

Medicaid Planning in Guardianships

THERESA A. CLARKE, WRIGHT ABSHIRE, ATTORNEYS, P.C.

UT LAW CLE'S 26TH ANNUAL ESTATE PLANNING, GUARDIANSHIP, AND ELDER LAW
CONFERENCE, SAN ANTONIO, TEXAS, AUGUST 9, 2024

1

Overview

- Medicaid policy
- Incapacity of Medicaid applicant
- Guardianship
 - Texas Estates Code § 1162.001 et seq.
 - Texas Estates Code § 1353.001 et seq.

2

2

Long-Term Care Medicaid

- Eligibility
 - Non-financial
 - Financial
- Transfer rules

Medicaid Eligibility: Non-Financial Criteria

- Citizenship
- Residence
- Age, Blindness, Disability
- Medical necessity
- Medicaid facility, Medicaid bed

Medicaid Eligibility: Financial Criteria

- Income Limit
 - \$2,829 gross monthly income (2024) for unmarried applicant, married applicant with ineligible spouse
- Countable Resource Limit
 - \$2,000
 - \$3,000 when both spouses apply
 - Spousal Protected Resource Amount in spousal impoverishment cases
 - Half of couple's combined assets: \$154,140 maximum, \$30,828 minimum
 - May be able to expand

Medicaid: Transfers for Less Than Fair Market Value

- Cannot give assets away within five years of filing application and qualify
- Penalty period assessed
 - Amount of gift / current divisor (\$242.13 in 2024)
- Penalty period begins when person enters nursing home, applies for Medicaid, and would be eligible but for transfer

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 \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Medicaid Planning in Guardianships

Also available as part of the eCourse

[2024 Estate Planning, Guardianship and Elder Law eConference](#)

First appeared as part of the conference materials for the
26th Annual Estate Planning, Guardianship and Elder Law Conference session
"Medicaid Planning in Guardianships"