



**Weatherby & Associates, PC**  
Counselors at Law

Helping Families Preserve and Protect Assets and Values

## **Preventing Your Surviving Spouse from Losing Medicaid Eligibility**

Many Medicaid recipients living in nursing homes have spouses who are able to continue living at home (“Community Spouses”). A nursing home resident receiving Medicaid benefits in Connecticut can have no more than \$1,600 in assets. However, a Community Spouse is allowed to retain a certain amount of income and assets. The current rules in Connecticut allow the community spouse to retain no more than one half of the couple’s total countable assets. The maximum is limited to no more than \$115,920. The Community Spouse can also retain certain assets that Medicaid does not count towards that maximum. The couple’s home, household goods and their car are not counted.

The nursing home spouse’s Medicaid eligibility can be affected if the Community Spouse passes away first. Often, the Community Spouse’s Will leaves his or her entire estate to the nursing home spouse. In this situation, the inherited assets must first be used to reimburse the state for any Medicaid benefits paid for the nursing home spouse. If there is any balance left it will make the nursing home spouse ineligible for Medicaid.

The Community Spouse cannot solve this problem by disinherit the nursing home spouse. In Connecticut a surviving spouse is entitled to a portion of a deceased spouse’s estate. This means that the nursing home spouse cannot be completely disinherited. Medicaid can impose a period of ineligibility even if the nursing home spouse does not claim his or her share of the estate.

There are several ways a Community Spouse can plan to protect the Medicaid eligibility of a spouse in a nursing home. For example, the Community Spouse could change his or her Will to leave the nursing home spouse only the amount that spouse is entitled to by law. This could still cause a period of Medicaid ineligibility for the nursing home spouse. In this situation, the nursing home spouse would have to use the inherited assets to pay for care until his or her assets were once again \$1,600 or less. Another option is to create a special type of trust in the Community Spouse’s Will. This trust could be structured to provide for the benefit of the spouse in the nursing home while maintaining his or her Medicaid eligibility. This type of trust must comply with certain requirements. Trusts that meet the requirements can often be effective solutions to Medicaid eligibility problems.

To explore these and other options to protect the Medicaid eligibility of a spouse living in a nursing home, contact [Weatherby & Associates, PC](http://www.weatherby-associates.com) at 888-822-8778.