

### **MO HealthNet (formerly Medicaid) Myths**

How to pay for nursing home care has become a critical issue in the lives of many people. Paying privately for a year's stay in a nursing home can easily run \$96,000-\$156,000 in the St. Louis Region. As a result, it does not take long to spend all of one's savings. MO HealthNet (formerly Medicaid) can provide significant assistance to those needing help in funding the cost of nursing home care. This is a complex area of the law and should only be handled by attorneys who know the MO HealthNet laws.

Below are ten of the most common myths surrounding the MO HealthNet laws.

**1. Myth: "I have to give away everything I own to get MO HealthNet."**

The Truth: Basically, a person is permitted to own some property, and still be eligible for MO HealthNet. The trick comes in knowing what is "countable" and what is "non-countable" under the MO HealthNet rules.

**2. Myth: "I can't give anything away and get MO HealthNet."**

The Truth: The MO HealthNet rules provide that a person can be disqualified for giving away property, in some cases. However, a lot depends on what is given away, to whom, and when. Some asset transfers are not penalized under the MO HealthNet rules.

**3. Myth: "I have to wait 5 years after giving anything away, to get MO HealthNet."**

The Truth: This rule changed with the passage of the new federal MO HealthNet laws in February 2006, from 3 years to 5 years. However, the disqualification is not always 5 years long and sometimes there is no disqualification at all. True, there is a 5-year "look-back" for some asset transfers under the MO HealthNet rules. This means that the MO HealthNet agency will look back at all transfers of property, including sales for less than market value. However, the rules penalizing transfers do not apply to all transfers.

**4. Myth: "I can keep all our marital property and my inherited property when my spouse gets MO HealthNet."**

The Truth: When a married person applies for MO HealthNet, assets in either or both spouse's name are considered by the MO HealthNet agency. However, some assets will not be "countable", and you may keep some as an asset allowance if your spouse enters a nursing home, but not always all of it.

**5. Myth: “If I put my property into my spouse’s name, I will be eligible for MO HealthNet.”**

The Truth: Assets are counted regardless of which spouse’s name they are in.

**6. Myth: “If I enter a nursing home as a private pay resident, I must use up my assets before I can get MO HealthNet.”**

The Truth: You are not required to use your assets to private pay for the nursing home care. However, some nursing homes might try to make you believe that you do have to do this. They are paid less under the MO HealthNet program than they collect from private pay patients. Some people seek advice from an elder law attorney to find out how they can become MO HealthNet eligible before having spent a significant part of their assets on the private pay rate.

**7. Myth: “I cannot receive therapy services because MO HealthNet does not cover therapy.”**

The Truth: The United States Code of the Federal Regulations (Section 42) provides that therapy services must be provided even when the services are not specifically enumerated in the State MO HealthNet plan. Additionally, it may be possible for a nursing facility to receive additional MO HealthNet reimbursement for therapy services provided to a resident.

**8. Myth: “All of my spouse’s income must be used to pay the bill if my spouse is on MO HealthNet in a nursing home.”**

The Truth: The law allows you, in some cases, to keep a portion of your spouse’s income if your income is below certain limits. In addition to this allowance, you may be entitled to a greater allowance if the cost of maintaining your home exceeds a certain amount or if a state hearing officer or a judge orders a greater allowance.

**9. Myth: “I can hide my assets and become eligible for MO HealthNet.”**

The Truth: Intentional misrepresentation in a MO HealthNet application is a crime and can be costly. The IRS shares any information concerning income or assets you have with the county department of social services. You or whoever applied may have to pay MO HealthNet back to avoid prosecution.

**10. Myth: “My Power of Attorney automatically has the power to take property out of my name, if I ever need MO HealthNet.”**

The Truth: It is true that a Durable Power of Attorney with “gifting” powers allows your agent to transfer and gift assets, but those transfers to gifts are still potentially subject to penalties.

**11. Myth: “I can give \$18,000 to a person without incurring a penalty period for MO HealthNet.”**

The Truth: There is a distinction between MO HealthNet gifting rules and the IRS gifting rules. **With the passage of the new federal MO HealthNet laws, which became**

effective in February 2006, gifting sums of money to deplete assets is no longer an allowable strategy for meeting MO HealthNet eligibility. This includes a gift matching (or up to) the annual gift tax exemption.

**12. Myth: “People receive inferior care in the nursing home if they are on MO HealthNet.”**

The Truth: Typically, the nurses and other personnel at the nursing homes are not aware of which beds are designated as MO HealthNet beds. The state of Missouri has certified a certain number of beds at a particular facility because the state needs to know how many residents potentially may be covered under the MO HealthNet benefit. However, these certified beds could be anywhere in the facility. Sometimes facilities designate a certain wing to be MO HealthNet certified, so that the facility can be sure that it does not over-certify the facility. Otherwise, though, there is no distinction between MO HealthNet-certified beds and non-MO HealthNet certified beds or the care one receives.

**13. Myth: “You have to pay two years before you can get a MO HealthNet bed.”**

The Truth: If a facility requires a certain number of months or years of private pay (before MO HealthNet can be obtained), this is that particular facility’s policy, and it is not Missouri law. Accordingly, if a facility has a MO HealthNet bed available, and the individual applying to the nursing home is MO HealthNet pending, the facility must offer the MO HealthNet bed to that individually. If the facility does not have a MO HealthNet bed available, the potential resident can ask to be placed on a waiting list.

**14. Myth: “MO HealthNet cannot take your house until you die.”**

The Truth: Missouri estate recovery rules do not allow the State of Missouri to interfere with ownership of real estate until the applicant (if single) has passed away, or the applicant and the applicant’s spouse (if married) have *both* passed away. However, a TEFRA lien may be placed on property as security for payment of a debt, while the applicant is still living. The TEFRA lien does not change the ownership of the property, but the debt must be satisfied before the property is sold, transferred, or leased.

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