

How Your Homestead Affects Your Medicaid Eligibility

In order to be eligible for Medicaid a person cannot exceed a resource limit of \$2,000 whether the person is single or is a married person seeking eligibility. It is not uncommon for people to assume this refers to any tangible asset in a person's name, however, this actually is not the case.

Consider a person's homestead, for example, the value of a person's principal place of living is generally not considered a countable resource, assuming that the property has a value that meets the limitations set forth in the Medicaid rules, which will be discussed later in this article.

The Texas Health and Human Services Commission handbook defines a person's homestead as "...a structure in which a person lives (including mobile homes, houseboats and motor homes), other buildings and all adjacent land." For Medicaid purposes the value of the home, and all the land and property associated with the home, is exempt from being a countable resource, so long as the land and property are contiguous with the homestead. If the land or property is not contiguous to the homestead, it is considered a separate piece of real property and will be counted as a resource.

So how exactly does the Texas Health and Human Services Commission define contiguous property? Contiguous property is all land and property connected to the homestead so long that it is not separated by property which is owned by another.

For example, if a person owns a home and the empty lot across the street from the home, that lot would not be considered contiguous to the homestead. This is because the street is under the ownership of the government and therefore separates the property from the homestead.

However, let's say a person owns a home and four acres behind the home. In this case, the four acres are split in half, horizontally, by a stream which runs through the middle of the land. Although the four acres are separated by the stream, the stream is not owned by a different person or entity. Thus, all four acres will still be considered contiguous to the homestead.

Additional structures which are on the property, as well as on different lots or tracts owned by the same person which are adjoining the homestead will also be exempt. A person could own two or more houses and all of the property will be excluded so long it is built on the contiguous land of the homestead.

However, cattle, livestock and other equipment used for farming or maintaining land will be considered a countable asset unless it can be shown that the items are exempt because of their use in a business.

Equity value in a homestead is also outlined in Medicaid rules and it depends on whether the Medicaid applicant is married or single. A single person may have equity in a homestead of up to \$585,000 (as of 2019), otherwise, the homestead will be considered a countable resource. If the applicant is married or has a child under the age of 21, or an adult child with a disability lawfully residing in the home, the applicant may have equity in the homestead of any value with no limitation. The rules also allow the individual to use a reverse mortgage or home equity loan as a technique to decrease the equity interest in the event the value is above \$585,000.

In situations as such, it is possible to exempt your homestead and various other resources with the help of an experienced elder law attorney.

You may visit our website at www.wrightabshire.com. Wesley E. Wright and Molly Dear Abshire are attorneys with the firm Wright Abshire, Attorneys, P.C., with offices in Bellaire, the Woodlands, and Carmine. Both are Board Certified by the Texas Board of Legal Specialization in Estate Planning and Probate Law and are certified as Elder Law Attorneys by the National Elder Law Foundation. Nothing contained in this publication should be considered as the rendering of legal advice to any person's specific case, but should be considered general information. Thank you to Wright Abshire's Summer Williamson and who contributed to the article.