

LEGAL TIPS

A Few Questions & Answers

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Some of the most common questions clients ask are presented and answered in this article.

Q: What is Medicaid?

A: Medicaid is an entitlement program that provides medical benefits for qualified persons. It combines federal and state rules and regulations. State and federal funds are used to pay for the program.

Q: What are the financial limits applicable to someone applying for Medicaid in Texas?

A: Texas is an “income-cap” state. This means that an applicant’s income cannot exceed a certain amount per month or that person will not qualify for Medicaid. The limit for 2013 is \$2,130.00. There is also a limit on the amount of “countable resources” that an applicant may have. Currently, an unmarried applicant may only have \$2,000.00 in “countable resources.”

Q: What is meant by “countable resources?”

A: Not all resources belonging to an applicant are counted for Medicaid purposes. Examples of assets that are not counted are a certain amount of equity in the applicant’s principal residence and a burial plot for the applicant. Typically, if an asset can be spent or converted to cash, it is a countable resource.

Q: Can I give away my assets and qualify for Medicaid?

A: Giving away property in an attempt to qualify for Medicaid can cause problems for the applicant. This strategy can result in a period of ineligibility and may have several other negative consequences.

Q: What can someone do who is over the income limit but needs to receive Medicaid?

A: The Qualified Income Trust (also known as a “Miller Trust”) can be used to assist an applicant whose income exceeds the limit.

Q: What is probate?

A: One way to think of probate is that it is the legal process that occurs after someone dies to pay off certain debts and to make sure the decedent’s property ends up with the person or charity that is entitled to it.

Q: Can probate be avoided?

A: Absolutely. Probate can be avoided if action is taken before death to utilize devices such as trusts, beneficiary designations, and ownership with the right of survivorship. Proper planning can enable probate to be avoided regardless of the value or nature of the estate.

Q: Should I try to avoid probate?

A: Probate avoidance is a worthwhile goal that should be considered. However, avoiding intestacy is essential even if the estate is subjected to probate. An intestate

estate is distributed according to state law which may not carry out the wishes of the decedent.

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