



10 Asset Protection Planning Mistakes

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Mistake #1: Relying solely on a will or a living trust. A will takes effect only upon your death, and a living trust, although preferable in some cases, will not protect your assets from the government and nursing homes.

Mistake #2: Relying on Medicare or health insurance. Neither Medicare nor health insurance pays for the cost of long-term care in a nursing home. With the average cost exceeding \$3000 a month, without a Plan most families will quickly run through their life savings.

Mistake #3: Transferring all assets to children or other relatives. This almost always results in lengthy, unnecessary periods of ineligibility when Medicaid or other public assistance is applied for. And the tax consequences can be devastating. Often, it's wiser to do nothing.

Mistake #4: Placing all assets into joint ownership with another family member. This is often regarded the same as a transfer and can result in lengthy disqualification periods. Or it may not shelter assets at all. It can also create unfortunate legal problems for families.

Mistake #5: Selling the family home to pay for nursing home care. This is almost never required. Yet many still believe that a person must sell his home to pay the nursing home.

Mistake #6: Not taking Medicaid estate recovery seriously. The government can and does sell your home after your death to recoup benefits paid out on your behalf.

Mistake #7: Applying for a conservatorship or guardianship. This court-supervised method of dealing with a person's incapacity is time-consuming, costly, burdensome, and restrictive. With proper planning, you avoid the need to go to court.

Mistake #8: Relying on family members to "do the right thing" when critical health care and financial decisions need to be made. In the absence of a Plan to protect assets and other planning documents, this is an awful burden to place on the

members of your family.

Mistake #9: Not seeking the advice of a specialist in elder law and asset protection planning. Medicaid and other government benefits programs are a highly complex area of the law; the law varies from state to state and even within a particular state. Very few attorneys and advisors know and understand the laws and rules that apply.

Mistake #10: Doing nothing. Unless you have no assets to protect or you are unconcerned about how decisions will be made in the event of your disability or incapacity, you should take steps now to protect yourself.

Medicaid and elder law are highly complex areas of the law. The laws are not the same in every state. *Unfortunate and costly mistakes can be made if you do not know what you are doing.* Please consult an experienced attorney who knows this stuff.