

Deficit Reduction Act of 2005 (DRA 2005)

A little background and history ...

On February 8, 2006 the president signed in to law federal legislation, which will have a significant effect on some aspects of Medicaid and how eligibility is determined.

For some states, including New York State, once the federal legislation was signed into law the next step was for legislation to be passed on the state level to come into compliance with the federal legislation. This was done in New York on July 1, 2006.

State regulations were written to implement the new laws. Then the state Department of Health issues what are called Administrative Directives or ADMs that are followed by the local (County) workers. The ADM, which puts the new regulations into effect, came out in late July and takes effect for applications filed on or after August 1, 2006.

What are the changes & what do they mean?

A change in the look back period will be phased in making a change from 3 to 5 years of financial records that need to be turned in on all types of accounts. In 2006 through January 31, 2009 the Department of Social Services will continue to only ask for 3 years of statements (5 years on trust will continue). The look back will increase in one-month increments beginning February 1, 2009. The full 5 years of statements will be required starting in February 1, 2011.

Currently, Erie County is looking for verification on transactions of \$2,000 or more. However, it is important to keep in mind they have a right to ask for verification of other transactions if they see the need. Of these transactions any transfers or gifts made after February 8, 2006 will be subject to the new rule which applies the penalty (or period of Medicaid ineligibility) starting from the point one is out of funds and needs Medicaid coverage. Any transfers or gifts made prior to February 8, 2006 will have the old rule applied that starts the penalty (or period of Medicaid ineligibility) the month after the transfer was made or the gift given. Therefore, any assets transferred or gifted after February 8, 2006 may have to be returned in order to avoid a period of Medicaid ineligibility.

Spousal refusal is still an option and is not expected to change for the Long-Term Nursing Home Medicaid and the Long Term Home Health Care Program of Medicaid.