

# Will You Lose Your House If You Get Medicaid Benefits For Nursing Home Care?

If you are a homeowner who is thinking about applying for Medicaid benefits for long-term care, you may be worried about what will happen to your home while you are alive, or after you are gone. Will you be forced to sell? Can your spouse continue to live there? If this is worrying you, consider this month's column my holiday gift to you. For most people, worrying about the house is unnecessary.

*If you are alive and in a nursing home receiving Florida Medicaid benefits, your home is safe as an exempt asset if:*

- The house is your homestead residence.
- The equity in the home is \$572,000 or less (increases to \$585,000 or less effective Jan. 1, 2019)
- You must intend to return home. This does not mean you WILL return home, only that you intend to. For example, if the home is

rented out to someone else, that could raise a red flag about your intention.

*What happens to the home after you pass away?* State law requires Medicaid to take steps to recover what it has spent on the Medicaid recipient, but it cannot put a lien on the property if:

- The home is still your homestead property when you pass away.
- You have bequeathed the house, either through a will or trust, to a constitutional heir(s) at law. A constitutional heir at law

could be your spouse, children, grandchildren, siblings, nieces or nephews. In-laws, charities or



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friends are not considered constitutional heirs at law.

Here are a two other questions I am often asked by families:

*Can I give my home to my child to make myself eligible for Medicaid benefits?* If you have transferred

the home to a child within the five-year lookback period, it is considered a gift for less than fair market value. It will be used to determine a penalty period during which an otherwise eligible individual is not entitled to benefits.

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*Can the home be rented without jeopardizing Medicaid eligibility?* Maybe, but you will need

expert advice based on your family and financial situation. Renting the home means it will be deemed income-producing property and lose its homestead status.

The above are just basic rules. There are many nuances to the rules and everyone's specific situation is different. Please talk to a Florida Bar Certified Elder Law Attorney to find out what you must do to protect your home and your family.

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