

## Do You Have to ‘Spend Down’ for Medicaid Requirements?

Assume you find yourself in a situation in which you are seeking entry to a nursing home for your spouse. You have heard that there are restrictions on resources that one can own as well as how much income one can have when seeking help from Medicaid, but you are pretty sure you don't qualify.

Let's consider a case study: Mr. Smith has been diagnosed with dementia and can no longer care for himself.

The two own a house valued at \$375,000, have \$250,000 in cash and one car. Mr. Smith receives Social Security in the amount of \$1,500 gross a month and Mrs. Smith receives \$1,250.

Mrs. Smith decides to seek the opinions of four persons: a friend, an admission director of a nursing home in which Mr. Smith may be admitted, her family attorney and a financial advisor.

Mrs. Smith describes the facts to her friend, Ms. Jones, knowing she had placed her widowed mother in a nursing home three years ago. Ms. Jones told Mrs. Smith that in order to get her mother on Medicaid, that she would have had to sell her mother's house and farm and spend all of the money. So that is what she did.

Now Mrs. Smith is very upset. She knows that she will soon be unable to care for Mr. Smith at home because she is older too and is having trouble helping him out of bed.

She speaks next with an admissions director of a nursing home who tells her she can keep the house but will have to spend down her excess funds before her husband will qualify for Medicaid.

Mrs. Smith's financial advisor suggests putting the money into an annuity and then applying for Medicaid.

Her family attorney tells her that she will have to spend down half of her cash assets before she can get Mr. Smith on Medicaid.

Unfortunately, the above advisors gave her incorrect or bad advice.

There are several different methods or combination of methods available to help persons qualify for Medicaid. What works for one situation doesn't work for another.

In the case study previously described, Mr. and Mrs. Smith's case fits the criteria for Medicaid's spousal impoverishment rules. This law affords Mr. Smith to receive Medicaid to help keep Mrs. Smith from becoming impoverished while paying for Mr. Smith's long term care costs in a nursing home.

Medicaid provides that if Mrs. Smith's income, added together with Mr. Smith's income, minus the monthly personal needs allowance of \$60 that Medicaid will allow for Mr. Smith, does not reach the Minimum Monthly Maintenance Needs Allowance (MMMNA) which in 2018 is \$3,090, then Mrs. Smith would be allowed to expand the protected resources amount so that she would have the assets

necessary to theoretically provide her with additional income based on the one-year CD rate at a local bank.

In most cases in which this is a viable opportunity, the community spouse is usually able to preserve all of the assets and the income of both spouses, minus \$60 for Mr. Smith's personal needs allowance.

You should be careful about who you get your advice from in this area of the law. You can easily burn up huge amounts of money unnecessarily.

*You may email your questions to [education@wrightabshire.com](mailto:education@wrightabshire.com) or visit our website at [www.wrightabshire.com](http://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 Wright and Abshire 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.*