

MEDICAID STRATEGIES POST-DRA

Once the DRA is fully implemented, Medicaid and asset-preservation strategies will fall into two categories. The first contains the many strategies that were effective before the DRA and remain so. The second contains the strategies that will flow from and respond to the changes wrought by the DRA.

Pre-DRA Strategies That Remain Viable

- Gifting any assets to a spouse, a blind or disabled child, or a minor child
- Gifting the residence to a spouse, a blind or disabled child, a minor child, a caregiver child, or a sibling with an equity interest
- Court petition or fair hearing to increase the community spouse resource allowance (CSRA) and minimum monthly maintenance needs allowance (MMMNA)
- Spousal refusal
- Converting nonexempt, unprotected assets into exempt resources
- Irrevocable burial trusts

Strategies Responding to Post-DRA Changes

- The use of DRA-compliant annuities and promissory notes
- Advance gifting and trust utilization
- Expanded use of personal services agreements
- Increased reliance on long-term care insurance
- Use of evolving home loan products along with deferred repayment options
- Purchase of a life estate in the residence of a child
- Medicaid grantor-retained annuity trusts (GRAT), an evolving approach using discounts to remove assets from an estate