Deficit Reduction Act of 2005

On February 8, 2006, President Bush signed the Deficit Reduction Act of 2005 (S.1932) into law. The Act makes several changes to the Medicaid program which will significantly affect estate and long-term care planning, and modifies federal higher education programs, most notably parent and student loan programs.

Key provisions of the Act are summarized below.

Medicaid

Increases the Medicaid "look-back" period for transfer of assets for less than full market value from 36 months to 60 months (effective for transfers made on or after date of enactment).

Changes the start date of the ineligibility period for all transfers made on or after the date of enactment to (1) the first day of a month during or after which assets have been transferred for less than fair market value, or (2) the date of first possible eligibility for Medicaid (but for the penalty period), whichever is later.

Requires that a Medicaid applicant disclose to the state any interest the applicant or community spouse has in an annuity, regardless of whether the annuity is irrevocable or treated as an asset. Allows states to require an issuer to notify the state when income or principal is withdrawn from the annuity.

Caps the amount of home equity an individual can have and still qualify for Medicaid at $500,000; states are allowed to increase this cap to a maximum of $750,000. Cap does not apply to Medicaid applicants with spouses or dependent children who are residing in the home. Amount of cap will be indexed after 2010.

Provides for a hardship waiver of the period of ineligibility in cases in which its application would deprive an individual of medical care that would endanger his or her health or life, or deprive the individual of food, clothing, and shelter. Requires states to notify Medicaid applicants who would be subject to a period of ineligibility so that they may request a waiver, and requires states to provide for a timely process for determining if an undue hardship exists.

Allows continuing care retirement communities (CCRCs) and life care communities to require residents to spend resources declared on their entrance fee contracts for their care before applying for Medicaid.

Treats CCRC entrance fees as countable resources for Medicaid eligibility purposes to the extent that the individual has the ability to use the entrance fee, or the contract states that the entrance fee must be used to provide for care should other resources prove insufficient (other criteria also apply).

Limits circumstances under which persons may intentionally shelter assets in order to qualify for Medicaid by requiring states to apply partial month penalties; requiring states to accumulate transfers in computing the period of ineligibility; requiring that certain notes and loans are considered countable; and limiting transfers to purchase life estates.

Establishes rules pertaining to Qualified State Long-Term Care Insurance Partnership plans; and long-term care insurance policies sold in conjunction with these plans.

Allows states more flexibility in setting Medicaid cost-sharing and premiums, including the option to impose higher cost-sharing for nonpreferred prescription drugs and nonemergency services in hospital emergency departments.

Gives states the option to cover certain disabled children in families with incomes up to 300% of poverty, allowing families to work and earn income and still retain Medicaid eligibility for disabled children.

Requires documentary evidence of citizenship or nationality for Medicaid eligibility.

Provides funds for Katrina-related Medicare waivers, funding for state-operated high-risk health insurance pools, and additional monies for State Children's Health Insurance Program (SCHIP).

Federal Higher Education Programs and College Savings

Modifies interest rate provisions for Stafford and PLUS loan programs. Under current law, borrowers' rates on new student (Stafford) and parent (PLUS) loans are scheduled to switch from a variable-rate formula to a fixed rate (6.8% for Stafford loans and 7.9% for PLUS loans) effective July 1, 2006; the Act allows the switch from variable to fixed rate loans to take effect, but raises the fixed rate for PLUS loans from 7.9% to 8.5 %.

Reduces borrower's origination fees for subsidized and unsubsidized student loans. Origination fees for student borrowers in the guaranteed Family Federal Education Loan Program will drop to 2.0% for loans disbursed on or after July 1, 2006, to 1.5% for loans disbursed on or after July 1 2007, 1.0 percent for loans disbursed on or after July 1, 2008, and 0.5% for loans disbursed on or after July 1, 2009, and would be completely eliminated for loans disbursed on or after July 1, 2010. Fees in the direct loan program will also be phased down; origination fees for loans disbursed on or after the date of enactment and before July 1, 2007 will be 3.0%, and will gradually fall to 1% by July 1, 2010.

