

Utah Spirit

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Elder Law: Will Medicaid Take My Home?

The most often asked questions I receive are those about how to avoid losing one's home. The questions come from seniors and from their children. Mostly the children, and sometimes the parent or parents, want to find a way to preserve the home for an inheritance.

The issues surrounding such concerns are many. But the most prevalent issue is how to preserve your estate while at the same time have the government, or the taxpayers, pay for your long-term care in a nursing home or extended care facility.

Although many seniors appear concerned about paying high taxes, they generally care more about preserving an inheritance for their children. Often my retort to those who ask how they can do this is: You mean you want to have the taxpayers pay for your care so that your children can have an inheritance?

When put that way, it may seem harsh. The reality is, however, most seniors become very concerned that the "government" will take their estate in exchange for paying the costs of their extended care. Somehow that does not seem fair to them.

By far the greatest concern, however, is whether your home will be taken by the government if you have to live in an extended care facility and your liquid assets are insufficient to cover the costs. The simple answer is, NO. But, and there usually is a but, the government, through the Medicaid program, will place a lien on your estate for the payments made on your behalf.

To see how this works, we need to know how you become eligible for Medicaid assistance. First, it is important to understand that Medicaid is a welfare program. It is the last resort. It provides assistance only to those who cannot afford to pay for their own long-term care. Since Medicare does not pay for long-term care, Medicaid is the only other program available, except for private care insurance and private funds.

If it becomes necessary for you to live in an extended care facility and your monthly income is insufficient to pay for the costs, you can apply for Medicaid. However, your assets must not be greater than \$2,000, excluding your home. There are other exclusions, but for now we are only concerned with your home.

Since your assets are limited to \$2,000, not counting your home, your estate, upon passing away, is essentially your home. Medicaid's lien, if any, attaches to your home and must be satisfied at the time the home is sold.

This lien is placed on your estate after your death, not before. The lien is only for the amount paid by Medicaid. If the amount paid exceeds the value of your estate, the excess is absorbed by Medicaid. Your family will not be obligated to pay any amounts which are not covered by your estate.

A simple example will illustrate this. Assume that your estate is valued at \$150,000 at the time of your death. Further assume that Medicaid paid for your care in a nursing home for 5 years for a total of \$180,000. Medicaid would collect your entire estate and absorb the excess of \$30,000.

On the other hand, what if the value of your estate is more than the amount paid by Medicaid? Assume that your estate is the same, \$150,000, and Medicaid has paid for only 2 years of your care for a total of \$72,000. Your estate would have a lien placed against it for \$72,000, leaving an inheritance of \$78,000.

In the above analysis, I used the term “estate” instead of “home.” Medicaid uses “estate,” because it more accurately describes the assets subject to Medicaid’s claims. Although your home usually comprises nearly all of your estate, there may be other assets which add to the value of your estate. All such assets can be claimed by Medicaid.

It is important to understand the Medicaid rules, and they change from time to time. In planning for your long-term care, you should consult your local Medicaid Office and your Elder Law Attorney.