



## DESCHENE: Medicaid Trust a viable option for seniors

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BY ROBERT DESCHENE | 0 comments

The cost of long-term nursing home care is top of mind for many of my older clients. Many have worked long and hard to accumulate a nest egg, and would like to leave something for their children when they die.

Massachusetts nursing homes cost an average of more than \$10,000 a month. If you own your own home and apply to Medicaid for benefits to cover nursing home care, Medicaid will not require you to sell your home to pay for your care. Medicaid will put a lien on your home equal to the total dollar amount Medicaid pays the nursing home during your lifetime. After you die, Medicaid will file a claim against your probate estate to recover the lien amount. If your family cannot pay off the lien themselves, they will have to sell your house to pay off the lien.

If you transferred title to the house more than five years before you apply for Medicaid benefits, however, Medicaid will not place a lien on your home. Unfortunately, some people try to avoid the lien by deeding their homes to their children.

This strategy is very risky.

Once someone else owns your home, they have the legal right to decide whether you live there. If you become estranged from your children, they may evict you. Even if you remain on good terms, your children may lose your house if they run up debts, or if they get divorced.

If you have sufficient retirement income, you might not care if you own your house, as long as you can live there rent free for the rest of your life. If so, you should consider placing your home into what is commonly referred to as a Medicaid Trust.

Unlike an outright transfer of your house to your children, a Medicaid Trust protects you from ever losing your home during your lifetime. The legal owner of the house is the trust, not your children. You name your children as the trustees, but the trustees must abide by the terms of the trust, which include your right to continue living rent-free in the house for your lifetime. If your children run up debts or get divorced, their creditors or ex-spouses cannot touch the house, again because your children do not own it.

If you decide to downsize to a smaller home, then the trustees simply sell the house, buy a smaller home, and you live there rent-free for your lifetime. If there is money left over from the sale, it stays in the trust, and Medicaid cannot insist you use it to pay for your nursing home care.

Under the terms of your Medicaid Trust, title to your home will pass directly to your children at your death and without the need to go through probate court. If for any reason you decide not to leave the house to your children, you simply change the beneficiaries of the trust.

The older you are, the greater the odds you will spend at least some time in a skilled care facility, so early planning is critical. Medicaid does not want people giving away their assets right before going into the nursing home just to qualify for benefits, so Medicaid looks back at your finances for the last five years. Today, Medicaid Trusts only work to protect your home if you set them up at least five years before you expect to need nursing home care.

Congress is now considering the possibility of extending the look-back from five years to 10 years.

If you have sufficient retirement income, and would be satisfied to live rent free in your current home for the rest of

your life, consider setting up a Medicaid Trust, and get the five-year clock ticking now.

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