



**Subject:** Mom got sued for giving my sister \$1,000 ...

<First-Name>,

The number one problem I encounter with Alzheimer's caretakers is... they don't realize that the government claims all income above \$400 from five years prior to entering their loved one into a nursing home. This rule applies even if the money is a gift!

This is often a shocker...let me tell you a story from one of my clients.

\* \* \*

"Four years ago, my mother had good health for a woman her age. She volunteered by cooking meals at the church. She traveled with her senior center friends. She planted flowers every spring. She lived lively and vibrant...always up to something!

While my sister, Tara, drove over to see our mother, a driver slammed into her. She broke her leg and received a mild concussion. Unfortunately, accidents happen, and it takes time to receive payments from the insurance claims. The collision left Tara out of work so she wasn't making any money. She needed medical care immediately.

Our mother suffered knowing that Tara was injured on the way to visit with her. She also wanted to help my sister, since she needed more money to cover her immediate care. Our mother gave her \$1,000 just to help her with her expenses.

Fast forward, Tara is recovered and back to work. About three years ago, our mother showed signs of Alzheimer's. No telling how long she kept it from us.

Unfortunately, when signs of this disease show, you can never know how fast this disease deteriorates a person's mind. Over the last six months, my sister and I have taken turns caring for our mother. Most of the time now, Mom doesn't recognize us.

Her disease progressed quickly. She no longer understands simple relationships. For example:

- You cannot place your hands on the hot stove.
- You don't place groceries in the bathroom.
- You don't put dirty clothes in the dishwasher.

My sister and I both have families that need us. Our mother has gone beyond the care my sister and I can provide. It feels completely overwhelming. We can no longer balance our lives, perform well at work, or give our families the attention they need.

We needed to place our mother in a nursing home.



Of course, Medicare consumed all the assets our mother had. Her house, her bank account, her annuities, and her mutual funds were relinquished to Medicare. Mom's total assets totaled \$278,460.

They scrutinized her bank account and examined each expenditure over the last five years. They found the check my mother wrote for \$1,000 to my sister. The government sued my mother for \$1,000 because the check was written within five years of her moving into a nursing home.

We never expected this backlash. Not only was this backlash unexpected, the government charged a fee and interest. Nothing like adding salt to a wound.

Now after this unpleasant shocker, my father-in-law is losing some of his abilities to care for himself. We are seeing signs, therefore we are reaching out to you, so that we can properly help him plan.”

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I appreciate my client sharing her story. Nobody holds a crystal ball to see into the future.

Here's what you must know: In recent years, Congress passed laws intended to discourage, even criminalize, the transfer of assets for Medicaid planning purposes.

The first was Section 217 of the Health Insurance Portability Act (HIPAA) passed in 1996, which stated that it was a federal crime to give away money to qualify for Medicaid and then to apply for Medicaid during the period of ineligibility which the gift created. The law was referred to as “The Granny Goes To Jail Law,” and a huge public outcry followed.

Congress realized that it was unrealistic to send “Granny” or even her kids to jail for gifting assets, so the law was changed in the Balanced Budget Act of 1997. No longer were Granny and her kids going to jail. Now it was only Granny's lawyer, who had advised the transfers.

These attempts to criminalize Medicaid planning were a clear warning that the government is displeased with perceived Medicaid fraud and abuse. Although Attorney General Janet Reno informed Congress that the Department of Justice would not criminally prosecute advisors for violation of the 1997 law, because in her opinion the law is unconstitutional; she offered to help Congress fashion a law that *would* be constitutional.

In all probability, attempts to criminalize some aspects of Medicaid planning will continue. So, consulting someone with expertise in elder law will become more important to ensure compliance with any changes in Medicaid laws and regulations.

To find out more about this, open your “The Alzheimer's Legal Survival Guide“ and read pages 67 to page 70.



The laws change frequently on how to care for your loved-one. To keep your family savings safe and prevent unexpected surprises, talk to an Elder and Disability law firm even if it seems too early.

Sincerely,

<Name of Principle>