Seize the Age: Smarter HCBS Strategies for Aging at Home



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Founded her firm in Kirksville, Missouri, in 2012, focusing on elder law, estate planning, Medicaid, and long-term care planning. A Truman State University and University of Missouri School of Law graduate, Jessica has contributed to Missouri guardianship reform and is dedicated to educating rural communities and protecting vulnerable individuals. She currently serves as President-Elect of the Missouri National Academy of Elder Law Attorneys.



Nursing home Cost

AVERAGE MONTHLY COST

AVERAGE COST: $8,235



Long-term care payment options

When nursing home care or extensive home care is needed

01

PRIVATE PAY

Hard to have a large enough amount of funds to set aside

02

LONG-TERM CARE INSURANCE

If not needed, depending on the plan you may not “get” something for your investment

03

MEDICAID

Cost recovery
Strict rules

Myth or Fact?

To protect assets, a person must plan 5 years in advance of needing nursing home care?



Myth or Fact?

If a married couple has $200,000 in a bank account, they cannot get Medicaid to cover home based care.



Myth or Fact?

If someone’s income is over $1737 a month, they cannot qualify for Home and Community based services through Medicaid without doing the spenddown Medicaid program.



Myth or Fact?

A home is exempt and once a beneficiary deed is on the property, it is protected from recovery.



WARNING: Do not practice law without a license

- You are in an amazing position to help
- You are in a powerful position to hurt
  - You may be why the generational farm is lost
  - You may think someone can’t qualify and they will believe you and may not seek additional help
- Form filling- great!
- Advising what to do with items = practicing law.

Ideal candidates to help

- Minimal assets: No home, no funds, only a car
- Income is low
- Speed is not necessary
- Assistance in form completion

When to recommend an attorney

- Speed is of the essence
- Gifts have been made in the past 5 years
- Assets exist such as: Home, cash, life insurance, retirement, farm
- Higher income
- You think they do not qualify
- Married individuals

Medicaid Crisis planning

PLANNING IN A CRISIS

When to use HCBS?

- Plan sooner
- Stay in home longer
- Begin a penalty
- Higher income
- Over age 63

