

## Can you keep your home and still qualify for Medicaid?

The general rule is that under some circumstances, it is possible for you to keep your home and still qualify for Medicaid in Arizona. Even though many people are aware that they may be able to keep their home and still become financially eligible for Medicaid, the law and policy in Arizona looks at how you currently have title to your property and a variety of other factors.

**Real Property in a Trust** - Generally, if your property is titled in your revocable living trust, your home property is going to be considered a resource when you apply for Medicaid eligibility. But, if your property is not in trust and the property is established as being your "home" property, then in most cases it will be considered exempt. Nevertheless, there are planning advantages to having your home property in trust because in some cases you can effectively spend down assets by simply transferring the property out of trust.

While most people are familiar with the rule that they can keep their home property and still obtain Medicaid eligibility, few realize that there are other conditional limitations that are imposed on home property that must be established for it to be exempt.

**Exempt Real Property** - So, what types of home properties are going to be considered exempt? First, you or your spouse must have been living in your home or have resided in your home at one time. In this instance, your home will be exempt if the equity in the home is not greater than \$500,000.

On the other hand, your home property will be exempt even if you are in a nursing home or other institution so long as you have expressed your intent to return home. And, with limited exception, a Medicaid applicant's statement of intent to return home will be accepted as being satisfactory.

Finally, you may still be able to keep your home as exempt property if your spouse is living in the home or you have a dependent relative who is living in the home.

Undoubtedly, the above general information can be helpful and informative as you consider what may happen to your home when and if your loved one or you enter into a nursing home or require in-home nursing care. But, you may still be asking yourself whether your home in another state is considered exempt when you apply for Medicaid. Or, can the government place a lien on my property while I am alive to recover money that the government has or will pay toward my nursing home care? The answer to these questions is that nursing home residents and those who may need to qualify for Medicaid should consider consulting with an experienced elder law attorney before buying, selling, or transferring real estate. If you are interested in scheduling an appointment with Robert Way, Esq. to discuss these issues, please call (928)783-4575.



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## The Passing of A Loved One

It is the call we all know will come one day. One or both of our parents have fallen seriously ill. Of course, our first reaction is concern. After the shocking moment has passed, we wonder, "what do I do now?"

Hopefully, your parents would have considered the following estate planning options which would ease your path.

- Health Care Power of Attorney (sometimes combined with a Living Will, or Health Care Proxy) designating a person to make health care decisions for them when they are unable to make decisions for themselves.
- A "HIPAA" Power. The Health Insurance Portability and Accountability Act has restricted access to health care information so loved ones may be denied necessary information such as whether the person is even in the facility. This HIPAA power allows the designated family members to cut through this information barrier.
- A General Durable Power of Attorney appoints an agent to act for your parents upon incapacity. This power of attorney deals with financial and property matters.
- A Revocable Living Trust enables your parents to move title of assets into the trust, thereby avoiding the potentially cumbersome probate process. During incapacity, the successor trustee (such as you) can step in seamlessly and manage the assets. With a Trust, probate is avoided and the administration fees at death will be substantially less than what they would be if the assets were subject to probate.
- A Pour Over Will takes anything that was overlooked and places it in the trust at death. While the assets, which had been overlooked, may be subject to probate, they will be moved into the trust in a coordinated plan.
- A Funeral Trust to pay for their funeral services and cremation or interment. With a Funeral Trust, assets are set aside safe from creditors and the Medicaid authority so they will be there at death and the burden of paying for the funeral will not fall on you or your siblings. With a Funeral Trust, your parents need not choose a funeral home now, which can be important given they may move later in life to be closer to family, health facilities, or warm weather.

In our experience, the most frequent fights upon the passing of a parent are not about the money, but about non-financial assets, such as your grandmother's quilt or wedding ring. A completed plan can pass on your parents' hopes, values, life stories, and family heirlooms.

While the final illness and passing of a parent is always difficult, these estate planning elements can ease it. Further, this smooth transition can avoid unnecessary strain on your family when it is already emotionally vulnerable. A qualified estate planning attorney can help you or your parents set up a plan with all of the important elements listed above. **If you are interested in scheduling an appointment with Attorney Larry Deason, please call Mary at (928) 783-4575**