

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wants to share this information with you.

WHAT HAPPENS TO MY HOME IF I NEED LONG TERM CARE?

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One concern for many who are thinking ahead to possible long term care needs is what effect government assistance has on home ownership. The following questions offer a brief introduction to this important issue.

The government program most people look to is Medicaid, also known as “Medical Assistance”, “M.A.”, or “Title 19”. It is a joint federal/state program established in 1965 under federal law. It is designed to help, among other people, those 65 years and older pay for medical care, including long term care.

IF YOU ARE MARRIED:

1. What will happen to our house if my spouse or I have to enter a nursing home?

Part of Medicaid law called “spousal impoverishment protection rules” protects, along with some savings and income, a couple’s home. As long as one of you is living in the home when the other begins nursing home care, then the spouse at home is allowed to keep the home.

However, as of August 1, 2014, the state will seek to collect repayment for any government benefits paid on behalf of yourself or your spouse once both of you have died. The only way to avoid this is to have a qualified elder law attorney do proper planning to protect your home.

2. If my spouse or I enter a nursing home, is the other spouse required to stay in this house?

No. You or your spouse can move from this home or sell it after the other spouse is in a nursing home. This move or sale of real estate will not affect the nursing home spouse’s eligibility for Medicaid.

3. What will happen to our home if I apply for Medicaid home care benefits but am still living in the house?

As long as the home is your main place of residence, you are allowed to keep it.

4. Can the government put a lien on our house if my spouse or I enter a nursing home and become eligible for Medicaid?

No. As long as a nursing home resident has a spouse – whether living in the residence or not – the government cannot put a lien on it. See #1 above as to what happens after you both die.

5. Are there any government programs that provide long term care services in my home without my having to move out of my home?

Yes. In Wisconsin, Family Care helps elderly and disabled persons continue living in their own homes or in the community, rather than in a nursing home.

A number of Wisconsin counties operate a program called “Family Care”. This program provides long term care services at home or in assisted living and allows individuals to keep their homes.

IF YOU ARE SINGLE, DIVORCED OR WIDOWED:

6. If I am single, may I keep my house if I need to go to a nursing home for a temporary stay?

Yes. If you enter a nursing home for a temporary stay, you are allowed to keep your home. However, you are required to give notice that you intend to return to this home.

7. If I am single, may I keep my house if I become a permanent resident at a nursing home?

You can keep your home if you can show either of the following:

- (a) a dependent relative lives in the home (See #8 below); or
- (b) you express your intent to return home.

However, please keep in mind that you will be responsible for maintaining your home. Those costs usually include paying taxes, utilities, mortgage and any repairs. Once you have been in the nursing home for a period of time (usually 6 months) you will no longer be allowed to use a portion of your income to maintain your home without your doctor signing a statement that it is reasonable to expect that you will be able to return to the home.

8. What if I can no longer live at home but I have a child who still wishes to remain there?

Your child is allowed to keep your home only if he or she is a minor or has been deemed “disabled” under Social Security regulations.

Generally, if you become a permanent resident of a nursing home with no intent of returning home, you will have to sell your home and spend down the proceeds from the sale of your home before you are eligible for Medicaid again.

9. Once I am in a nursing home can the government ever put a lien on my home?

Yes. If you are single, there are only a few conditions that allow the state to impose a lien against the home of a resident who receives Medicaid. The state may place a lien provided that:

- (a) you have no reasonable expectation of returning to the home from the nursing home;

- (b) you do not have a spouse, a child under 21, or a disabled child of any age who lives in the home.

The state must provide you with notice and the right to a hearing before imposing a lien.

TRANSFERRING OR GIVING AWAY PROPERTY

10. Can I give my house to my children without it affecting my Medicaid eligibility?

Giving your money, home and many other assets to your children is considered a divestment. A “divestment” occurs when you transfer, gift away, or sell items for less than fair market value. Medicaid has a “look-back” period of five years. This means that the state will “look back” at all the transfers of property you made in the five years before applying for Medicaid. Therefore, you may not be eligible for Medicaid for a certain time period if you give away money or other assets in the five years before you apply for Medicaid.

All of this is very complicated. You should contact Attorney Timothy P. Crawford for more information.

“Those Who Plan Ahead Win. Those Who Don’t Plan Ahead Lose.”

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client’s Choice Award.

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