HCBS

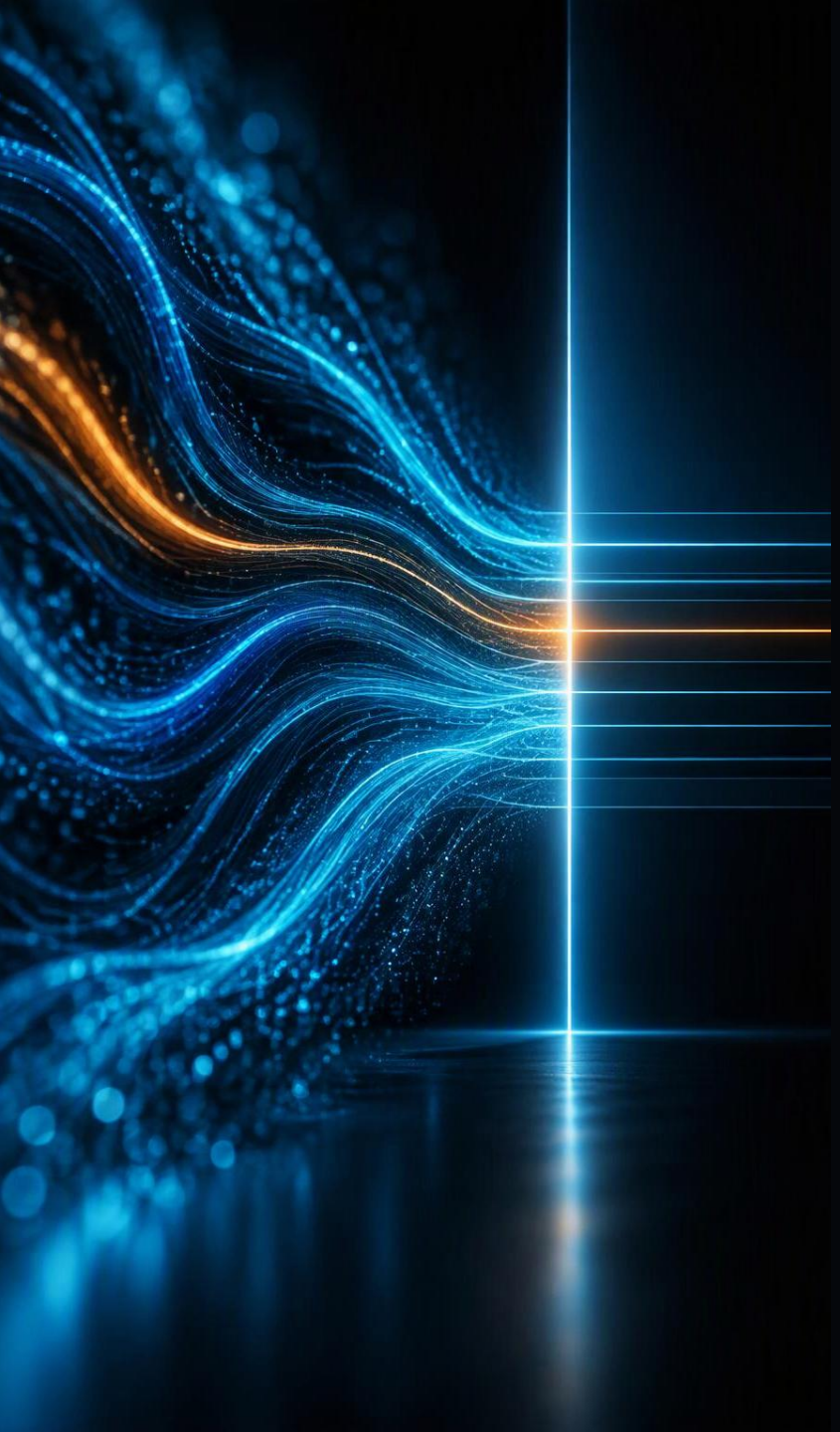
What can HCB cover?

- Adult day care
- Respite care
- Incontinence supplies like Depends
- Home based meals
- Transportation to appointments
- Personal Care assistance - activities of daily living
- Chore services: washing walls, cleaning closets, basements, attics, shampoo rugs, spray for insects, and provide rodent control within the home
- Medicaid medical coverage



