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Elder law attorneys join the ranks of those opposing changes to Medicaid

By REBECCA A. SANDS
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The National Academy of Elder Law Attorneys New York Chapter has taken a stand in the fight to stop changes in Medicaid that are scheduled to take effect next month.

Bernard A. Krooks, president of the group, said he is outraged by the new state policies because of the change in the way Medicaid will cover costs for nursing homes and in-home care for senior citizens.

He said, "This is an outrage, and it's horrible for seniors. Seniors will be denied much needed medical care because of an intrafamily gift made years ago." He asked, "How will seniors get the care they need if they have no money and the government denies them care? And who will provide seniors with care if the government won't?"

The new plan will affect seniors who give monetary gifts to organizations, charities or even family members. Currently, seniors are penalized if they make a donation or gift that is more than what they could expect to receive each month in Medicaid benefits for long-term nursing home care in their given community.

Currently, the state's policy does not affect Medicaid payments for at-home care, but that will change on July 1.

For example, as of next month, seniors who receive Medicaid payments of \$5,000 a month for long-term or at-home care and who donate \$10,000

to a charity or give a gift of that amount to a family member would have to wait two months before they would be eligible for Medicaid.

The state now can consider gifts or donations made within the past three years when determining when a person will be eligible for Medicaid benefits. As of July 1, that will be expanded to five years.

What will also change is the timeframe for determining when people can start to receive Medicaid benefits after having made a donation. Currently, the clock starts ticking on the date the donation is made. As of July 1, that will change to the day when the person applies for Medicaid.

Jeffrey Hammond, spokesman for the New York State Department of Health, explained this policy falls within the provisions of federal law and will "help New York State maintain the integrity of the Medicaid program, balancing costs against the real needs of New Yorkers who qualify for benefits. He said, "Currently the Health Department saves approximately \$2.7 billion each year as a result of medical fraud, waste and abuse initiatives."

The Health Department confirmed that the changes in the state's Medicaid policy are aimed at stopping the abuse of taxpayer dollars.

However, AARP State Legislative Representative Bill Ferris said, "The rules should be focused on the people who are gaming the Medicaid system." He said the new policy is "casting a wide net that's going to capture a lot of innocent people seeking long term care services that are needed."