

# The Informed Senior

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## *Is Every Married Couple Required to Spend Down One-Half of Their Assets in Order to Qualify for Medicaid?*

The simple answer: No. In fact, there are couples who together have over \$109,560 in assets (not including their home) and qualify for Medicaid without any spend down. How can this be? What about the “division of assets” and “spend down” people are always talking about?

Medicaid law is quite complex and everyone’s situation is different. The following example is just one of the many ways in which some of our clients are able to qualify their spouse for Medicaid without spending a penny:

Carol’s\* husband, Bob,\* entered a Washington nursing home in July of 2010. At that time, their assets totaled approximately \$100,000 (not including their home and one car, both of which are “exempt” for Medicaid purposes). Carol and her daughter immediately went to the Division of Social and Health Services to apply for Medicaid. The caseworker explained to Carol that, upon application for Medicaid benefits, the state will total all of the assets she and Bob own on the day he entered the nursing home (the “snapshot date”). The state then divides their assets in half (“division of assets”) and Carol is told Bob will qualify for Medicaid once his half of the assets are spent down to \$50,630.

When Carol came to our office in May of 2010, it was because the social worker at Bob’s nursing home had told her she should contact an elder law attorney to see if there were ways she and Bob could preserve more than one-half of their assets. We explained to Carol that she may be able to keep everything, but it would depend on her income and the interest their assets were earning. Basically, every community spouse is entitled to a minimum monthly maintenance needs allowance of \$1,822 per month. If Carol’s income, including the interest from her half of the assets, is less than \$1,822, Carol can keep more of her and Bob’s assets in order to earn additional income necessary to raise her income closer to \$1,822.

Carol informed us she has \$900 in income and all of her and Bob’s assets are in CDs and bank accounts earning no more than 5%. We told Carol that her \$50,000 earning 5% will be considered by the state as income of \$208.33 per month, giving her a total income of \$1,108.33 (\$900 + 208.33). Her income, because it is less than the minimum monthly maintenance needs allowance of \$1,822, entitles Carol to retain additional

assets initially allocated to Bob. In this case, because Bob’s \$50,000 is also earning 5%, it would mean additional income of \$208.33 per month. Adding this to Carol’s income of \$1,108.33 would bring her income to \$1,316.66. Because this figure is still below the \$1,822 to which she is entitled, Carol would be entitled to keep all of those assets initially allocated to Bob. In other words, we told Carol she could keep the entire \$100,000 belonging to her and her husband and still qualify Bob for Medicaid.

In addition, we told Carol that the shortfall from the \$1,822 could be made up from her husband’s income. So, in addition to keeping all of her own income and all of her and Bob’s assets, she would be entitled to an additional \$505.34 from Bob’s income (\$1,822 - \$1,316.66). Once qualified for Medicaid, Bob would be able to keep \$57.28 of his income as a personal needs allowance and the couple’s co-pay to the nursing home would be \$1,334.66 instead of the \$6,500 per month she and Bob had been paying for the past few months.

Again, this scenario is fact-specific to Carol and Bob. It cannot be accomplished at the case worker level as the state is not able to give legal advice on this type of appeal. The bottom line: before you start spending down, seek advice from someone who knows Medicaid laws.

Along with Medicaid qualification, Carol and Bob need to redo their Wills and estate planning documents to ensure Bob remains eligible should Carol pass first.

\* names have been changed for privacy

### In-Service Training Available

Robert L. Michaels, Esq. offers in-service training on topics related to:

Division of Assets • Medicaid Planning  
Wills • Estate Planning • Living Wills  
Guardianship • Powers of Attorney  
Other Elder Law Issues

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