



Won't the State Take My Home?

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This is something we hear often. Sadly, there is a lot of misinformation out there about Medicaid and people's homes, so we'll try to set the record straight today on this particular issue.

In March 2005 the state of Texas began the effort of recovering the cost of nursing home care, as required by the Federal Government. In Texas, the state can file a claim against the probate estate. Because most people on Medicaid have limited resources, the home is often the most valuable asset in the probate estate.

The State does **not** file a lien against the property, rather, they will file a claim, just like any other creditor. Because the home is often the only property with much value, without proper planning the home will often have to be sold in order to pay the claim filed by the state. (And keep in mind that the home is not always the only part of a probate estate—cars, boats and motor homes could also be subject to estate recovery).

With proper planning, however, it is possible to avoid estate recovery.

The rules of Texas allow for a "Ladybird Deed". With a Ladybird Deed, the owner of the home transfers a remainder interest in the property to whomever they want to own the home after the homeowner's death.

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Did You Know?

\* Property outside Texas may be subject to estate recovery

\* A claim will not be filed if the value of the estate is \$10,000 or less

\* If you receive Medicaid benefits in more than one state you could be subject to estate recovery in each state

*Texas Department of Aging and Disability Services*

Medicaid and the Home

For the purposes of Medicaid qualification, a person's homestead is an exempt asset, up to a value of \$500,000.00. What this means is that the value of the home does not count in the \$2000.00 asset limit. But while the home is exempt, the homeowner and Medicaid recipient is not able to keep more than \$60 a month for special needs, which does not come close to covering home maintenance, even if the home is paid for.



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This deed says that the owner of the home continues to own the home until the moment of death. Additionally, the homeowner reserves the right to sell the property at any time. This part is important, because without this provision, the transfer of the remainder interest is a completed gift, which then creates a penalty.

The reason this works is because the home then transfers under the Ladybird Deed, and not as part of the probate estate.

There are also exemptions to estate recovery. There is no right to estate recovery if a spouse is still living in the home, or if a disabled adult child is living in the home. Another exemption exists if an adult child lived with the parent for a year or more and acted as a caregiver.

With Medicaid being one of the fastest growing parts of our state and national economies, it only makes sense that we help pay for our care if we are able to. That being said, there are still ways to plan to avoid losing property.



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It then becomes necessary to determine how to maintain the home, even if you only have to pay for insurance and taxes. One option is for the family to pay these expenses. If family is not able to do this, it is possible to rent the home out, but any rent above the actual expenses of maintaining the home will be considered income, and will have to be paid to the nursing home. It is possible to rent the home just for the cost of maintaining the home, but you want to have good documentation of these costs, so you can demonstrate that no extra income is being generated.

K & B Happenings

Monica will be presenting a Guardianship seminar on Thursday, February 25 from 8:30 am to 12:00 pm. The seminar will be at the Bethesda Gardens Memory Care Community, 5349 Alamesa Blvd., Fort Worth, TX 76123. Professional CEUs will be offered. For more information, please call Boryana George at 817-292-8886.



Steve will be presenting at the People's Las School on Saturday, March 6 from 8:30 to 12:30. For more information contact the Tarrant County Probate Bar at 817-338-4092.