



Senior Law

**Legal News and Views
For Professionals
Who Serve Seniors
and the Disabled**

HAVE YOU SEEN MY LEPRECHAUN?

A few days ago, my good friend Paddy O'Furniture was waxing eloquent about his personal encounters with the wee folk. Knowing of Paddy's fondness for Ireland's distilled products, I was more than a little skeptical. But then I started thinking. To Paddy, and to many others for all I know, leprechauns are as real as can be even though all logic, science and common sense tell us otherwise.

It's the same with Medicaid. Huge segments of the population (even without the help of Paddy's favorite elixir) believe things about Medicaid and are absolutely certain those things are real and true even though the law says otherwise. Here are a few of the most common Medicaid Myths.

MYTH 1: "I **have to** give away everything I own to get Medicaid"

TRUTH: You are allowed to own some property in some forms and still be eligible for Medicaid, but you will need a detailed knowledge of Medicaid laws plus skill and ingenuity to figure out which property in which forms are allowed. In brief, Medicaid defines all property (including cash) as either "countable" or "non-countable." If your property is "non-countable" (or you make it "non-countable" under the rules), you can keep it and still get Medicaid.

MYTH 2: "I **can't** give away anything and still get Medicaid"

TRUTH: The Medicaid law says you can be disqualified for benefits by giving away your assets - in some cases! In other cases, you can give away lots of money and other assets and still get benefits. It all depends on what is given away, how much it is worth, when it is given away, to whom it is given, the exact sequence of events involved in making the gift, and other facts. Is it very complicated? You bet.

MYTH 3: "I have to **wait for three years** after giving anything away before I can get Medicaid"

TRUTH: There is a three-year lookback period (five years in some cases and even longer in other cases) and Medicaid has the right to examine all gifts made during the lookback period. However, the "right to examine" is not the same as "gifts aren't allowed." In fact, some kinds of gifts never cause disqualification, and sometimes the disqualification may only be for a

month or two.

MYTH 4: "If, during the lookback period, I give my kids my money, **they will have to give it back** before I can get Medicaid"

TRUTH: The last time I looked, this country still had a Constitution. No one, not even Medicaid, can **force** you or your kids to give away or give back a penny. However, Medicaid has every right to deny benefits for as long as necessary if you violate their rules, even unintentionally.

MYTH 5: "I can **get Medicaid immediately** if I give all of my assets to my spouse"

TRUTH: When Medicaid decides what is "countable" or not, they count everything that has your name OR your spouse's name on it, so taking your name off of everything and putting it all in your spouse's name doesn't work.

MYTH 6: "I can give away money and still get Medicaid, but the most I can give away is **\$10,000.00 per year**"

TRUTH: This myth is caused by confusion between the tax rules and the Medicaid rules. In a tax situation, you may give away more than \$10,000.00 per year and under the Medicaid rules you might be able to give away more than \$10,000.00 per year if you know how. Either way, the limit is NOT \$10,000.00 per year. More on this next month.

WORDS OF WISDOM: Never use both feet to test how deep the water is.

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