

Lowering Your Chances at Qualifying for Nursing Home Medicaid? Know the Law before Transferring an Asset

Estate Planning is often a necessary task. It is most commonly known as a way to direct your assets to those you wish to provide for after your death. But, did you know that part of the estate planning process could also help with providing for your care or the care of a loved one upon disability? A well thought out estate plan can prove especially useful where a beneficiary may need government assistance, such as SSI or Medicaid. A hasty transfer of assets can mean the difference between receiving the government's help or being on your own.

In order to qualify for Nursing Home Medicaid benefits in Ohio, the applicant must generally be elderly, disabled or blind and have insufficient income and resources to pay for his or her medical expenses.

Spend Down Strategy

A properly executed "spend down" strategy may be successfully used to qualify. As indicated by its name, this requires the applicant to spend excess income on medical or other various expenses in order to meet Medicaid thresholds. Examples of legitimate uses include:

1. Paying down or paying off a mortgage;
2. Purchasing home furnishings;
3. Making home improvements;
4. Purchasing a new car or making necessary car repairs;
5. Prepaying real estate taxes (if non-refundable);
6. Paying for legal services relating to qualification for government assistance.

Transfer of Assets

Applicants with excess resources may also think all that is needed to qualify for assistance is to transfer excess resources to a family member or friend in order to fall within the Medicaid limits. Unfortunately, this strategy may prove disastrous, as certain transfers will result in complete disqualification.

Medicaid includes what is called a "look-back period" where the applicant's actions are scrutinized to determine eligibility. The look-back period is generally 60 months from the time an applicant submits an application for government assistance. Once the application is made, all asset transfers that occurred for less than full and adequate consideration within the look-back period are considered when determining Medicaid eligibility. Therefore, a strategy that requires the applicant to make gifts of assets, or to sell assets below fair market value, will result in the disqualification of the applicant from Medicaid assistance for a certain period of time.

However, not all asset transfers within the look-back period are ignored for determining eligibility. Certain transfers to a spouse and certain transfers to blind or disabled children are excepted from the look-back period.

Consult with a Qualified Estate Planning and Medicaid Planning Attorney

The laws dealing with Medicaid eligibility and Special Needs Planning are complex. Without the proper advice, an otherwise simple transaction, (such as making a gift to a relative), can result in the temporary disqualification from valuable Medicaid benefits. Consult with a qualified estate planning attorney who is familiar with Medicaid planning. Otherwise, your well-being or that of a loved one may be at risk.

Moshe Y. Toron, Attorney at Law practices in the areas of Estate Planning and Medicaid Planning. For more information and to receive a free copy of his publication, The Consumer's Guide to Medicaid Planning, please call the Toron Law Firm at (513) 563-3007.