

Overview of Medicaid

The University of Texas School of Law
22nd Annual Estate Planning, Guardianship and Elder Law
Conference
July 30-31, 2020 Moody Gardens, Galveston

Pi-Yi Mayo*
Bryn Poland
5523 Garth Road
Baytown, Texas 77521
281.421.5774

*Certified Elder Law Attorney by the National Elder Law Foundation
Nothing in this paper is to be construed as the rendering of legal advice.
©2020 Copyright, Mayo & Poland, All Rights Reserved

**MAYO &
POLAND**

1

Introduction

1. Is Medicaid planning in the client's best interest
2. Cookie Jar Approach
3. Homestead
4. Purchase of adjacent land
5. Purchase of an automobile
6. Purchase of a Preneed burial
7. Purchase of Burial Spaces
8. Non-Cookie Jar Cookie Jar Approach
9. Real Property offered for sale
10. Reduction of equity in real property

**MAYO &
POLAND**

2

Introduction

Is Medicaid planning in the client's best interest ?

This paper does not cover the multitude of issues that must be considered in determining whether any of the techniques mentioned in this paper is a proper utilization of the client's assets and is in the best interest of the client.

Every discussion about planning for Medicaid eligibility should start with this question.

Do not discuss income issues.

**MAYO &
POLAND**

3

Introduction

This article concentrates on strategies that protect assets of the client but that allows the client to maintain control and possession of the assets thereby eliminating one the most problematic issues in most planning techniques, the gifting away of assets from the client.

I never want anyone to have control of my client's assets and never want my client to have to give away assets if there are opportunities to protect the assets and keep them in the hands and control of the client.

There is always a chance that the client may recover and no longer need Medicaid for LTC if they were to leave a facility.

**MAYO &
POLAND**

4

Cookie Jar Approach

How to explain very complicated, concepts to your client

Everyone is familiar with the concept of putting some money into their cookie jar and holding it there so that they can take it out later and spend if even if most people don't have cookie jars anymore

Cookie Jar Approach is simply liquidating non-exempt assets and purchasing exempt assets

Cookie Jar is not Spenddown—except when paying off debts on assets

Client never parts with ownership or control of their assets

Always have to deal with MERP

**MAYO &
POLAND**

5

Cookie Jar Approach

Medicaid allows an applicant to own/keep several different cookie jars Medicaid refers to these items as exempt assets

The paper covers what many experienced Elder Law attorneys would consider very basic things like paying off the balance of a home mortgage on an exempt homestead

That basic and simple strategy flows from the policy that Medicaid allows an applicant to own a homestead and qualify for long term care Medicaid

Time prohibits covering the multitude of possibilities that this policy makes available to the zealous advocate

Paper specifically discusses the “policy” requiring the applicant to occupy the homestead in order for the property to be considered a “homestead”

Side bar: maintains homestead exemption for ad valorem tax purposes no matter how long away if in NH

**MAYO &
POLAND**

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Overview of Medicaid Planning

Also available as part of the eCourse

[Answer Bar: Elder Law and Medicaid Essentials](#)

First appeared as part of the conference materials for the
22nd Annual Estate Planning, Guardianship and Elder Law Conference session
"Overview of Medicaid Planning"