



HARRIS LAW & CO.

Protecting Families & Businesses Through All of Life's Journeys

THE MEDICAID MAZE: PLANNING STRATEGIES

We covered a lot of information in our Medicaid Maze Series from what is causing our Medicaid crisis and how to qualify for Medicaid to spousal limits on Medicaid rules and spenddown tactics. In this final installment, we are going to discuss estate planning strategies that are often employed during Medicaid planning.

WHEN TO START PLANNING FOR LONG-TERM CARE

When is it too early to start planning? Never. Not only will you have MORE options, you will have BETTER options the earlier you plan. The 5-year look back period and the estate claw back provisions are next to impossible to avoid without proper pre-planning. Various strategies may be utilized to help you plan for preserving your estate and ensuring you are able to maintain a certain standard of living. Let's discuss a few.

SPECIAL NEEDS TRUST

You may be able to set up a Special (Supplemental) Needs Trust with your own assets. This allows you to immediately qualify for Medicaid. The drawback? It also requires you to pay back any unused assets at your death to the State for reimbursement of your medical expenses. This is usually set up when you cannot satisfy the 5-year lookback requirement.

DID YOU KNOW?

According to the Center for Disease Control (CDC), women on average live 5 years longer than men. Why does that matter? Women are generally left to pick up the pieces when proper planning isn't put into place.



IRREVOCABLE INCOME ONLY TRUST

Depending on the type of assets in your estate, utilizing an Irrevocable Income Only Trust (also commonly referred to as a Miller Trust) is a very powerful tool.

With this option, you can fund a trust with your own assets without reimbursing the State at your death. Further, you still get any income from this trust for your life and your spouse's life. This allows you to pass your assets onto your loved ones and not lose them to pay for your care.

These trusts are usually set up when we have time to satisfy the 5-year lookback requirement.



**INFORM.
EDUCATE.
EMPOWER.**



Lindsay M. Harris
is the owner & lead
succession planning
attorney at Harris Law
& Co.

Our Passion Shows!

Reviews



Lindsay M. Harris

Avvo

Thank you for
helping us better
serve our
community by
referring us to your
friends & family.

Check out our
website for other
helpful articles,
videos, & seminar
opportunities.

POOLED TRUST

Pooled Trusts allow you to transfer assets into a trust in exchange for a monthly income. This transfer is exempt from the 5-year lookback period and is not a countable asset. These trusts are set up to provide for your supplemental needs only. What are your supplemental needs? Those goods and services that improve your quality of life but are not covered on your government program. Examples include over the counter medicine, nursing care, private room upgrades, vacations, entertainment, etc. The remaining funds in this trust at your death typically go back to the State to reimburse them for your care.

MODERN HALF-A-LOAF STRATEGY

This strategy allows you to transfer a portion of your assets to your beneficiaries immediately (around 40-60%). Then, you purchase a Medicaid Annuity for the remainder value of your Countable Assets. The 5-year lookback period still applies, but the annuity should pay you enough to cover your care for the entire 5-years. The annuity is designed to end when the 5-year penalty period ends and as such it is not countable income either. This strategy is best used with an income only trust and allows you to pass on a substantial portion of your assets to your loved ones and not the State in a protected and tax-efficient manner.

HOW TO PROTECT THE HOME

One of the most common questions people have is how to protect their home. Many people use outdated strategies that do not provide good protection or accomplish their goals such as using a life estate deed or just transferring the home directly to a child. What if your child gets divorced, sued, or passes away before you? Now your house is part of their estate and subject to their creditors. Do not fall for these old planning methods—use a trust to transfer your property and **PROTECT** your legacy.

Medicaid is not something you can understand in a day or by reading a few articles. The laws and regulations are too interwoven and complex. However, it is easy to understand that you will need help to get through this process and ensure you and your loved ones are protected. Don't leave your loved ones scrambling to care for you with no plan in place. Discuss your Medicaid Planning options with your qualified estate planning and elder law attorney. Call us at 605-777-1772 to schedule your consult. Protect your family and yourself.

**This article is for general informational purposes only and is not intended to give specific legal advice. Please consult with a qualified elder law attorney before taking any action.*