

# ELDER LAW TODAY

Adrian & Pankratz, P.A.

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## *Medicaid Myths, Part 2*

**M**edicaid myths cause too many of society's most able citizens to make mistakes that can cost them thousands of dollars or cause them to spend every last dime of their life savings before seeking help with nursing home and medication costs.

That's why we've again chosen to write about the common Medicaid myths we hear in the community.

### **"I have to give away everything I own before I can get Medicaid"**

All Medicaid recipients are able to keep some of their assets and still qualify for benefits. The key is to understand what Medicaid considers an "exempt" versus a "non-exempt" asset in your state.

For instance, a single person in Kansas can keep few items, including one automobile, a specific type of pre-paid funeral plan, personal belongings and up to \$2,000. The laws surrounding what a married couple can keep are even more complicated and vary depending on each individual's specific set of circumstances.

That's why it's important to have an Elder Law attorney review your financial situation before you apply for benefits.

### **"I can only give away \$13,000 per year or I won't qualify for benefits"**

We frequently hear from individuals who have lost the opportunity to preserve thousands of dollars because they believed this myth. In fact, the \$13,000 figure is an IRS rule regarding when a gift tax return should be filed and has nothing to do with Medicaid law.

The truth is that every state has a different amount of money that seniors can give away without creating a long period in which they are ineligible for benefits.

In fact, Kansas has laws in place that allow individuals with a disabled child to give away all of their assets, including their home, and still qualify immediately for benefits. But this must be done with the assistance of expert legal advice.

### **"Our pre-nuptial agreement shows that everything belongs to my husband"**

The state does not take pre-nuptial agreements into consideration when determining Medicaid eligibility. All assets owned by either spouse are considered jointly owned and must be divided and spent-down exactly as they would if there was no pre-nuptial agreement in place. The only way a pre-nuptial agreement is effective is if the couple actually divorces.

Proper estate planning and expert advice can ensure that the wishes of both spouses are honored regardless of which one needs nursing home care.

### ***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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