



Elder Law and Disability Planning & Strategies



Richard M. Barron Attorney at Law 209 E. Main St. Whitesboro, Tx. 76273 903-564-3663 or 940-612-3663

Does an Inheritance Count for Medicaid?

Timing is everything. How often have you heard someone express that sentiment? And while it's often true of life in general, it's certainly true in Medicaid planning.

So does an inheritance count as an asset for Medicaid purposes? For a single person, the answer is clearly, "Yes." If a single individual is spending down his or her assets, and before the spend-down is completed, that individual receives an inheritance, then those assets are added into whatever that person has and must be spent down to either \$2904 in Texas before eligibility will be complete. Like wise, if that person must also be spent down before eligibility is again established.

What about the case of an inheritance received by the community spouse is in a nursing home? This is the situation where "timing is everything."

In the case of a married couple, if the at-home, or community spouse, receives an inheritance before the nursing home spouse is eligible for Medicaid, then those inherited assets are countable for Medicaid purposes.

If, on the other hand, the community spouse receives an inheritance (or, for that matter, a gift) after the nursing home spouse is eligible for Medicaid, then there is no impact on the eligibility of the nursing

home spouse. This is made clear in 42 USC Section 1396r-5(c)(4). There the law clearly states that the community spouse may acquire property after the nursing home spouse is eligible without affecting the status of the community spouse. For that reason, the timing of when property is acquired can be crucial. While it may not always be possible to affect the timing of the receipt of an inheritance or a gift, where possible, if the funds can be received by the community spouse after qualification, then these newly acquired funds would belong to the community spouse absolutely, and would not be a countable resource of the nursing home spouse.

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The Law Firm offers free in-service training on topics related to:

Division of Assets	Medicaid Planning
Guardianship	Powers of Attorney
Other Elder Law Issues	

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