



JAMES E. DE MARTINO, ATTORNEY ELDER LAW STRATEGIES

 Call us today! 908-874-5636

- [Home](#)
- [Contact](#)
- [About](#)
- [We Make House Calls](#)



PRINT OR SAVE THIS PAGE PDF

IRS GIFTING V. MEDICAID GIFTING

NJ Long Term Care Planning

A commonly asked question concerns a person's ability to give \$19,000 per year, to any number of individuals, without incurring a gift tax from the Internal Revenue Service.

Although this is a perfectly acceptable mechanism to "spend down" for death tax purposes, it runs at odds with Medicaid. In short, if such transfer was made within the past 60 months of applying for Medicaid, it subjects that person to a penalty.

In order to determine the nature and extent of the penalty, one takes the \$19,000 and divides it by \$13,203 (the NJ Medicaid divisor). The result is 1.15. For all intents and purposes, Medicaid rounds it to the next higher decimal. Consequently, a transfer of \$19,000, within the 5 yr. look-back period results in a two month penalty.

Translated, this means that the person must wait two months (penalty period) before applying for Medicaid. Consequently, that person must find another way to pay for long-term care for those months.

James E. De Martino is licensed to practice in the State of New Jersey.

Our practice is limited to estate planning, long-term care planning, and NJ Medicaid asset protection.

[Edit this page](#)

UPDATED FOR 2025

James E. De Martino, Attorney
P.O. Box 126 Belvidere, NJ 07823

908-874-5636
(fax) 570-897-6452

New Jersey Elder Lawyer

Newsletters

- [NJ Elder Law Newsletters](#)

Articles By James De Martino

- [MONTHLY INCOME OVER \\$2,901?](#)
- [The Alzheimer Prayer](#)
- [Nursing Home Bound?](#)
- [Nursing Home Care](#)
- [Single People](#)
- [Married People](#)
- [What About Medicare?](#)
- [What is Medicaid?](#)
- [What You May Not Know](#)
- [Medicaid Asset Rules](#)
- [Medicaid Joint Accounts](#)

- [Giving Assets Away?](#)
- [Division of Assets](#)
- [Giving Away Money Per Year?](#)
- [Will I Lose My Home?](#)
- [Medicaid Planning Consultaion](#)
- [Regular Estate Planning](#)
- [Caregiver Child](#)
- [When to Bypass a Spouse](#)

James E. De Martino, Attorney

Elder Law and NJ Estate Planning Strategies
P.O. Box 126 Belvidere, New Jersey , 07823
Phone: 908-874-5636

© James E. De Martino, Attorney

[Shop Smart and Save](#) | [Website By Lawyers on the Web](#)
