence to literally anyone without Medi-Cal ineligibility. The State of California may mandate adherence to federal law, which applies stricter ineligibility periods for transfer of the home.

4. Expect more aggressive efforts by the state to recover the cost of Medi-Cal benefits upon the death of a Medi-Cal recipient.

Act Now. It will be far easier to protect assets and obtain Medi-Cal coverage for nursing home care if steps are taken before **March 1, 2004**. There is time – you know that we know the law and move quickly. Call today and tell Joy you have a Medi-Cal matter. You will see a GLA attorney without delay. ♦

UPCOMING MIKE GILFIX AND LEN TILLEM MEDI-CAL AND TRUST SEMINARS AND RADIO PROGRAMS:



February 8, 2004
KGO 810 Radio
"Law Talk"
6:00 - 7:00 p.m.

February 25, 2004
9:30- 11: 30 a.m.
4 Points Sheraton
Sunnyvale, CA

February 18, 2004
9:30 -11:30 a.m.
2:30-4:30 p.m
Radisson Miyako Hotel
San Francisco, CA

February 25, 2004
2:30 - 4:30 p.m.
Ricky's Hyatt
Palo Alto, CA

March 31, 2004
9: 30 - 11:30 a.m.
2:30 - 4:30 p.m.
Luther Burbank Center
50 Springs Road
Santa Rosa, CA



THE FAMILY PROTECTION TRUST[®] LIVING EXAMPLES

In our last Newsletter, we discussed the Family Protection Trust (FPT). We believe that this trust is appropriate for most of our clients.

Recall the three major benefits of this trust: (1) protection of inherited assets if a child gets a divorce, (2) protection for inherited assets if the child is sued, and (3) protection from estate taxes at the time of a child's death.

Two recent, real life examples illustrate how appropriate this trust can be.

Mrs. D and her daughter, Andrea: – protection from divorce: Mrs. D is 87 years of age with failing health. Her estate is valued at \$900,000 and she has one daughter, Andrea. Andrea is in her second marriage. That marriage is not going well. Mrs. D is very concerned that her daughter, a warm, trusting, ingenuous individual, will again be divorced. Mrs. D worries deeply about Andrea's future and security.

Before meeting with us, Mrs. D's trust simply provided for the distribution of her estate to her daughter. With our assistance, Andrea's inheritance will instead go into an irrevocable Family Protection Trust[®]. **If Andrea is divorced after her mother's death – and after Mrs. D's estate goes into the FPT for Andrea's benefit – 100% of the assets are safe and secure for Andrea's well being.**

Mr. T and his son, John: John is 44 years of age, well educated, single, gregarious, and a serial entrepreneur. He has made large amounts of money and lost large amounts of money. Mr. T will leave half of his \$1 million estate to John, but is deeply worried that John, who has been sued twice by disgruntled partners, will again be sued and lose his inheritance.

Mr. T is placing John's share of the inheritance in a Family Protection Trust[®]. Mr. T is visibly relieved and gratified to have found an approach that will let him irrevocably protect inherited assets from litigation and for his son.

****Remember, half of marriages end in divorce, and litigation in California is rampant. The FPT enables you to give your children the gift of financial security. It protects them from two visible and worrisome threats: divorce and litigation.**

We understand that you have questions about how the FPT would be structured and how it would operate. We look forward to talking with you about it. ♦

"Put not your trust in money, but put your money in trust."

Oliver Wendell Holmes



KEY 2004 NUMBERS FOR MEDI-CAL RELEASED

Medi-Cal is the only program that can pay all or a portion of the cost of nursing home care for qualifying individuals. There are special protections for married couples when one spouse enters the nursing home.

One is the “Community Spouse Resource Allowance” (CSRA). It provides that, at the time the institutionalized spouse qualifies for Medi-Cal, the spouse living at home can have a minimum number of dollars in her name without jeopardizing eligibility for the other spouse.

For 2004, the CSRA is \$92,760. The 2003 figure was \$90,660.