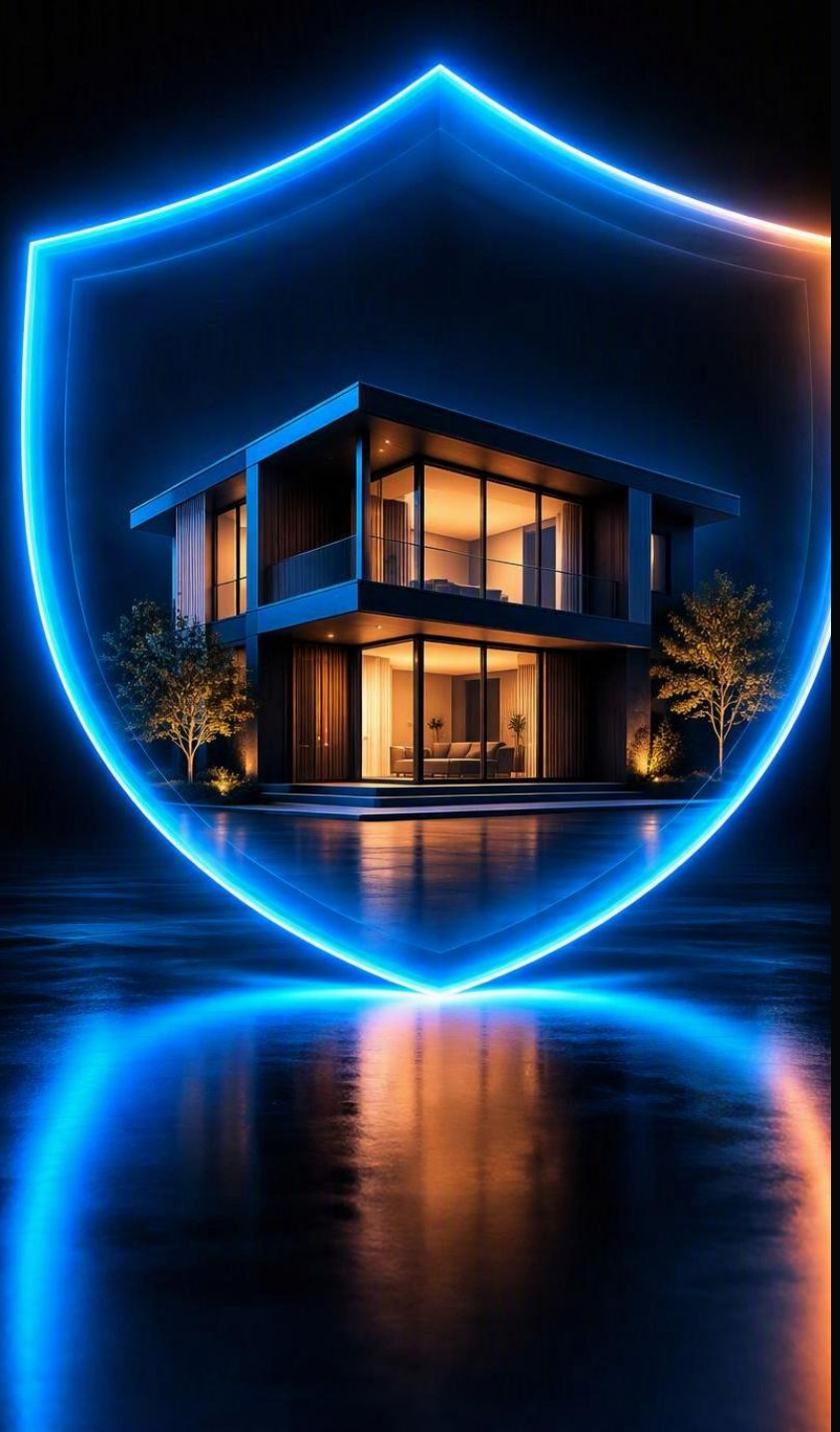
Home-based care- Medical Necessity

- Need enough points to qualify
- https://health.mo.gov/providers/manuals/home-and-community-based-services-manual/400-home-and-community-based-services-17



Home-based care- Income

- Home-based care program
  - Applicant; Keeps Income beneath $1737.00;
    - Excess income can go into a Miller Trust where funds can be spent on medical expenses not covered by Medicaid, additional caregiving, attorney fees.
  - Community spouse; income does not matter.
- Spenddown and Non-Spenddown
  - Community spouse income matters
  - Excess income of the applicant beyond $1,131 must be “spent down” before eligibility
  - This spenddown of income can be automatically withdrawn or based upon cost incurred



Home-based care - Assets

- Home-based care program
  - Applicant; Keeps Non-exempt Assets of $6,220.50;
  - Community spouse IS ALLOWED TO KEEP ASSETS! The exact amount may vary.
  - We utilize a division of assets for this program.
- Spenddown and Non-Spenddown
  - Community spouse and Applicant must keep assets beneath $6,220.50/$12,441.00



Home-based care - Spenddown of Assets

- ATTORNEY ONLY!
- Dozens of options:
  - Irrevocable prepaid funeral plan
  - Medicaid compliant promissory notes/annuities

You are $10,000 away from qualifying for Medicaid:

NO PLAN

Making no plan is the

Black hole approach to planning.

