

ELDER LAW TODAY

Adrian & Pankratz, P.A.

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Can You Keep Your Real Estate and Still Qualify for Medicaid?

The general rule: if a Medicaid applicant owns two pieces of property, the property where the applicant resides is “exempt:”

and the second property is considered a countable resource and must be sold and the proceeds spent down before an individual can qualify for Medicaid. While most people are aware they can keep their residence and still qualify for Medicaid, many people do not know that there are other types of real estate that Medicaid considers “exempt.” Below are examples of how real estate is treated by the state Medicaid offices in Kansas and Missouri.

The Residence and Surrounding Land - In Kansas, persons can qualify for Medicaid without selling their home. SRS considers an applicant’s residence, as well as the land surrounding it, exempt. As long as the land is adjoining, all of the acreage upon which your home sits is exempt.

Rental or Other Income Producing Property - In Kansas, any rental property a Medicaid applicant owns is exempt. Although the property itself is exempt, the rental income earned will be factored into the Medicaid recipient’s income and will be considered part of the recipient’s co-pay. If the property is held jointly, only a portion of the rental income will be attributable to the Medicaid recipient.

Life Estate Interest - If a Medicaid recipient owns a life estate interest in real property, it is considered exempt. If an individual transfers the home and retains a life estate interest, however, there are transfer penalties involved which may prohibit an applicant from qualifying for benefits. If transferred properly, though, depending on the age of the applicant, the value of the home and the status of the recipient, it may be a good planning technique.

Jointly Held Property - If a Medicaid applicant’s name is on a piece of property that does not fall into one of the exempt categories listed above, it is countable. Sometimes we see situations in which our clients have taken out a mortgage on behalf of their children to help them purchase a home. Our clients’ names, as purchasers, are required to be on the title to the property. Unfortunately, even if the children have made all of the mortgage payments, because our client’s name is on the title of the child’s home, that property may be considered a countable asset.

Real Estate Owned by a Revocable Living Trust

- In Kansas, if “exempt” real property is transferred into a revocable living trust, it becomes a countable asset and must be spent down or removed from the trust before the owner of the property qualifies for Medicaid. So, persons currently in or about to enter a Kansas nursing home should consult an expert regarding alternative estate planning.

The above information, like all of the information we provide in our Elder Law Today newsletters, is “general information” and may not apply in certain situations. Also, it is important to keep in mind, that while Medicaid may consider some of the above real estate exempt, it may be subject to estate recovery.* Nursing home residents who may need to qualify for Medicaid should consult an experienced elder law attorney before buying, selling or transferring real estate.

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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