

ELDER LAW TODAY

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What Is Division of Assets?

Division of Assets is the name commonly used for the Spousal Impoverishment provisions of the Medicare Catastrophic Act of 1988. It applies *only* to married couples. The intent of the law was to change the eligibility requirements for Medicaid in situations where one spouse needs nursing home care while the other spouse remains in the community (i.e. at home or in an assisted living facility). The law, in effect, recognizes that it makes little sense to impoverish both spouses when only one needs to qualify for Medicaid assistance for nursing home care.

As a result of this recognition, division of assets was born. Basically, in a division of assets, the couple gathers all of their non-exempt (countable) assets together in a review. (See box to the right for a list of exempt assets.)

The non-exempt assets are then divided in two, with the community (or at-home) spouse allowed to keep one-half of all countable assets up to \$123,600. The other half of the countable assets must be "spent down" until \$2,000 remains. The amount of countable assets which the at-home spouse gets to keep is called the Community Spousal Resource Allowance (CSRA).

Each state also establishes a monthly income floor for the at-home spouse. This is called the Minimum Monthly Maintenance Needs Allowance (MMMNA). This permits the community spouse to keep monthly income ranging from a minimum of \$2,058 to a maximum of \$3,090.00.

If the community spouse does not have at least \$2,058 in income, then he or she is allowed to take the income of the nursing home spouse in an amount large enough to reach the MMMNA. The nursing home spouse's remaining income (minus a personal needs allowance) goes to the nursing home. This helps avoid the necessity for the at-home spouse to dip into savings each month, which would result in gradual impoverishment.

Exempt Assets

- **The Home** up to \$572,000. The home must be the principal place of residence for one of the spouses. Estate Recovery can place a lien against your home for the amount of Medicaid benefits paid after six months of inpatient care of a nursing home.
- **Household and Personal Belongings**, furniture, appliances, jewelry and clothing.
- **One Vehicle** and there may be some limitations on value.
- **Burial Plot and Irrevocable Funeral Plans** for you and your spouse. There may be some limitations on the plans themselves.
- **Cash Value Life Insurance** policies as long as the cash surrender value of all policies combined does not exceed \$1,500. If they do exceed \$1,500 in total cash surrender value, then the cash value in these policies is countable.

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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