Can a Gift Compromise My MassHealth Eligibility?

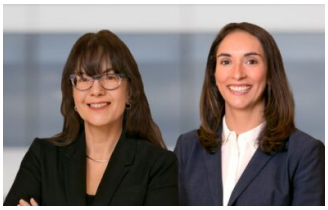
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A gift is a transfer of property to a person or entity (the "donee") when the person making the gift (the "donor") does not receive a good (e.g., a car) or a service (e.g., landscaping) of equal value in return.

For gift tax purposes, a donor is allowed to gift up to the annual gift tax exclusion amount to as many donees as they wish in a calendar year without incurring gift tax or reducing their federal estate tax exemption. Currently, the annual gift tax exclusion is $19,000 per donee.

For MassHealth (the Massachusetts Medicaid program) purposes, any gifts made in the five (5) years immediately preceding the date the donor applies for MassHealth long-term care benefits are deemed disqualifying transfers. This is more commonly known as the five-year look-back period. MassHealth begins with the assumption that any gifts made during the five-year look-back period were made to reduce assets to qualify for MassHealth benefits. The assumption can theoretically be rebutted by proving that the gift was made for a purpose other than to qualify for MassHealth or by arguing that denying the donor MassHealth benefits would be an undue hardship. Practically, however, MassHealth rarely permits gifts under either of those exceptions.

Thus, while a donor may be able to make gifts that do not incur gift tax, such gifts could have major consequences if that donor enters a nursing home and needs to apply for MassHealth to help pay for such care. If you think nursing home care may be needed in the next five years, or you worry about paying for nursing home, it is best to think twice about making gifts to your loved ones or charities going forward. You can also always consult with a qualified elder law attorney to determine the best path forward.



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