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## **NEW YORK STATE REVERSES PORTIONS OF PATAKI'S BUDGET**

In our last issue we addressed those portions of Governor Pataki's budget that had been enacted and which affect Medicaid eligibility. Just after that newsletter went to press, a new deal was struck between the Governor and the legislature with respect to the changes in Medicaid eligibility. As a result, some of the anticipated changes will not take effect.

**Spousal Refusal Has Not Been Repealed.** By invoking spousal refusal, a planning strategy by which the healthy spouse of an applicant for Medicaid benefits can refuse to use his or her income and resources to support the ill spouse, Medicaid is required to evaluate the application without consideration of the refusing spouse's assets or income. Under Pataki's budget, as adopted, this technique would no longer have been available for home care, and New York was to seek permission to disallow it for applications for nursing home care. Now, spousal refusal will remain a viable planning tool for both nursing home and home care applications.

**Transfer of Assets Will Not Affect Home Care Services.** Previously, Medicaid applicants seeking only home care services were not penalized for asset transfers. Under Pataki's original budget, a penalty would have been imposed for home care applicants who transferred assets. Under the new budget agreement, the transfer of assets will not create an ineligibility for home care services.

The reversal of these portions of the Governor's budget is another reminder of the complexity of asset-protection planning. It reinforces the importance of utilizing the services of a qualified professional to ensure your needs and goals are met.