



TALLGRASS
ESTATE PLANNING


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Medicaid Planning Strategies

Insurance, "Look ahead," and Spend-Down

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About Tallgrass Estate Planning, LLP

- Home-based law firm
- Focused exclusively on estate planning
- Partners in Oklahoma and Washington
- Expanding to Arkansas and Missouri in 2018

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**The Big Picture:
Cost and Need**




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Big Picture: Cost and Need

- Oklahoma has the lowest average long-term care costs in the country.
- BUT, at an average of \$175 per day (private pay), that is still \$63,875 annually.


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Big Picture: Cost and Need

- If you turn 65, there is a 70% chance you'll need long-term care.
- Average stay in long-term care is 835 days (\$146,125).

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Qualifying without Planning

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Qualifying without Planning

- Medical qualifications
- Income qualifications
- Asset qualifications

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Qualifying without Planning

- Income limits:
 - Individual needing care:
 - \$2,250
 - All of which (less \$50) must go toward long-term care costs
 - Community spouse:
 - \$3,090

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Qualifying without Planning

- Asset limits:
 - Individual:
 - \$2,000
 - Couple (if both need care):
 - \$3,000
 - Community spouse:
 - 50% of assets (min: \$24,720; max: \$123,600)
 - Up to \$572,000 in home equity (primary residence only)
 - Possibly subject to estate recovery

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Qualifying by Planning



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Qualifying by Planning

- Long-Term Care Insurance
- "Look Ahead" Planning
- Spend-Down

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Qualifying by Planning: Look Ahead

- The problem:
 - Asset transfers are subject to a 60 month "look back" period
 - Assets transferred within 60 months of applying for Medicaid create a penalty period

$\frac{\text{Value of gift}}{3,488} = \text{months of "penalty" before eligibility}$

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Qualifying by Planning: Look Ahead

- A solution:
 - Transfer assets in advance
 - Create a "look ahead"
 - Transfer property and non-qualified savings to a Medicaid Qualification Trust long before you anticipate needing long-term care

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Qualifying by Planning: Look Ahead



- Richard and Susan
 - Healthy
 - No current medical need
 - Approaching retirement
 - Want to protect assets from long-term care costs and Medicaid spend-down

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Qualifying by Planning: Look Ahead



- Richard and Susan
 - Create a Medicaid Qualification Trust
 - Transfer real estate, non-qualified savings, and mineral interests

(Discussion of qualified assets in next section)

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Qualifying by Planning: Look Ahead



- Richard and Susan
 - After 60 months, all assets in the Medicaid Qualification Trust are exempt

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Qualifying by Planning: Spend Down

- Problem: Too much income
- Solution: "Miller Trust" or Qualified Income Trust
 - All income over limit is diverted into trust for your benefit, including monthly allowance
 - Can be revocable, in case income is reduced

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Qualifying by Planning: Spend Down

- Exempt vs Available Assets
 - Exempt assets are not subject to spend down
 - Available assets must be spent to become eligible

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Qualifying by Planning: Spend Down

- Exempt assets and expenses (examples):
 - Medical bills and equipment
 - Care management contract
 - Personal debts
 - Home improvement
 - Pre-paid funeral/memorial contract
 - Primary vehicle
 - Legal fees

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Qualifying by Planning: Spend Down

- Mark and Lois
 - Lois has Alzheimer's
 - Transitioning into a memory care unit
 - Wish to preserve as many assets as possible for Mark



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Qualifying by Planning: Spend Down

- Mark and Lois
 - Apply for Medicaid as soon as possible
 - Creates "snap shot" of assets to determine eligibility



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Qualifying by Planning: Spend Down

- Mark and Lois
 - Total assets: \$750,000
 - \$250,000 home
 - \$350,000 401k (Lois)
 - \$150,000 checking, savings, and brokerage



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Qualifying by Planning: Spend Down

- Mark and Lois
 - Exempt assets:
 - \$250,000 home
 - Available assets:
 - \$350,000 401k
 - \$150,000 cash



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Qualifying by Planning: Spend Down

- Mark and Lois
 - \$150,000 cash
 - \$75,000 is Mark's
 - \$75,000 is Lois'
- Mark's portion is safe
- Lois' must be spent down to \$2,000



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Qualifying by Planning: Spend Down

- Mark and Lois
 - Lois' portion:
 - Pay medical bills
 - Pay off credit card debt
 - Purchase burial contract
 - New kitchen
 - Care management contract
 - Legal fees



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Qualifying by Planning: Spend Down

- Mark and Lois
 - Lois' 401k:
 - Convert to a "Medicaid Compliant Annuity"
 - Irrevocable
 - Non-assignable
 - Actuarially sound
 - Equal monthly payments
 - Name DHS as beneficiary



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Qualifying by Planning: Spend Down

- In similar scenarios, clients with roughly \$750,000 have qualified for Medicaid with a spend-down of only \$15,000-25,000



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Additional Benefits Programs

- VA offers income and long-term care benefits that are similar to Medicaid and SSI, but have unique eligibility requirements
- Special Needs Trusts may be used outside of long-term care situations to help people qualify for other "means-tested" benefits

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Questions?

Thank you!

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