



## ELDER LAW AND ESTATE PLANNING

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# Caregiving, rent expenses father paid adult child might affect Medicaid benefits for nursing home care

**Question:** When my father was diagnosed with Alzheimer's two years ago he moved into my home. He has paid me rent since then, and also paid me for the care I've given him. He has declined dramatically and at this point he requires nursing home care. He has some assets left and I'm trying to figure out if he could get Medicaid benefits to cover the nursing home expenses. Will the rent and salary he's given me for the past two years be considered gifts and non-exempt?

**Answer:** For Medicaid purposes a "gift" is money your dad would have given you outright or for less than fair market value. If the rent he paid you is reasonable, there probably won't be a problem, even though the payments fall within the five-year look-back period. On the other hand, if the rent was way above fair market value (for example, \$5,000/month for one bedroom in your home), Medicaid will most certainly consider that to have been a ploy to get money out of his pocket and into yours. Those transfers would then be factored in and held against him when determining Medicaid eligibility.

Regarding the payments you received for caregiving: It sounds like your arrangement

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with Dad was informal, not a written agreement detailing services provided, how many hours a week, rate of pay, etc. It is questionable if Medicaid would allow you to retroactively construct such an agreement, and then deduct the payments for your services from his assets. However, if the fees charged were reasonable and, of course, declared as income on your tax return, it is likely it would be approved. Personal service contracts that document such arrangements can be an excellent Medicaid planning device, but are done in advance.

*Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.*