

William R. Wieringa, P.C.

Medicaid and Trusts

One of the misconceptions I often hear in my practice is, “All my assets are in a trust so Medicaid can’t take them.” If you believe that, let me set you straight. Assets in a trust are counted toward Medicaid eligibility as long as you have access to them.

Medicaid is for people who are economically destitute. To be eligible to have Medicaid to pay for long term nursing home costs, a person can own very limited assets. Generally, liquid assets of less than \$2,000 and some exempt assets... such as a home (subject to certain equity limits), a car of any value, a prepaid funeral contract (again up to a maximum amount), and funeral plots for yourself and your family.

However anytime a trust owns assets (even otherwise exempt assets such as a house), those assets are considered toward eligibility if the person has any incidence of ownership. That means if the person being considered for Medicaid can access the trust assets, or even exercise control over the trust by being able to amend the trust as to beneficiaries or trustees, all the trust assets are considered as being owned by that person.

In doing Medicaid planning, you need the expertise of a qualified Elder Law attorney. Many strategies can be legally employed to preserve assets for a community spouse or beneficiaries, but the process is complex and complicated. Also, Medicaid laws are constantly changing.