

Top 10 Myths about Medicaid

1. I will have to spend down all of my assets.

REALITY: Medicaid and the nursing homes would like for you to spend down all of your assets. Fortunately, the law allows you to keep all or a portion of your assets. This requires careful planning by an Elder Law Attorney. We have been successful in assisting clients who have a spouse in a nursing home in keeping all of their assets. For clients who are single individuals, we have been successful in enabling clients to keep roughly half of their assets.

2. Medicaid will be fair.

REALITY: The Medicaid rules and regulations are similar to the rules and regulations the Internal Revenue Service follows. You have to follow the rules and regulations, even if they oftentimes seem ridiculous or illogical.

Example: One of Medicaid's rules is that a Medicaid recipient can only have less than \$1500 in assets as of the first of each month. One would think that if you had \$1501 in the bank Medicaid would not discontinue your benefits since you were barely over the asset limit. Unfortunately, this is not the case. Medicaid will terminate your benefits even if you are only a dollar over the asset limit.

3. Medicaid is the only governmental program that pays for nursing home care.

REALITY: Although Medicaid is the main governmental program that pays for nursing home care, there are other governmental programs that pay for nursing home care, either temporarily or in part. If you are hospitalized for three days and then transferred to a skilled care facility and are receiving skilled care, Medicare and your Medicare supplement will generally pay for your nursing home care for up to 100 days. Also, if you are a veteran who served at least 90 days active duty and at least 1 day during wartime, you and your spouse may be eligible for a benefit known as Aide & Attendance, which payments can be used for home care or nursing home care.

4. You can't transfer assets within five years of nursing home placement.

REALITY: You can transfer assets within five years of nursing home placement, but you may be ineligible for Medicaid for a period. For transfers prior to November 1, 2009 the look back period would be three years. Under the transfer of assets rules in effect from November 1, 2009 to the present, the transfer penalty does not begin to run until the individual is in a nursing home and would otherwise be eligible except for the transfer penalty. This is an area that requires careful consultation and planning with an elder law attorney to insure that any gifting plan is done in such a way that minimizes, as much as possible, the transfer of asset penalty. Certain transfers do not impose a penalty

5. The nursing home will take my house and other assets.

REALITY: The nursing home does not want your house or your assets, it simply wants to be paid. This can be done by writing a check each month from your personal assets, using payments received from long term care insurance if you have it, or looking to a governmental program such as Medicaid.

6. The law allows me to give \$13,000 away to each of my children, doesn't it?

REALITY: The law regarding gifting \$13,000 per person per year has to do with the federal gift tax rules. This has nothing to do with the Medicaid rules. Medicaid has its own rules as to the amount you can gift. The only amount you can gift within five years of applying for Medicaid (three years if the gifting was done prior to November 1, 2009) is \$1200 in total to a family member or members or a charity each year. There are other transfers that may not incur a penalty.

7. Medicaid doesn't count my life insurance since I am still living.

REALITY: Medicaid will count the cash value of your life insurance since you could cash in your policy. If the life insurance policy is a term policy and there is no cash value, you can keep the term policy.

8. All of my income will have to be paid to the nursing home for my spouse's care.

REALITY: Unlike the assets of a married couple, which are all counted no matter whose name is on the asset, only the income of the Medicaid recipient must be paid to the nursing home, less some deductions. The spouse at home can keep all of their income and may be entitled to receive an allowance for part of their spouse's income, depending upon the amount of their income.

9. Medicaid will only let me pay my funeral.

REALITY: In addition to payment of the Medicaid recipient's funeral, a funeral can also be purchased for a child, sibling, parent and their spouses.

10. There is nothing I can do to help my disabled child.

REALITY: You can either gift or set up a trust for a disabled child without any type of transfer penalty.

DISCLAIMER

The information presented in this article is of a general nature and not to be construed as legal advice. Each family has a unique situation that should be carefully reviewed by a lawyer specializing in elder law issues.

The laws discussed in this article change frequently. The information presented is current as of December 1, 2011. The laws that govern this area may be totally different a year from now. You should consult an elder law attorney for specific legal advice.

Brian K. Carroll, Attorney at Law
JOHNSON CARROLL NORTON KENT & STRAUS
Professional Corporation
Post Office Box 6016
Evansville, IN 47719-0016
Phone: (812) 425-4466/FAX: 425-4233
bcarroll@jcglaw.com