

## SUMMARY OF MEDICAL ASSISTANCE RULES

Exempt Assets. When you apply for medical assistance, “exempt” assets can be retained without impact on eligibility for medical assistance. The exemptions include up to \$500,000 of equity in a house, one automobile, household goods, personal effects, and cash of \$3,000 (\$6,000 for a married couple; \$2,000/\$4,000 in Wisconsin).

Burial Funds. The other primary exemption available would be a fund designated for your and your spouse’s funeral and related expenses. For example, you could set up a separate savings account at the bank, and put in up to \$1,500. A better alternative is to prepay the funeral through an irrevocable funding program provided at your funeral home or through a qualified insurance policy. The expenses must be separately itemized, but you will be able to shelter much more than \$1,500.

Nonexempt Assets. When you eliminate the exempt assets, you are left with non-exempt assets, which are subject to “spend-down.”

Gifting. Each transfer made within the five years (three years for transfers made before February 8, 2006) prior to the medical assistance application results in a period of ineligibility, determined by dividing the value of the transfer by \$4,772 (\$6,259 in Wisconsin) (increases each July 1). For example, if you transferred \$47,720, there would be an ineligibility period of 10 months ( $\$47,720/\$4,772$ ) from the day of the transfer. We can provide you with computations which calculate how much you can transfer and yet retain enough to pay for the cost of care during the ineligibility period.

Annuities. The non-exempt assets may also be preserved through the purchase of “Medicaid-qualifying annuities.” The basic transaction involves purchase of an annuity at fair market value, jointly-owned for a married couple. Upon entering the nursing home, the annuity is converted to a monthly income stream for the “community spouse” based on the annuitant’s (community spouse) life expectancy. The timing of the annuitization and the payee should ideally be determined prior to either spouse entering the nursing home. For annuities purchased after December 8, 2006, Medical Assistance must be the contingent beneficiary after the spouse or a minor/disabled child.

Assessment Date. The date a person enters a long-term care facility and stays for 30 days or more. A “snapshot” is taken of the assets (both husband and wife), and each is allocated 1/2 of the non-exempt assets. Unless the annuity planning is in place, the one entering the nursing home has to spend down their 1/2 share to \$3,000. In addition, the “community spouse” is entitled to keep no more than \$109,560 (and no less than \$31,094 in Minnesota, \$50,000 in Wisconsin).

Income. The community spouse is entitled to keep all monthly income payable directly to that spouse, while the “institutionalized spouse” must spend all of their income on their own care. In some circumstances, income can be transferred to the community spouse if they otherwise do not have enough to live on.

Long-Term Care Partnership. The states have implemented a new public/private arrangement between long-term care insurers and the state's medical assistance programs. It enables residents who purchase certain long-term care insurance policies to have more of their assets protected if they later need the state to help pay for their long-term care. If you purchase qualified insurance, you can shelter assets in an amount that is equivalent to the amount of coverage purchased, with the maximum match established by each state.

Trusts. When you apply for medical assistance, the County will require disclosure of any transfers to a trust within the prior five years. If the trust is revocable, the assets are treated as owned by the one who can revoke it. If the trust is irrevocable, transfer of assets to the trust will be a "gift" for purposes of the gifting rules described earlier. The availability of the trust assets will depend on whether you are a beneficiary, and whether the trust was funded by you or your spouse, or someone else.

The rules are complex, and a competent professional should be involved in this area of planning. In addition, they should be aware of the current rules, which are continually changing and are slightly different from state to state.