

# Medicaid Planning in Guardianships

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

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## Overview

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

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# Long-Term Care Medicaid

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- Eligibility
  - Non-financial
  - Financial
- Transfer rules

# Medicaid Eligibility: Non-Financial Criteria

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

# Medicaid Eligibility: Financial Criteria

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- 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

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- 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

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[2024 Guardianship Bundle for Attorneys Ad Litem](#)

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