



SUMMER '10

cover YOUR ASSETS

Four Things You Need to Know About Medicaid

As Medicaid law continues to evolve and the planning considerations that go into it are adapted accordingly, there are a few important things to keep in mind if you or a loved one is facing a stay in a nursing home.

1) **“Spendedown” does not mean that you have to spend all of your money and sell all of your property.** While a county caseworker may tell you that is precisely what you have to do, a Medicaid planning attorney can usually provide a number of options that will allow you to protect some of your money and most of your property. In Missouri, an unmarried individual who is in the nursing home can protect approximately half of her liquid assets from having to be spent and a married couple will be able to protect even more than that. In Iowa, the options are generally more limited, especially for unmarried individuals. While most people think of spenddown as getting rid of cash and selling property, spenddown may also occur by investing in specific types of investments or property that is allowed under the Medicaid rules or, in certain situations, making gifts of property to family members. You should find out what options are available to you before you start spending your money. You might be surprised by how much you are able to legally protect and still become eligible for Medicaid.

2) **If your Medicaid application has been rejected, you have the right to appeal that rejection.** Our firm has had considerable success in obtaining Medicaid benefits for our clients who were initially denied Medicaid by appealing the rejection of their Medicaid applications. Do not assume that a Medicaid caseworker understands all the rules that govern Medicaid or assume that there are valid grounds for a denial of Medicaid assistance. If you have applied for Medicaid and been rejected, it would make sense for you to look into whether an appeal might be successful.

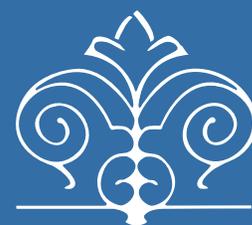
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3) **Missouri law provides that an income-producing business (such as a farm) may be an exempt asset for Medicaid purposes.** Our firm recently handled a case that went to court where the issue was whether or not the value of a farm owned by a nursing home resident is counted for purposes of determining Medicaid eligibility. The decision of the court was that an income-producing farm is a non-countable asset and a nursing home resident can be eligible for Medicaid while still owning a farm. It appears that other income-producing businesses would also be exempt under Missouri law, with one exception — the ownership of residential rental property. Unfortunately, there is no comparable exemption under Iowa law.

4) **It is never too late to do Medicaid planning. Most of the Medicaid planning that we do for people occurs after they have already entered the nursing home.** If a nursing home resident is privately paying for her care, then it would be financially wise to inquire as to what benefits might be available through the Medicaid program. It is never too late to start protecting what a person has. 🏠

Services for You

- Customized Estate Planning
- Trusts, Wills & Living Wills
- Personal Estate Plan Review (PEPR)
- Powers of Attorney
- Medicaid Planning & Applications
- Trust and Probate Administration
- Rescuing Defective Wills & Trusts
- Estate & Gift Tax Returns
- Business Formation
- Asset Protection Plans
- Special Needs Trusts
- Taxpayer Representation