Similarly, there are income protections for the spouse living at home. This is known as the (forgive me!) “Minimum Monthly Maintenance Needs Allowance” (MMMNA). For 2004, the minimum level of income guaranteed to the spouse at home is \$2,319. The 2003 MMMNA was \$2,267.

This means that the spouse at home can keep more money and have more income when the other spouse qualifies for Medi-Cal.

If nursing home issues arise in your family, be sure to call us. Powerful planning opportunities exist so that your assets can be protected. ♦

WE MUST RE-DRAFT YOUR ADVANCE HEALTH CARE DIRECTIVE

New federal legislation (HIPAA*) imposes substantial privacy restrictions on health care providers. Your Advance Health Care Directive simply must include appropriate language that will enable health care providers to communicate with the person you name in your document as your agent.

We have already had this problem come up, so we know that it is very real.

Please call our office so that we can take care of this for you. It is also an opportunity to revisit your document to be sure that you have named the appropriate people as your agents and that your document is otherwise up to date and reflects your wishes.

If we do not hear from you, Joy will be communicating with you to make sure that we get this done. ♦

*Health Insurance Portability and Accountability Act



ANOTHER RESIDENCE IS SAVED!

Mrs. G, 83 years of age, has been receiving Medi-Cal benefits for over 20 years. Her son estimates that Medi-Cal has paid over \$90,000 in prescription drug, medical, and other coverage services. Moreover, Mrs. G is suffering a decline and may have to enter a nursing home in the near future.

Recently, Mrs. G received a notice from the State Medi-Cal program. It informed her that *the state will assert a claim against her house upon her death to recover all Medi-Cal benefits* that have been paid. Her home is worth perhaps \$300,000. It is all she has.

Mrs. G believed that there was no hope, that her home would be lost upon her death. This was shattering because neither of her sons are economically successful and both have families. Her dream was to leave her home to her two sons.

Mrs. G happened to be listening to the radio and *heard Michael Gilfix and Len Tillem* talking about precisely this situation. Mrs. G contacted our office and retained us. Steps have been taken to protect the residence from the estate claim. Mrs. G feels that a weight has been lifted from her shoulders. ♦

1%
CLUB

JOIN OUR "ONE PERCENT CLUB" – REWARDING CHARITABLE GIVING –

Commencing January 1, 2004, we will reduce our fee for the preparation of a trust by 10% if you leave at least 1% of your estate to one or more charitable, tax-exempt organizations.

We strongly support charitable giving. We believe that it is an integral part of the legacy that you leave your family and your community. We are "putting our money where our mouth is" by making this offer.

You pick the charity. If you want suggestions, we will help you identify the appropriate non-profit organization based on your expression of interest. ♦

"I've never been old before. I don't know how to act."

Spoken by Mrs. D, a GLA client.



Address Service Requested

WATCHING MICHAEL GILFIX

Michael Gilfix accepts a limited number of speaking engagements each year that require travel - he likes being at home.

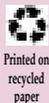
We thought you would be interested in some of the speaking engagements Mike has accepted recently. They include:

- (1) SSC Estate Planning Council..... San Jose, CA
- (2) Special Needs TrustPalo Alto, CA
- (3) NAELA ConferenceHilton Head, South Carolina
- (4) 2004 NAMI California Annual Conference..... Burlingame, CA

Call Joy for details.

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GILFIX & LA POLL ASSOCIATES

SERVICES

Asset Preservation and Peace of Mind Through Estate Planning

Gilfix & La Poll Associates' attorneys specialize in legal planning that is highly sophisticated and sensitive to the needs of older Californians.

Recommended services include:

- **Living Trusts That Avoid Probate**
- **Wills and Probate Management**
- **Estate ("Death") Tax Avoidance**
- **Advance Health Care Directives**
- **Tax and Estate Planning for Owners of Family Businesses and Larger Estates**
- **Medi-Cal Planning**
- **Elder Abuse Actions**
- **Trust Disputes**
- **Will Contests**