

Can I keep my jewelry and musical instruments and still qualify for Medicaid in Arizona?

Under most circumstances, you can be reasonably certain that you will be able to keep your household goods and personal effects and still qualify for Medicaid in Arizona. But, you should hope that you do not fall prey to a crime or a natural disaster because these rules can affect your rights to replace those household items.

Household Goods and Personal Effects

Household goods are considered to be your furniture, linens, appliances, carpets, televisions sets, and other equipment that you might use in connection with the operation, maintenance, and occupancy of your home. 20 C.F.R. § 416.1216(a). By contrast your personal goods or effects, under the Arizona Health Care Cost Containment System (AHCCCS) Manual §706.26 and 20 C.F.R. § 416.1216(b), are your personal items which are either worn or carried by the institutionalized individual, (or spouse, if any); or, are articles that have an intimate relation to the individual. These items will include but are not limited to personal jewelry including wedding rings and engagement rings, personal care items, prosthetic devices, and educational or recreational items such as books or musical instruments. And, the state will not count as resources items of cultural or religious significance to an individual. Nevertheless, you should not be misled by these exemptions because if you decide to acquire or hold for investment various gems or other items of value, these will not be considered to be personal effects and will be counted as resources. 20 C.F.R. § 416.1216(b)(1)(ii)(2).

What happens if your household goods or personal items are stolen or destroyed?

In having a basic knowledge of these rules, could you imagine the case where you or a loved one is seeking Medicaid eligibility and your house is robbed or suddenly there is an earthquake and federal disaster relief is provided.

If in the unlikely event you are ever a crime victim at a time when you are applying for Medicaid, you may be thankful to know that restitution payments you receive from a criminal perpetrator or state restitution fund will be excluded, but for only nine months. And, the downside is that you will have the burden to prove that this was compensation for expenses you incurred for losses you suffered as a result of the crime. 20 C.F.R. § 416.1229. By contrast, if your personal goods were instead destroyed by a natural disaster, and you received federal disaster assistance, your disaster assistance payments would only be excluded in the month received and then excluded as a resource if you retained them separate from your other resources. AHCCCS Manual §706.13

Undoubtedly, the above-general information can be helpful and informative as you consider whether you can keep the personal property items you currently own if you or your loved one needs to enter into a nursing home. And because there are so many property items we own, you may not yet know whether the government will permit you to keep your life insurance policies as an asset and still qualify for Medicaid. **Accordingly, the answer to this question and many more should be discussed with an experienced Elder law attorney before applying for Medicaid. If you are interested in obtaining assistance with Medicaid and Medicare, call Robert Michael Way, Esq., at the 783-4466 to make an appointment.**

Deason Law Firm
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What's in a Word?

We use words every day without much thought. Words can have different meaning in different contexts. Sometimes this "play on words" can give rise to humor. In fact, comedian George Carlin based his career on the subtleties in the usage of language. Carlin became famous for the "Seven Dirty Words" skit detailing the words that were prohibited in broadcast media. In fact, Carlin's skit was the subject of a U.S. Supreme Court Case which clarified the boundary between free speech and obscenity. Carlin often pointed out apparent oxymoron like "jumbo shrimp". George Carlin died recently, at age 71.

Like George Carlin, an attorney who focuses his or her practice in estate planning understands that subtleties in the language used can make a big difference. An example of the reason for the complexity of language in estate planning matters is the "Rule Against Perpetuities" which can invalidate a gift or other transfer in a Will or Trust if not done the right way. Relax, you do not need to try to figure out what "the Rule" is and how it applies. In fact, the rules involved in estate planning are so complex that a court found ". . . few, if any, areas of the law have been fraught with more confusion or concealed more traps for the unwary draftsman" Not only is it an area that is complex, but the rules and techniques used in estate planning frequently change. That is why, in our office, we offer to our clients a free consultation every three years to review things that might have changed since the last review.

An example of frequent change is the federal estate tax. Currently, in 2008, the first \$2,000,000 of an estate is exempt from the tax. On January 1, 2009, the exemption will increase to \$3,500,000; however, on January 1, 2011 the exemption will be decreased to \$1,000,000 unless, of course, Congress changes its mind again.

If your daughter needed her appendix removed, would you read up online how to perform the procedure yourself? Or would you run down to Staples to get the latest software program titled "Appendectomies for Dummies". Would you get out your knife and wet-stone and start sharpening? Would you take her to the dentist? Well, of course not. In fact, while the possibility is laughable; the reality would be tragic.

The same holds true in estate planning. Just as your daughter is relying on you to bring her to a good surgeon to remove her appendix, your children are also counting on you to plan your estate properly. Just as your daughter's life could be at stake in the appendectomy, your children's livelihood and well being could be at stake with the estate plan. A poorly drafted estate plan can wreak havoc on relationships, as well as assets. If you don't plan your estate properly, it would be almost as obscene as George Carlin's famous "Seven Dirty Words."

If you are interested in schedule a complimentary consultation with attorney Larry Deason, please call Mary at 783-4575.

Attend our upcoming Legacy Wealth Planning Seminar ... Why?

- Find out how you can create a simple estate plan that provides for your survivors.
- Learn how you can provide an estate plan that will allow your beneficiaries to avoid probate and taxes.
- If you have an estate plan already that's ok, attend our seminar for a review, and take a deeper look at the impact of disability for either spouse, protection for the beneficiaries from divorce, lawsuits, creditor problems, and re-marriage issues.

RSVP with Mary at 783-4575

**Thursday, October 23rd @
9:30am or 6:30pm**

Yuma Civic & Convention Center (East Wing), 1440 Desert Hills Dr.

CLIENTS only

***Client Holiday Open House
at the Deason Law Firm***

Come celebrate the Holiday Season with the Deason Law Firm - plan on stopping by, saying hi and picking up your present!
Dessert Tray and Beverage Bar

Save the date: Friday, December 12th.

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242 W. 28th Street, Ste. A

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This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

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