

When Medicaid pays for nursing home, spouse's IRA withdrawals are affected

July 23, 2015 by LYNN BRENNER. Special to Newsday /



My husband and I are in our 70s and all our money is in my IRA. If I need Medicaid to cover my nursing home care in the future, I know my pension and Social Security checks must go to the nursing home. What about my IRA? You've written that only required minimum distributions (RMDs) must be used for my care, and the IRA balance is protected for my beneficiary. But will my spouse have access to the IRA while I'm in the nursing home? If not, what will he live on? Can I transfer it to him without triggering income taxes?

Not if you stay married. Getting divorced is the only way to transfer an IRA to your spouse during your lifetime without triggering taxes.

While Medicaid pays for your nursing home care, your spouse is entitled to a Monthly Maintenance Needs Allowance, says Bernard A. Krooks, a Manhattan elder law attorney. That allowance is currently \$2,980.50 per month. In other words, if your spouse's only income is a \$1,200 Social Security benefit, he'd be entitled to receive \$1,708.50 a month from your IRA. Medicaid doesn't permit a deduction for taxes due on IRA withdrawals, adds Krooks; but if you asked the IRA custodian to withhold taxes from payments, your spouse might receive that \$1,708.50 distribution net of taxes.

This \$2,980.50 monthly stipend is the nation's highest Medicaid spousal maintenance allowance. It's very little to live on in New York. But to receive a bigger allowance, a spouse must go to court and demonstrate exceptional circumstances causing significant financial distress. High everyday living expenses don't cut it. "These cases are very difficult to win," says Krooks.

THE BOTTOM LINE If Medicaid is paying for your nursing home care, your spouse cannot keep more than \$2,980.50 of monthly income.

WEBSITES WITH MORE INFORMATION
nwsdy.li/Medicaid and nwsdy.li/termcare

TO ASK THE EXPERT Send questions to Ask the Expert /Act 2, Newsday Newsroom, 235 Pinelawn Rd., Melville, NY 11747-4226, or email act2@newsday.com. Include your name, address and phone number. Questions can be answered only in this column. Advice is offered as general guidance. Check with your own advisers for your specific needs.