

ELDER LAW TODAY

Adrian & Pankratz, P.A.

Old Mill Plaza, Suite 400 • Newton, KS 67114 • Phone: (316) 283-8746 • www.aplawpa.com

Does An Inheritance Count for Medicaid?

Timing is everything. How often have you heard someone express that sentiment? And while it's often true of life in general, it's certainly true in Long Term Care planning.

So does an inheritance count as an asset for Medicaid purposes? For a single person, the answer is clearly, "Yes." If a single individual is spending down his or her assets, and before the spend-down is completed, that individual receives an inheritance, then those assets are added into whatever that person has and must be spent down to either \$2,000 in Kansas before eligibility will be completed. Likewise, if that person has already qualified for Medicaid, and then receives an inheritance, that inheritance must also be spent down before eligibility is again established.

What about the case of an inheritance received by the community spouse where the other spouse is in a nursing home? This is the situation where "timing is everything."

In the case of a married couple, if the at-home, or community spouse, receives an inheritance before the nursing home spouse is eligible for Medicaid, then those inherited assets are countable for Medicaid purposes.

If, on the other hand, the community spouse receives an inheritance (or, for that matter, a gift) after the nursing home spouse is eligible for Medicaid, then there is no impact on the eligibility of the nursing home spouse. This is made clear in 42 USC Section 1396r-5(c)(4). There the law clearly states that the community spouse may acquire property after the nursing home spouse is eligible without affecting the status of the community spouse. For that reason, the timing of when property is acquired can be crucial. While it may not

always be possible to affect the timing of the receipt of an inheritance or a gift, where possible, if the funds can be received by the community spouse after qualification, then these newly-acquired funds would belong to the community spouse absolutely, and would not be a countable resource of the nursing home spouse.

Services Available

Adrian & Pankratz, P.A. offers the following Elder Law services:

Division of Assets	Long Term Care Planning
Guardianship	Powers of Attorney
Estate Planning	Wills
Living Trusts	Special Needs Trusts



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