Money goes in, but

There is no additional benefit.

$$$

Caregiving Bill Covered



A BETTER PATH

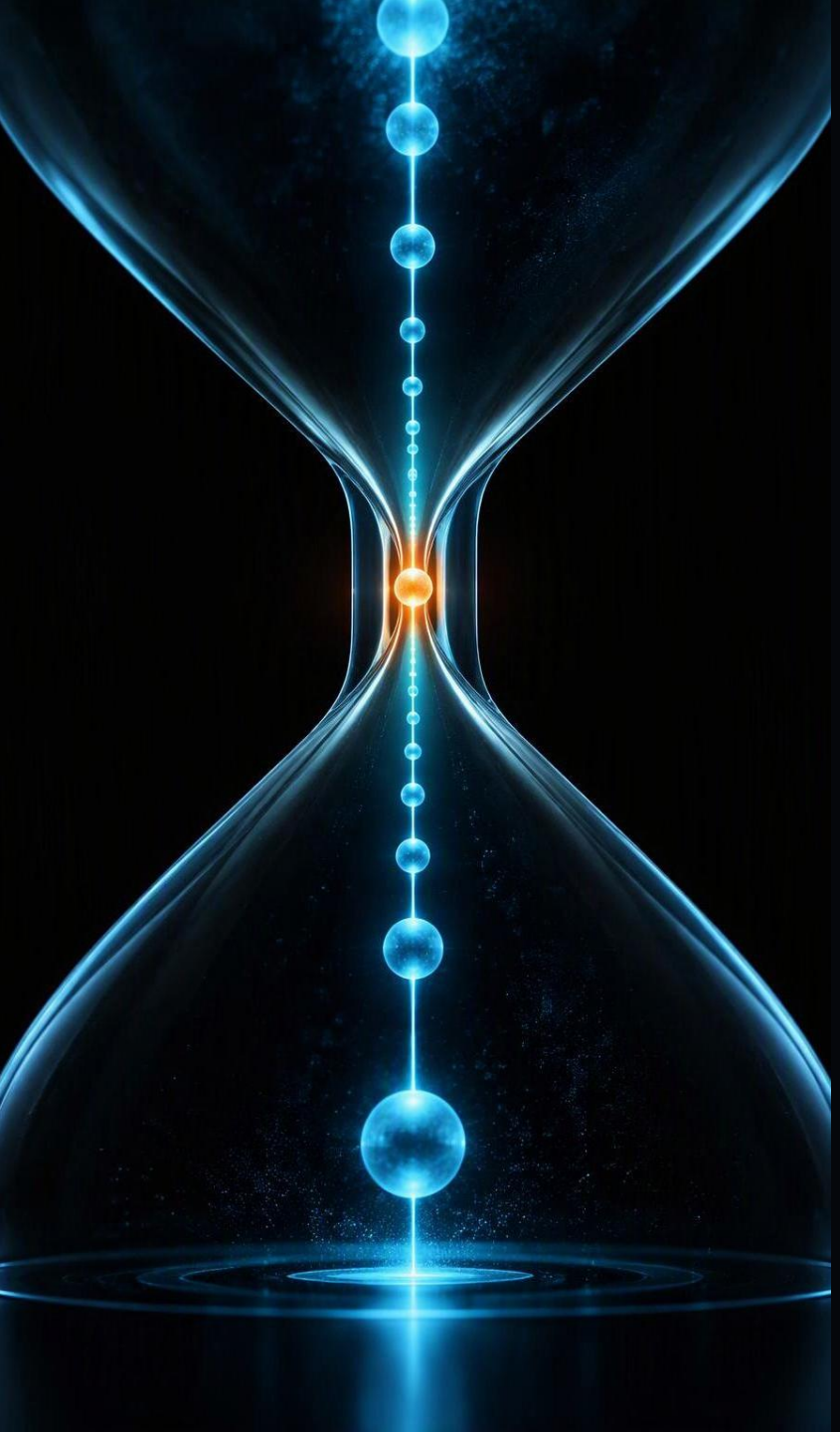
Planning with an attorney

and

making purchases like a prepaid irrevocable funeral plan uses the same money

$$$

Caregiving Bill Covered
AND
Prepaid Irrevocable Funeral Plan in Place



Home-based care- Penalty

- What has been gifted in the past 5 years?
- Does that mean I am out of luck?
- How is the penalty calculated?
- Not all transfers will create a penalty.