Increases the maximum amount of subsidized Stafford loans for first-year students from $2,625 to $3,500, and for second-year students from $3,500 to $4,500. (effective for loans made on or after July 1, 2007).

Increases the loan limit for unsubsidized Stafford loans made to graduate or professional students from $10,000 to $12,000 (effective for loans made on or after July 1, 2007).

Allows graduate and professional students to borrow under the PLUS program (effective July 1, 2007).

Establishes a new grant program to supplement the Pell Grant program. Grants from this program will be available from 2006-2010; the program will sunset at the end of fiscal year 2010. To be eligible for a grant under this program, students must be U.S. citizens attending school full time and eligible for a Pell Grant, and must meet other specific requirements. Grants available to first- and second-year students will be called Academic Competitiveness Grants; these will provide up to $750 to first-year students and up to $1,300 to second-year students who meet program requirements. Grants available to third-and fourth-year students will be called National Science and Mathematics Access to Retain Talent (SMART) Grants; these will provide up to $4,000 to third-or fourth-year students majoring in math, science, technology, engineering, or a foreign language critical to national security.

Allows members of military who are serving on active duty or performing qualifying National Guard duty to defer for up to three years Federal Family Education Loans, Direct Loans, and Perkins loans first disbursed on or after July 1, 2001.

Makes changes to the Federal need analysis methodology (effective July 1, 2007); these changes include decreasing the dependent and independent student contribution from assets from 35% to 20%, and increasing the dependent and independent student income protection allowance.

Expands eligibility for loans by loosening restrictions on distance learning.

Makes several changes to consolidation loan rules, including the elimination of spousal and in-school consolidation.

Eliminates the sunset on the teacher loan forgiveness program benefits.

Eliminates the requirement that forbearance agreements be approved in writing by the borrower.

Changes treatment of prepaid tuition plans in federal financial aid formula; prepaid tuition plans will now be treated as an asset (presumably of the parent--the same as 529 college savings plans and Coverdell Education Savings Accounts) instead of as a resource (effective July 1, 2006).

Medicare

Accelerates the phased-in increase in Part B premiums for higher-income individuals from 5 years to 3 years, phasing in the increase by 2009. Under this provision, the phase-in percentage would be 33% in 2007, 67% in 2008, and 100% in 2009 (current law phases-in the increase by 20 percentage points per year).

Eliminates 2.8% increase on payments for home health agencies, freezing payments at 2005 levels.

Eliminates planned 4.4% reduction in payments for physicians' services for calendar year 2006.

Improves patient access to health screenings by eliminating Part B deductible for colorectal cancer screening tests and abdominal aortic aneurysm ultrasound screening (effective January 1, 2007).

Pension Benefit Guaranty Corporation

Increases the per-participant premiums charged to sponsors of defined-benefit pension plans. The current premium for single-employer plans would increase from $19 per participant to $30 per participant in 2006; the premium for multi-employer plans would increase from $2.60 per participant to $8.00 per participant in 2006. Premiums for both single-employer and multi-employer plans will be indexed to wage growth starting in 2007.

Creates a new premium for sponsors of plans that are terminated on an involuntary or distressed-termination basis, payable for three years after the termination. The premium payment is set at $1,250 per participant, per year. The premiums would not apply to firms liquidated by a bankruptcy court or to terminations after December 2010.

Federal Deposit Insurance Corporation (FDIC) and National Credit Union Association (NCUA)

Increases from $100,000 to $250,000 the aggregate limit on retirement account deposits insured by the FDIC and NCUA

Indexes the limit for all insured deposit accounts for inflation after 2010.

Merges the Bank Insurance Fund and the Savings Association Insurance fund into the Deposit Insurance Fund.

Civil Filing Fees

Increases the filing fee for individuals seeking Chapter 7 bankruptcy relief from $220 to $245, and the fee for individuals seeking Chapter 13 bankruptcy relief from $150 to $235.

Increases the filing fees for parties appearing before a U.S. District Court from $250 to $350, and filing fees for parties appearing before a U.S. Court of Appeals from $250 to $450.