

# Legal Connections



POWERED BY THE COLUMBUS BAR ASSOCIATION

SEPTEMBER 15, 2017

## MEDICAID PLANNING FOR YOUR FUTURE

**M**edicaid planning is a widely discussed topic and top concern for estate planning clients due to the overwhelming cost of nursing home care. Medicaid has strict guidelines for the amount of total resources that an individual or couple may have in order to qualify for benefits. Even if only one spouse is seeking to receive Medicaid, the assets of both will be considered during the application process. In order to qualify, countable resources must be equal to or less than the applicable asset resource amount under present rules, currently \$2,000.

Clients should consult an attorney before attempting to "impoverish" themselves in order to qualify for Medicaid. Current law has created a five year "look-back period" for purposes of Medicaid eligibility. The look-back period begins on the date the individual is both institutionalized and applies for Ohio Medicaid assistance. A transfer made outside of the



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look-back period is not counted against the applicant.

However, a transfer made within the look-back period is either a "proper" or "improper" transfer. An improper transfer is a transfer of an individual's or his spouse's assets for less than fair market value. If an improper transfer occurred during the look-back period, then the improper transfer is assigned a

penalty time where the applicant is ineligible for Medicaid. This creates a quandary for people who may have unknowingly made improper transfers before seeking an attorney and are now left without enough resources to pay for nursing home care during the ineligibility period.

When considering Medicaid planning for clients, many attorneys advise clients to "spend down" countable assets in order to be eligible for assistance, but this is only partially true. Countable assets may be reduced by purchasing exempt assets, like an irrevocable prepaid funeral plan, cemetery lots, a

transportation vehicle or personal property. However, it also may be advisable to take advantage of specialized plans to reallocate some of the "excess" resources for the benefit of the spouse or family. Such planning may allow individuals seeking Medicaid assistance to become eligible sooner and save money. Just a few of the many planning strategies available are a properly drafted caregiver agreement and a special needs trust or a pooled trust.

The planning strategy used will be determined after careful consideration of the needs of the client and the timing of the application. After completing the planning and having the Medicaid application approved, remember that assets must be kept below the applicable asset resource amount and a redetermination will occur in one year.

As a word of caution, when beginning Medicaid planning, always remain aware of new laws and/or regulations as this area is ever-changing and could seriously impact your financial well-being. ■



"For more information about how current events impact your business, visit [cbalaw.org](http://cbalaw.org). We'll connect you with the right lawyer."

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Executive Director • [jill@cbalaw.org](mailto:jill@cbalaw.org)

### Who's Eligible for Medicaid?



Interested in learning more about Medicare planning? Attend Medicare and Muffins on Oct. 3: [cbalaw.org](http://cbalaw.org)

## HOW WILL DACA'S RESCISSION AFFECT OUR LOCAL WORKFORCE?

**D**erferred Action for Childhood Arrivals (DACA) is an immigration policy established in 2012, allowing certain illegal immigrants who entered the country as minors to receive a renewable two-year period of deferred action from deportation and eligibility for a work permit. On September 5, the executive order that established DACA was rescinded. Does this mean employers will immediately lose employees previously protected by DACA? The Department of Homeland Security responds with a qualified no. The program will be phased out subject to these basic parameters:

1. Initial applications and applications for extensions pending as of September 5 will be considered on a case-by-case basis.
2. No new or renewal requests can be made after September 5.
3. Extension applications for those whose DACA status ends by March 8, 2018 may be filed before October 5.
4. Valid DACA grants will not be terminated or revoked for the remaining duration of their validity.
5. Related applications for travel permission will no longer be approved.



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However, according to Homeland Security, the agency will still be able to exercise its discretionary authority to terminate or deny deferred action for any reason, at any time, with or without notice.

Time will tell how the rescission of DACA will impact our workforce. If you want to learn more about how American immigration policies affect us all, the CBA's

Mexico trip, scheduled for February 28 to March 5, will answer these (and other) important questions. Space is extremely limited and registration closes November 1: [cbalaw.org](http://cbalaw.org). ■

## EDUCATION & EVENTS

Tuesday, Sept 19 • 1 – 8 p.m.  
Jay Yano Memorial Golf Outing

Wednesday, Sept 20 • 9 a.m. – 12:15 p.m.  
Carefully Taught: Lessons in Prejudice  
3.0 Professional Conduct & CLE Hours

All classes listed are offered at the Columbus Bar Associations offices, 175 S. Third St. Ste. 1100. To register, call 614-221-4112 or enroll online at [www.cbalaw.org](http://www.cbalaw.org).



What you need to know about Title IX

📅 10/13/17 🕒 9am-12:15pm 📍 Columbus Bar Association

### TITLE IX and STUDENT SEXUAL ASSAULT LITIGATION

Learn what and who is covered by Title IX, how those accused are represented, and how universities and institutions investigate the claims. 3.0 CLE hours, CLE Easy Pass eligible.

### Registration:

Register for this class online at [www.cbalaw.org](http://www.cbalaw.org) or call (614) 221-4112.