

Misconceptions Abound About Common Medicaid

Many persons seek to obtain Medicaid to pay for nursing home care while others may fail to seek benefits because they don't think that they qualify. There are many common misconceptions regarding obtaining eligibility for Medicaid benefits. Here is a list of misconceptions.

1. Medicaid is for poor people only. That's not the case anymore. When President Lyndon B. Johnson signed Medicaid into law in 1965, it was based on a welfare model. But, Congress changed the program and it is now a middle class program that allows opportunity for those with substantial assets.
2. Cooking up your own plan to transfer assets and not report them is a federal fraud. Don't do it unless you're really curious about what it's like to live in a federal prison.
3. Giving away amounts of \$10,000. Some people believe that the amount of \$10,000 is a "magical number" for Medicaid, and that Medicaid will ignore this amount of transfer. Not so. People get this number from the annual exclusion gifting rule which is an IRS regulation. The \$10,000 figure is old. The current number is \$14,000. This amount can be given away tax free each year to as many persons you want to give it to with no taxes paid by the donor or the donee and no reporting to the IRS. This rule has no connection to Medicaid and its penalty for transfers. Medicaid has its own transfer rules.
4. I should have done something with my assets five years ago to qualify for Medicaid. Not true. Although you could have considered the option of transferring funds five years ago to avoid the five year look-back period, if you didn't, then there are still viable opportunities to attain Medicaid eligibility now while preserving assets.
5. My income is too high because it exceeds the income cap of \$2,199 per month and I would not qualify. Not true. Although you may be over the income cap by one dollar or more and would be ineligible based on the income cap, the problem can be fixed by using a Qualified Income Trust (QIT) approved by federal law.
6. Only the assets of a spouse entering the nursing home counts against them. Since my assets are separate property, they won't be counted as available resources to my spouse in the nursing home. Not true. All of a couple's assets, whether separate or community are considered by Medicaid.
7. The State of Texas and/or the nursing home, are going to "take" all of my assets to get on Medicaid. Not true. It's up to you to develop your plan for attaining Medicaid eligibility and preserving assets in accordance with the law with your attorney. Medicaid will either approve or deny a Medicaid application presented. Once the Medicaid recipient dies, Medicaid Estate Recovery will attempt to recover any remaining assets owned by the decedent. The primary target is the house. With proper planning, recovery by the State can be legally avoided.
8. I'm receiving an inheritance from a relative. I'll just file a timely disclaimer to avoid the inheritance coming into my estate so I can get on Medicaid. Unfortunately, Medicaid will count the disclaimer causing the inheritance to by-pass your estate, as a transfer for less than fair market value and you will suffer a penalty during which time period, Medicaid will not be provided.

These are just a few of the many misconceptions people have about Medicaid. If you are concerned about paying for the cost of long term care, it would be to your advantage to seek the advice of a Certified Elder Law Attorney before concluding whether you can attain eligibility.

You may email your questions to education@wrightabshire.com or 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 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.