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MEDICAL ASSISTANCE

Medical Assistance (“MA”) (also called “Title 19” and “Medicaid”, distinguishing it from **Medicare** is an economic assistance program funded through the federal and state governments assisting eligible persons with the cost of long term (custodial nursing home 24/7) care. The rules are complicated and whether married or single, there are separate guidelines for each with regard to eligibility based upon your assets and income. In addition, the Estate Recovery rules in Wisconsin were drastically changed by the enactment of Wisconsin Act 20 on June 30, 2013, and include far-reaching ability to recover monies paid out on behalf of a deceased MA recipient (or his or her spouse). Some of these include judgments and liens on real estate, including life estate interests, the ability to recover against joint accounts, payable on death, and transfer on death accounts, and pursuit of marital property of the non recipient spouse.

Exempt assets for MA continue to include the following:

1. Homestead and/or Life Estate (a particular way of owning real estate done with a Quit Claim Deed). Note that for a single individual, if nursing home care is required, if cash is depleted, the home becomes available for spend-down unless a joint owner of the property refuses to sell the home. The homestead is exempt and remains so while a community spouse lives in the home.
2. Life Insurance Face Value of Policy: \$1,500.00
3. Car
4. Personal Property
5. Prepaid Burial and Funeral or Cremation services

For married persons, “spousal impoverishment” rules apply, and they provide that if one spouse enters the nursing home and the other spouse can remain living at home in the community (“community spouse”) then the couple may own a certain amount of assets, placed into the community spouse’s name, and only a portion of their assets are available to be spent on long term care in most instances. This process is called “spend down” whereby if the assets of the couple are above the allowable limits for MA eligibility, the spouses “spend down” the assets until they are at the MA levels, which change yearly. With regard to income, the Department of Health and Family Services

(DHFS) develops an income statement so that the community spouse has available to him or her a certain amount of income in order to keep the home and be able to pay the annual real estate taxes and so on.

The State of Wisconsin Department of Health Services (DHS) can pursue claims of probate estates of the community spouse after his or her death in order to collect money back to the State spent on nursing home care of the nursing home spouse. This is called "estate recovery." While the community spouse is alive and living in the home, no one can place a lien on the home. Estate plans should be updated if a spouse enters a nursing home.

The "gifting" or "divestment" rule states that if you give property away in any fashion within five years of applying for MA, the gifting can disqualify you from receiving MA for a period of time. In general, gifting is not recommended except under certain circumstances and is best done with the advice of legal counsel familiar with the MA rules.

Medical Assistance is applied for through the Department of Health and Family Services and is governed by rules set forth in a Handbook found on the following website: www.emhandbooks.wisconsin.gov/meh-ebd/meh . The Wisconsin application can be found online at the Department's website and free assistance with preparing and submitting the application is provided by the local Office on Aging.