

Medicaid Planning in Guardianships

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Overview

- 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

- 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

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