



THE COULSON  
LAW GROUP

# MEDICAID PLANNING TODAY

www.QualifyForMedicaid.com

Volume 3, Issue 5



1001 Craig Road, Suite 224, St. Louis, Missouri 63146  
314-567-9292

107 Southpointe Drive, Suite 2, Edwardsville, Illinois 62025  
618-659-9292

## "ABOUT ALL MOM HAS LEFT IS THE HOUSE"

**M**any people who enter a nursing home are not blessed with much savings. Thus, we sometimes receive calls that start out with "I don't know if you can even help me. My mother went into the nursing home last month, and she will be running out of money and going on Medicaid pretty soon. About all Mom has left is the house."

The first thing we want to know is whether there's any hope that Mom will be able to return home. Often, the answer is along the lines of "I don't know. I hope so." In that case, our follow-up questions focus on how the necessary expenses of home ownership – things like real estate taxes, insurance, maintenance, any needed repairs, and utility costs – are going to be paid once Mom goes on Medicaid and only gets to keep \$30.00 per month of her income. "I don't know," the caller usually frowns and answers. "I guess I'll just get stuck paying them."

Under the law, a person who pays something on behalf of another person as a volunteer is not entitled to be repaid. The law assumes that it is a gift, especially in a family situation.

We tell the caller that within a few months after Mom goes on Medicaid, a lien will be placed against her property for Medicaid benefits paid and to be paid to her. Then, if the house is later sold during Mom's lifetime, the lien will have to be repaid, and it will have first priority. Or, if Mom still owns the house when she dies, it will be subject to "estate recovery" and the same thing will happen.

Often, the caller does a little mental math, and realizes that after Mom has been in the nursing home for two or three years, the amount of the lien will be more than what the house is worth. If that happens, there won't be any money left to reimburse the caller for all of the advanced costs, nor for any of the labor he or she has expended in keeping the lawn mowed, keeping it clean, and fixing any of the various problems that always seem to crop up occasionally with an older house.

Sometimes the caller suggests that he or she will deal with that situation by renting the house out. But we have to point out several problems with that.



First, under the Medicaid rules, Mom will need to pay the rent income toward the cost of her care.

Second, Mom doesn't have the money to pay for any needed repairs, nor for a lawyer to handle the eviction proceedings, if a tenant fails to pay.

Finally, by renting out her residence, Mom will convert it into a non-exempt commercial property. Mom would have excess resources, and she would go off Medicaid until the house was sold.

If the plan is for Mom to keep the property in the hope that she will be able to return home, we recommend planning that will assure that the caller will eventually be repaid, with interest, for any money advanced and labor performed for Mom's benefit in maintaining the house, and keeping it insured and the taxes paid, until she is able to come home. The planning still works even if that hope cannot be realized.

Moreover, in many instances we can help with planning that will make it such that if Mom does not sell the house during her lifetime, it can be protected from estate recovery when she dies. That planning must be done before Mom becomes eligible for Medicaid and the lien attaches.

Often – sometimes then, sometimes months later – the caller acknowledges that, unfortunately, Mom will not be able to return home. “I guess the house will just have to be sold,” the caller notes. “What will happen then?”

We inform the caller that the answer to that very important question often depends on whether or not we are allowed to assist with planning.

Without planning, the proceeds of sale will have to first be paid to the State to reimburse any Medicaid benefits already paid to Mom. That circumstance creates a real “Catch 22” dilemma, especially in the case of an older house in an older neighborhood. Often, the only way to sell quickly is to sell cheap. But holding out for a good price means that the Medicaid lien will be increasing by thousands of dollars every month.

Without planning, it doesn’t much matter what choice is made. Whatever proceeds Mom receives from the sale of the property will then cause her to be “over resource,” and she will have to spend down that money paying for her care until she is again within the resource limit. Unless Mom dies before that happens, all of the money from the sale of her home will be lost.

With planning, the outcome can be a lot better. Mom can partially give, and partially sell, the house to the caller (and/or other family members, such as her other children). She can use part of the money to pay for things she may need (often including a prepaid funeral and burial that she would not otherwise have been able to afford), and the rest to pay for her care during the time when she will be temporarily ineligible for Medicaid on account of the gift.

The family member buyer(s) will likely have an easy time getting a purchase loan, since the gift of a partial interest in the home will mean that the buyer(s) will only need to borrow half or less of the value of the property. If the buyer owns a home that has some equity, he or she may be able to just borrow

the money on a home equity loan.

At that point, the buyer will be free to sell the property to an outside buyer for the best price. No matter how long that takes, the buyer will get to keep all of the money from the sale. Or the buyer could choose to rent the property out, and keep all of the rent money.

“What part of the proceeds of sale can be protected through this planning?” the caller will ask. The answer depends on four things: the monthly nursing home cost, the nursing home resident’s income, whether the nursing home is in Illinois or Missouri, and the skill and care taken in carrying out the sophisticated legal planning involved.

In Illinois, more than half of the proceeds can be protected if the planning is done correctly. In Missouri, that’s the case unless the difference between the nursing home cost and the resident’s income is around \$3,000.00 per month or more.

“Do you think it’s worth it?” the caller we ask. If protecting \$35,000.00 or more from the sale of a \$70,000.00 house rather than seeing all of that money lost to a Medicaid lien or estate recovery is “worth it,” then the answer is a resounding “Yes!”

### ***To Receive Our Newsletters . . .***

The Coulson Law Group distributes our *Medicaid Planning Today* and our *Hospice Care and Planning* newsletters. They address the interrelated medical, emotional, legal and other challenges faced by families with long-term care issues.

If you would like to be added to our mailing list for one or both of our newsletters, please contact our office at 314-567-9292 and we can **rush** our current newsletter to you. If you would like to be a guest columnist for our *Hospice Care and Planning* newsletter, please contact our Director of Community Education and Outreach, Beth Frame, at (314) 567-9292 or (618) 659-9292, or email to [beth@coulsonlawgroup.com](mailto:beth@coulsonlawgroup.com), to be included in our distribution.

Medicaid Planning Today is written by the attorneys of The Coulson Law Group, Wesley J. Coulson and Joseph Ilges, and is published as a service of The Coulson Law Group, 1001 Craig Road, Suite 224, St. Louis, Missouri 63146; 107 Southpointe Drive, Suite 2, Edwardsville, Illinois 62025. This is for general informational purposes only and does not constitute legal advice. For specific questions, you should consult a qualified attorney.

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