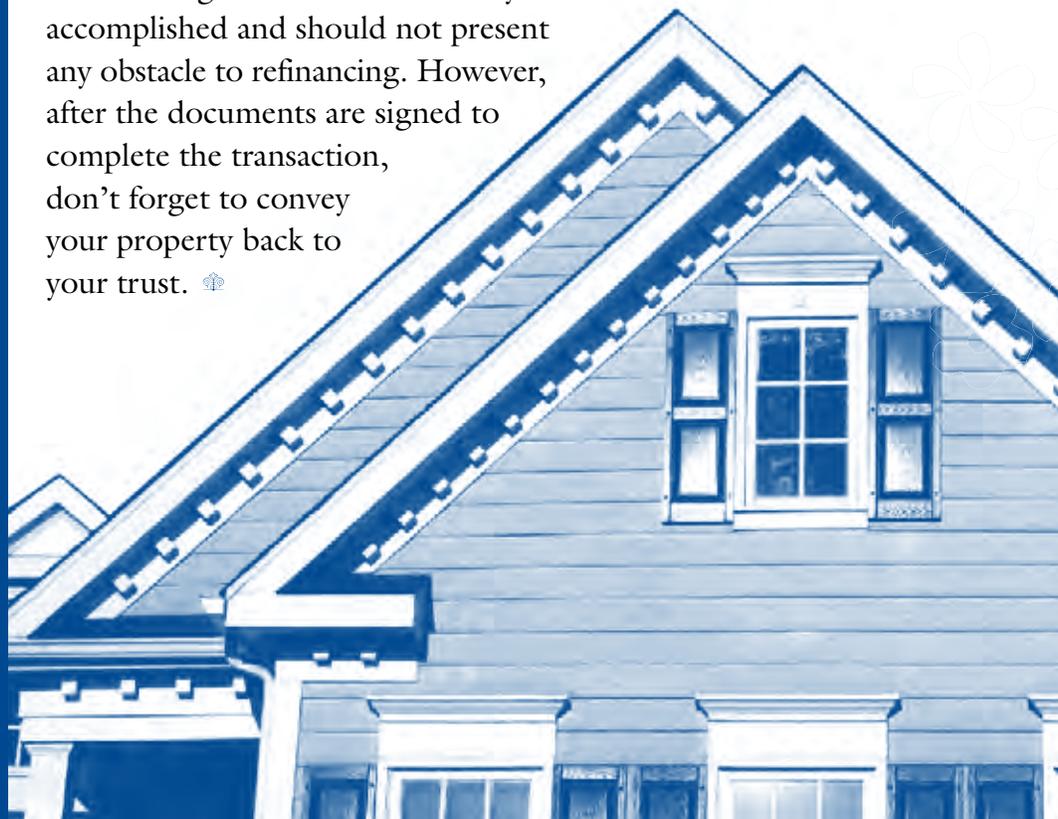
The Barton Law Firm, LLC
Attorneys & Counselors



Member, National Academy
of Elder Law Attorneys

Thinking of Refinancing?

Is your home presently owned by your trust? When attempting to refinance, you may discover your lender will require you to remove the house from your trust and title it in your personal name prior to executing the loan. This is easily accomplished and should not present any obstacle to refinancing. However, after the documents are signed to complete the transaction, don't forget to convey your property back to your trust. 🏠



Thank you so much for assisting us in the preparation of our trust. You listened to our needs, provided clear explanations, offered possible solutions and provided a well organized and thorough trust document.

Missouri Client

Still in Estate Tax Limbo

Since our last newsletter, the federal estate tax picture has gotten even murkier (if that's possible). The speculation by commentators and bloggers is that with each passing day, it becomes less likely that Congress will reinstate the estate tax retroactively to January 1st of this year. If Congress fails to act before the end of this year, then 2010 will be the first year since 1926 that every U.S. citizen who departs this life will get a free pass to his next destination, regardless of how much wealth he leaves behind.

We still haven't found any source of "inside information" which can actually *guarantee* (1) whether 2010 will ultimately prove to be a death-tax-free year or (2) what the estate tax exemption and rates of tax will be in 2011 and thereafter. If we do unearth some concrete information on the subject, we'll let you know in our next newsletter. 🏠

I am amazed at your attention to detail and organization! Everything was set up in a way that was easiest for the client.

*EM & KM,
West Plains, MO*

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Mark Your Calendars!

Our Client Update and Continuing Education Seminars for accountants, financial advisors and insurance professionals have been scheduled for this fall.

**Columbia, Missouri
Courtyard Marriott
Friday, October 29**

**West Des Moines, Iowa
West Des Moines Marriott
Thursday, November 18**

Watch for details in our next newsletter.

To our Iowa clients

Christy and Sherry have spent more time in our West Des Moines office this year than in any other six-month period in the last decade. We have been serving our client base in Iowa for 15 years now and, practically speaking, we are always available to meet your estate planning and asset protection needs. Just give us a call or send Sherry an e-mail to schedule an appointment:
Sherry@BartonLawFirm.com. 🏠



Outside the Assets

Personal Notes from the Bartons

- Welcome back Elaine Asmus!
Longtime employee Elaine Asmus has rejoined The Barton Law Firm team. After 12+ years with the firm, Elaine left us last October to relocate to Austin, Texas. Now, thanks to the wonders of technology, Elaine will once again be serving our clients as an independent paralegal telecommuting from Austin. To contact Elaine, call our office number or email her at Elaine@BartonLawFirm.com.



Our annual Howard family reunion (Sherry's side) will be July 16th through 23rd in Virginia. This picture of some of the Barton grandchildren was taken at last year's get-together. It gives you an idea of how hectic, yet delightful, it was!

Return Service Requested

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