



James E. De Martino, Attorney
P.O. Box 126 Belvidere, NJ 07823

908-874-5636
(fax) 570-897-6452

New Jersey Elder Lawyer

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ANSWERS TO THE COMMON MEDICAID-PLANNING "MISCONCEPTIONS"

A Position Paper

1. All recently drafted Wills, Powers of Attorney, Healthcare Directives, and Living Wills are adequate for Medicaid planning purposes.

Answer: No! Such instruments should be reviewed, by a Medicaid-Planning attorney, in light of a family's situation.

2. If I don't transfer assets 5 years before entering a Nursing Home, I can't do it at all.

Answer: False! Medicaid has numerous exceptions to their lookback rules if the correct legal instruments and transfer documents are in place.

3. I can't transfer assets after I am already in a Nursing Home.

Answer: False! See answer for No. 2 above.

4. To protect their home, couples should give it to their children right away.

Answer: No! In most cases, a Medicaid-planning attorney would advise that the marital home be transferred to the healthy spouse.

5. To protect their home, single people should give it to their children right away.

Answer: Depends! Medicaid planning attorneys need to know much more, about the family's situation, in order to make this call.

6. I will be eligible for Medicaid on the very day I spend down to the amount required by Medicaid.

Answer: No! Medicaid requires that you make the proper transfers to meet their eligibility requirements on the first calendar day of a given month.

7. You may not apply for Medicaid within 5 years of making a gift.

Answer: Same answer as for No. 2, above.

8. Non-income producing assets (like uncashed Savings Bonds) do not have to be disclosed to Medicaid.

Answer: Yes they do! Medicaid knows they exist!

9. If one spouse goes into a Nursing Home, all of his/her income goes to the Nursing Home and not to the at-home spouse.

Answer: No! A Medicaid-planning attorney can prevent this scenario from occurring.

10. All Nursing Homes and Assisted Living Facilities accept Medicaid.

Answer: No! Get their policy toward Medicaid, in writing.

11. If a facility is known to accept Medicaid, families will never have to offer any monies for private payment.

Answer: No! Most facilities expect a family to pay privately, where possible, for a certain number of months before becoming Medicaid-eligible.

12. If I go broke, the Nursing Home and Medicaid are to blame.

Answer: No! Family disharmony, in-action, procrastination, and denial are the culprits.

James E. De Martino is licensed to practice in the State of New Jersey.

Our practice is limited to estate planning, long-term care planning, and NJ Medicaid asset protection.

James E. De Martino, Attorney

Elder Law and NJ Estate Planning Strategies

P.O. Box 126 Belvidere, New Jersey , 07823

Phone: 908-874-5636

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