Knox McLaughlin Gornall & Sennett, P.C.
Erie • Pittsburgh • Jamestown, NY
814-459-2800 • www.kmgslaw.com

Is Medicaid Going to Take My Home?

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Under federal law, the Pennsylvania Department of Human Services (DHS) is required to recover the Medical Assistance (MA) costs from the estates of decedents who received MA benefits during life. The official name is the Medical Assistance Estate Recovery Program.

This only occurs after the MA recipient's death, and the monies recovered are spent to assist in providing long-term care services to other Pennsylvania residents.

How does Estate Recovery work?

The Executor or Personal Representative of a decedent's estate gives notice to DHS of the death and requests a statement of claim. The statement of claim will detail costs the recipient received that are subject to recovery. The statement must be sent by DHS within 45 days of receipt of notice letter or the claim is forfeited.

Any property or asset that are part of the decedent's estate is subject to estate recovery. As the main asset for most people is the family home, DHS will look to recover its costs from the home if the home is included in the decedent's probate estate.

This is where the concern about losing the home comes from. The home is deemed an excluded asset for Medicaid qualification but may be best described as a deferred asset.

DHS is only compensated up to the actual cost of care for the decedent. Any equity over that number will pass per the decedent's will or through intestacy.

How Can One Keep Their Home?

- Transfer the home to an irrevocable trust (the five year look-back period applies).
- A **Hardship waiver** can be granted if following criteria are met: (1) the person has continuously resided in the primary residence of decedent for at least two years preceding decedent receiving MA benefits or entering a nursing home facility; (2) the person has no alternative permanent residence; and (3) the person provided care to decedent for at least two years prior to receiving care or entering a facility during a time that the decedent needs care or support to remain at home.

See also: ***What is Medicaid?*****,** ***How Do I Qualify for Medicaid?*****,** ***What Is the 5-Year Look-Back Period for Medicaid*****,** ***Protecting Home From Medicaid - Add Children to the Deed?*** ***and*** ***What Happens If I Do Not Pay the Nursing Home?***

A more detailed discussion on Medicaid can be found here: ***Demystifying Medicaid Planning***

If you have questions about Medicaid eligibility or have other Elder Law or Estate Planning concerns, please contact one of our Elder Law Attorneys or call 814-459-2800.

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