

ELDER LAW TODAY

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Is Every Married Couple Required to Spend Down One-Half of Their Assets in Order to Qualify for Medicaid?

The simple answer: No. In fact, there are couples who together have over \$100,000 in assets (not including their home) and qualify for Medicaid without any spend down. How can this be? What about the “division of assets” and “spend down” people are always talking about?

Medicaid law is quite complex and everyone’s situation is different. The following example is just one of the many ways in which some of our clients are able to qualify their spouse for Medicaid without spending a penny:

Carol’s husband, Bob, entered a Kansas nursing home in October of 2001. At that time, their assets totaled approximately \$100,000 (not including their home and one car, both of which are “exempt” for Medicaid purposes). Carol and her daughter immediately went to the S.R.S. Office to apply for Medicaid. The caseworker explained to Carol that, upon application for Medicaid benefits, the state will total all of the assets that she and Bob own on the day he entered the nursing home (the “snapshot date”). The state then divides their assets in half (“division of assets”) and Carol is told Bob will qualify for Medicaid once his half of the assets are spent down to \$2,000.

When Carol sought advice it was because the social worker at Bob’s nursing home had told her she should contact an elder law attorney to see if there were ways she and Bob could preserve more than one-half of their assets. It was explained to Carol that she *may* be able to keep everything, but it would depend on her entire financial picture. Basically, every community spouse is entitled to a minimum monthly maintenance needs allowance of \$1,822 per month. If Carol’s income is less than \$1,822, Carol can keep part of Bob’s income in order to raise her income to \$1,822.

So, in addition to keeping all of her own income, she would be entitled to part of Bob’s income. Once qualified for Medicaid, Bob would be able to keep \$60 of his income as a personal needs allowance.

Again, this scenario is fact-specific to Carol and Bob. It cannot be accomplished at the case worker level as the state is not able to give legal advice on this type of appeal. **The bottom line: before you start spending down, seek advice from someone who knows Medicaid laws.**

Services Available

Adrian & Pankratz, P.A. offers the following Elder Law services:

Division of Assets	Long Term Care Planning
Guardianship	Powers of Attorney
Estate Planning	Wills
Living Trusts	Special Needs Trusts



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