

ELDER LAW TODAY

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MEDICAID SPEND-DOWN CHECKLIST

There is a great deal of confusion regarding the spend-down of assets for Medicaid qualification.

Generally a single or widowed individual in Illinois can only keep about \$2,000 in countable assets. They may find themselves wondering what the rest of their money can be spent on without causing any Medicaid disqualification.

Similarly, for a married couple, the rules are even more complex. The at home spouse (i.e. the spouse living at home) can keep the exempt assets listed below and the resident spouse (i.e., the spouse in the nursing home) may be able to transfer up to \$104,400 in assets to the at home spouse. Depending upon the couple's assets the couple may have account funds that need to be spent before the nursing home spouse qualifies for Medicaid.

That is often where the confusion begins. That's because there is so much misinformation about what kinds of things the money can be spent for. For that reason, we have put together the following checklist to help people better understand the law . . . and where the money can legally be spent.

For someone who is pursuing Medicaid eligibility, the following are the types of spend-down items, in no particular order, which should be considered:

- 1) **Purchase prepaid funeral plans.** You should deal with a funeral home knowledgeable in this type of planning.
- 2) **Purchase a new car.** It is perfectly acceptable to purchase a new car. The community spouse may even do this and have the entire purchase price come out of the nursing home spouse's spend-down.
- 3) **Payment of nursing home expenses.** Of course, nursing home expenses and other healthcare costs can be paid as part of a spend-down.
- 4) **Purchase of a new home.** Since the home is an exempt asset, in some instances purchase of a new home makes sense from a Medicaid planning standpoint.
- 5) **Make home improvements.** Home improvements are often an excellent use of funds in a Medicaid spend-down. For instance, the community spouse might fix the roof, get a new air conditioner system, new carpeting, new furniture, etc. The intention here is to fix the house up so that, hopefully, no other home repairs will need to be made during the lifetime of either spouse. That is especially important since, in many cases, the community spouse may have to spend down a significant amount of his or her assets and may no longer have the

resources necessary for large lump-sum expenditures which may occur later. It may also be important to make sure that the spouse living in the nursing home remains as a co-owner of the home until all the home repair costs have been paid in full.

Buy household goods or personal effects. Once again the intention is to have the community spouse get the types of things which are needed to keep the household running without major expenditures down the road.

Debt repayment. The key here is to make sure that the debts are repaid only after the assets have been properly allocated between the spouses for Medicaid purposes. In other words, it would be disastrous to pay down a large amount of debt before the allocation has been made. After the asset allocation is in force, then the entire debt repayment may be counted against the assets of the nursing home spouse. If done too soon, however, the debt repayment would only count one-half against the assets of the community spouse.

8. Vacation. This can be a good idea for the community spouse at a time when there has been a long struggle to keep a loved one at home. The community spouse may be exhausted and a well-deserved vacation could be rejuvenating. Believe it or not, the entire cost of that vacation can come out of the nursing home spouse's spend-down.

These are, of course, not the only appropriate items for a spend-down. There are other expenses which would also qualify. The main rule to keep in mind is that whatever goods or services are purchased must be done at fair market value.

Also, don't let anyone tell you that anything spent must be done solely for the benefit of the nursing home spouse. On the contrary, virtually anything that benefits the community spouse will also benefit the nursing home spouse.

Finally, keep in mind that while some of these spend-down strategies will not work as well for a single person qualifying for Medicaid, there are other strategies that can work equally well, no matter whether you are dealing with a single person or a married couple. Consult an experienced elder law attorney for guidance.

Elder and Disability Law Firm offers In-Service Training on topics related to Elder Law & Medicaid Spend down. This newsletter is written by John Belconis, Attorney at Law and published as a service of the *Elder & Disability Law Office, Ltd., John Belconis, JD* dedicated to serving the needs of older Americans, people with disabilities, and their families. This information is for general informational purposes only and does not constitute legal advice. For specific questions consult with a qualified attorney.