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# UTBF Elder Law Program

## The Medicaid Asset Protection Trust

By Attorneys:  
Douglas L. Kaune  
Anylise C. Crouthamel

120 Gay Street  
Phoenixville, PA  
19460

17 W. Gay Street  
Suite 301  
West Chester, PA 19460

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## How much does it cost to stay in a nursing home?

- Average nursing care cost in PA\*:
  - \$482.50/day
  - \$14,676/month

\*This is the average, the cost can be significantly higher.

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## Where do your assets go?

**Q.** What happens to someone's assets if they move into a nursing home and have done no asset protection planning?

**A.** The assets are spent down quickly, at a clip of \$14,000 - \$18,000 per month or \$168,000 - \$216,000.00 per year.

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## What is Medicaid and how is it different than Medicare?

- Medicaid is the federally funded state run program that pays the nursing home expenses of those who no longer have sufficient assets of their own.
- Medicare is health insurance and only covers non-custodial medical care such as:
  - Doctor visits
  - Hospital stays
  - Rehabilitation
  - Medication

Medicare **DOES NOT** cover long term nursing care.

## What can the Community Spouse keep and still have their spouse qualify for Medicaid in a nursing home?

- 1 Car
- House \*\*
- Their own IRAs
- 1/2 of the remaining financial assets **OR** \$137,400, whichever is **LESS** (the minimum additional amount for the community spouse to retain is \$27,480.00).
- \$2,400 for the institutionalized spouse.

\*\* up to home equity limit of \$636,000.00

## What can a Single Individual in a care facility keep before he or she can qualify for Medicaid?

- 1 Car
- House
  - with statement that they might return home.
  - the house will be subject to recapture through estate recovery.
- \$2,400
- \$45.00/month from income

## Medicaid Qualification Data

Individual Resource Allowance	\$2,400.00
Resource Allowance for a Couple	\$2,400.00 each
Divestment Penalty Divisor	\$482/Day \$14,676.04/Month
IRAs Owned by the Institutionalized Individual	Countable
IRAs Owned by the Community Spouse	Exempt

## Spousal Impoverishment Standards

Minimum Community Spouse Resource Allowance	\$27,480.00
Maximum Community Spouse Resource Allowance	\$137,400.00
Minimum Monthly Maintenance Needs Allowance	\$2,289.00
Maximum Monthly Maintenance Needs Allowance	\$3,435.00
Shelter Standard	\$687.00
Standard Utility Allowance	\$681.00

## Why would someone want to do planning to qualify for Medicaid sooner?

- Protect the community spouse
- Preserve the family home for children
- Preserve financial assets for the children

## What kind of planning can be done now, to help protect and preserve assets for your spouse and children?

- Gifting of assets is the primary asset protection tool for clients who are planning ahead.
- Gifting and the 5 year ineligibility/lookback period.
- The Medicaid Asset Protection Trust ("MAPT") is a central tool for Medicaid qualification planning.

## What is a MAPT and how is it managed?

- It is an Irrevocable Trust.
- It provides a place to hold gifted assets during the Grantor's lifetime.
- Allows for a named trustee to manage gifted assets during Grantor's lifetime.
- Tailored to each family situation
- Assets gifted to the MAPT start a "5" year ineligibility period for Medicaid.
- Each separate gift carries its own separate 5 year waiting period.

## Who can act as the trustee of the MAPT?

- You can name your most trusted or responsible child/friend/loved one to manage the gifted assets in a centralized manner for the balance of your lifetime.
- Neither Grantor nor Grantor's spouse will act as trustee.
- Disinterested Distribution Trustee required for distribution to beneficiaries.
  - This provides significant asset protection for the gifted assets during the balance of Grantor's lifetime.

## What assets can or cannot be owned by a MAPT?

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| <ul style="list-style-type: none"> <li>➤ Can be owned by MAPT</li> <li>➤ Real estate</li> <li>➤ Stocks</li> <li>➤ Bonds</li> <li>➤ Mutual funds</li> <li>➤ Business interests</li> <li>➤ Annuities</li> <li>➤ Cash</li> <li>➤ Life Insurance Policies</li> </ul> | <ul style="list-style-type: none"> <li>➤ Cannot be owned by MAPT</li> <li>➤ IRAs</li> <li>➤ 401(k)s</li> </ul> |
|--|--|

## What Are the Benefits of the MAPT?

- Five years and one day after each gift to the MAPT, the gifted assets will be 100% protected from nursing home spending.
- Provides Asset Protection for the gifted assets during Grantor's lifetime
- Assets will be protected from the divorcing spouse, creditors and law suits impacting the children.
  - This is FAR BETTER than gifts directly to children which are vulnerable to all of their personal issues.
- Protects assets from being spent down by individual gift recipients.
- Avoids probate. This makes the administrative process much faster and easier and less expensive after you pass away.

## What Are the Benefits of MAPT? (continued)

- Potential PA Inheritance Tax savings. The inheritance tax savings could result in tens of thousands of dollars of savings. This savings alone is likely to far exceed the planning costs.

### PA Inheritance Tax Rates

- Transfers to Spouse: 0%
- Transfers to Children & Grandchildren: 4.5%
- Transfers to Parents: 4.5%
- Transfers to Siblings: 12%
- Transfers to Nieces/Nephews: 15%
- Transfers to Aunts/Uncles: 15%
- Transfers to Friends: 15%
- Transfers to Charities: 0%



## What Are the Benefits of MAPT? (continued)

Potential PA Inheritance Tax Savings:

- $\$250,000 \times 4.5\% = \$11,250.00$
- $\$500,000 \times 4.5\% = \$22,500.00$
- $\$750,000.00 \times 4.5\% = \$33,750.00$
- $\$1,000,000.00 \times 4.5\% = \$45,000.00$

## Can the Trustee kick me out of my home before I want to leave?

- Life Estate Agreement
- Long Term Lease

## What if the Grantor needs nursing home care before the end of the 5 year ineligibility period?

- **All is not lost!** Private pay for the balance of the 5 year ineligibility period.
- **EXAMPLE:**
  - Gift \$500,000 to MAPT 1/1/23.
  - Move to a care facility 1/1/27.
  - Result = Privately pay for one year and qualify for Medicaid 1/1/28.

As a result of the planning, the client protected all but the cost for the final 1 year of ineligibility. This would result in a potential savings of over \$400,000.

## Can the grantor get money back once it is gifted to the MAPT?

- Typically, the trustees of the MAPT can distribute the assets in the trust to any one or more of the Grantor's children.
- The child who receives a distribution from the MAPT can then use the money to assist the Grantor.
- Grantor cannot require the Trustee to make a distribution to the children and cannot force the children to use the distributed funds for Grantor's benefit.
- Neither Grantor, nor Grantor's spouse, can receive a direct distribution from the trust.

## Who should consider this MAPT Planning?

- Someone in their late 60's to late 80's.
- Someone with total assets up to \$2.5 million.

## How much does this MAPT planning cost?

- Flat fee basis.
- Common range of planning fees: \$8,000 to \$12,000.
- Covers all of the attorney and paralegal time.
- This fee is equal to or less than one month of long-term nursing care expense.
- Planning ahead might save hundreds of thousands of dollars for your spouse and children.

# Questions & Answers

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## **\*\* VIP DISCOUNT \*\***

- Schedule an Elder Law consultation before the end of 2022.
- Receive a \$500.00 credit towards the cost of your planning.

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# The End

Thank you for attending!

If you have any questions, please let us know.

Call **610-933-8069** to schedule your appointment.

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