



JAMES E. DE MARTINO, ATTORNEY ELDER LAW STRATEGIES

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MAKING HOLIDAY GIFTS TO FAMILY MEMBERS

NJ Long Term Care Planning

At this time of the year, we are frequently asked if Medicaid allows Holiday gifting—even though such is within a 5 year lookback period.

Clients are quick to point out that the I.R.S. allows people to gift up to \$19,000 per year, to any individual or individuals.

With regard to the above, Medicaid's position is as follows:

- The \$19,000/yr. rule is an I.R.S. regulation regarding gift taxes. The I.R.S. is a separate branch of the government. What is acceptable to the I.R.S. for gift tax purposes may be in violation of Medicaid rules for long-term care planning purposes.
- Christmas and Hanukkah gifts (and the like) are acceptable provided they are:
 1. “reasonable” (there is no definition for this term!) and/or
 2. Are a continuation of a gifting pattern which began years before a person developed a condition which required long-term care.

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.

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