

Seniors! Read This Before Gifting a House!

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*Guest Blog Post by
Attorney Mia Poliquin Pross, Esq.*

We often talk to seniors living in homes too big and burdensome for their current lifestyle or health condition. But that house is often the person's major asset, and they want to leave it as an inheritance for their children. They are stuck between a rock and a hard place: Keep the house as a legacy for their children, or sell it and move. Many consider giving the house to their children while they're still alive, so they can downsize. Or they consider selling it and gifting some of the proceeds to their children, while using the balance to purchase more manageable housing.

The problem is, unless one has enough money to privately pay for residential or nursing home care for at least five years after making such a gift, the results can be disastrous. For example, if your health declines, you may end up needing very expensive long-term care. In Maine, the average cost for this care is \$8,476 per month, and Medicare and supplemental health insurance policies generally do not cover this expense. Unless you, as a senior, can

pay out of pocket (or you are the rare person who has sufficient long-term care insurance), you will probably need to rely on MaineCare coverage. This is the State of Maine's Medicaid program, and it is needs-based, meaning there are strict asset-limits and strict rules about making gifts. Many Maine seniors end up depending on this program to pay for their long-term care needs.

But here's the rub: Except for some very limited exceptions, any gift of assets you make within five years prior to applying for MaineCare creates a penalty—a period of ineligibility. This can be catastrophic for seniors who need this care, but who have inadvertently made themselves ineligible for MaineCare for a period of time due to having given away assets during the five-year "look back" period. The penalty is only imposed when someone needs the care and has no funds left to pay for it. So, at that point, a period of ineligibility can mean going without needed care.

If you or a loved one are considering making a major gift, it is advisable to seek assistance from a qualified elder law attorney before doing so. Such an attorney can also help you plan ahead to provide for your family, while also accounting for your future care needs.

About the Author

Attorney Mia Poliquin Pross, Esq., focuses on helping families plan for long-term care needs and transitions, navigating Medicaid (MaineCare) eligibility and applications, estate planning, and probate estate administration. She practices at the Elder Law Offices of Kathleen Kienitz in Lewiston, Maine. The firm provides a broad range of legal services to senior citizens and their families, and is sensitive to the difficulties facing the older generation, particularly as the health care system becomes more complicated. Using the most up-to-date information, well-trained elder law staff help seniors and their families make informed choices. For more information, please visit www.elderlawmaine.com or call 207-783-8500.

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