HCBS Pairs great with these programs

- Non-spenddown
- Spenddown
- SNC - Assisted Living
- Vendor Nursing home

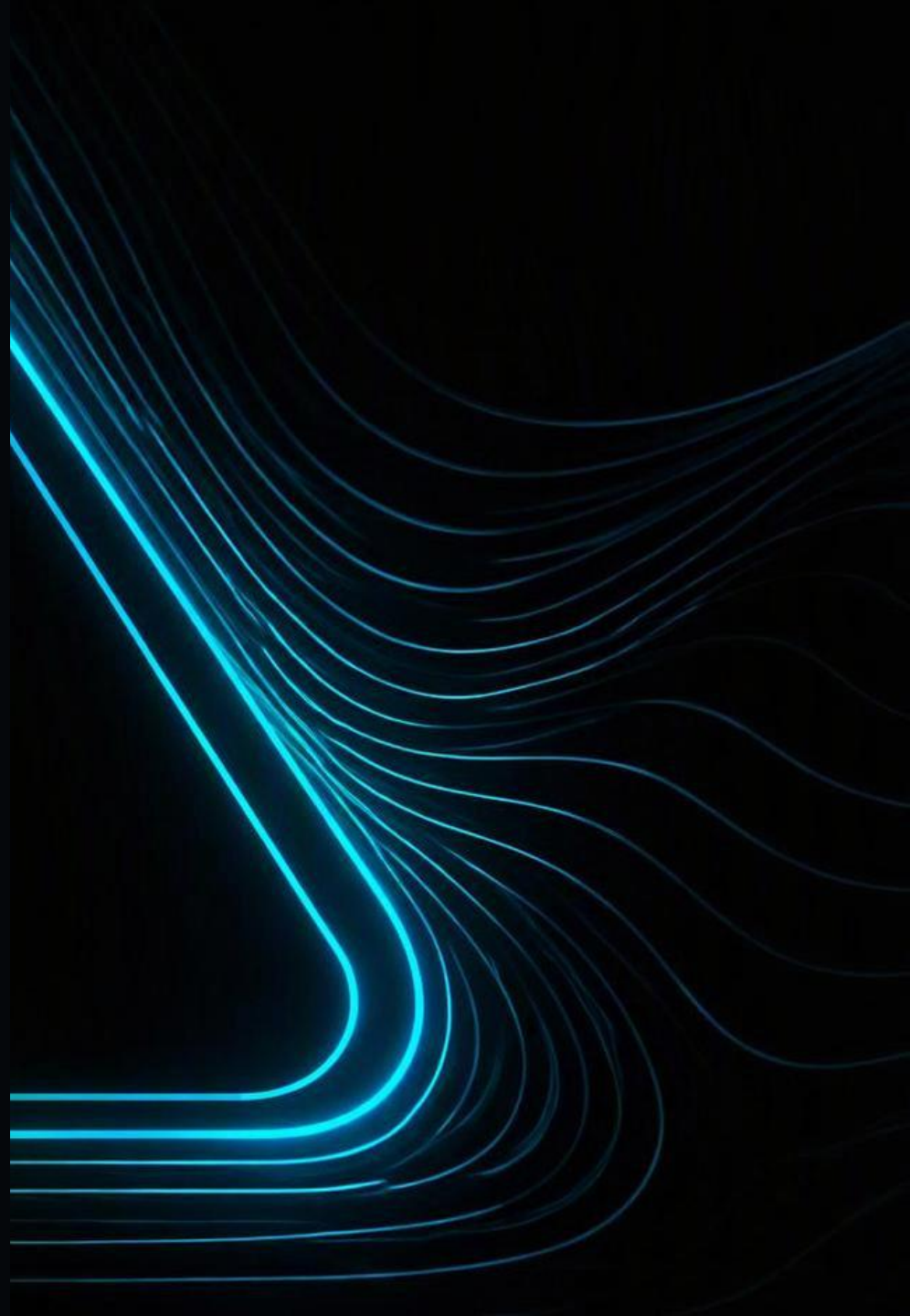
Medicaid warnings

01 Paying a person without a caregiver contract in place

02 Not having a PROPER power of attorney in place can severely limit planning options

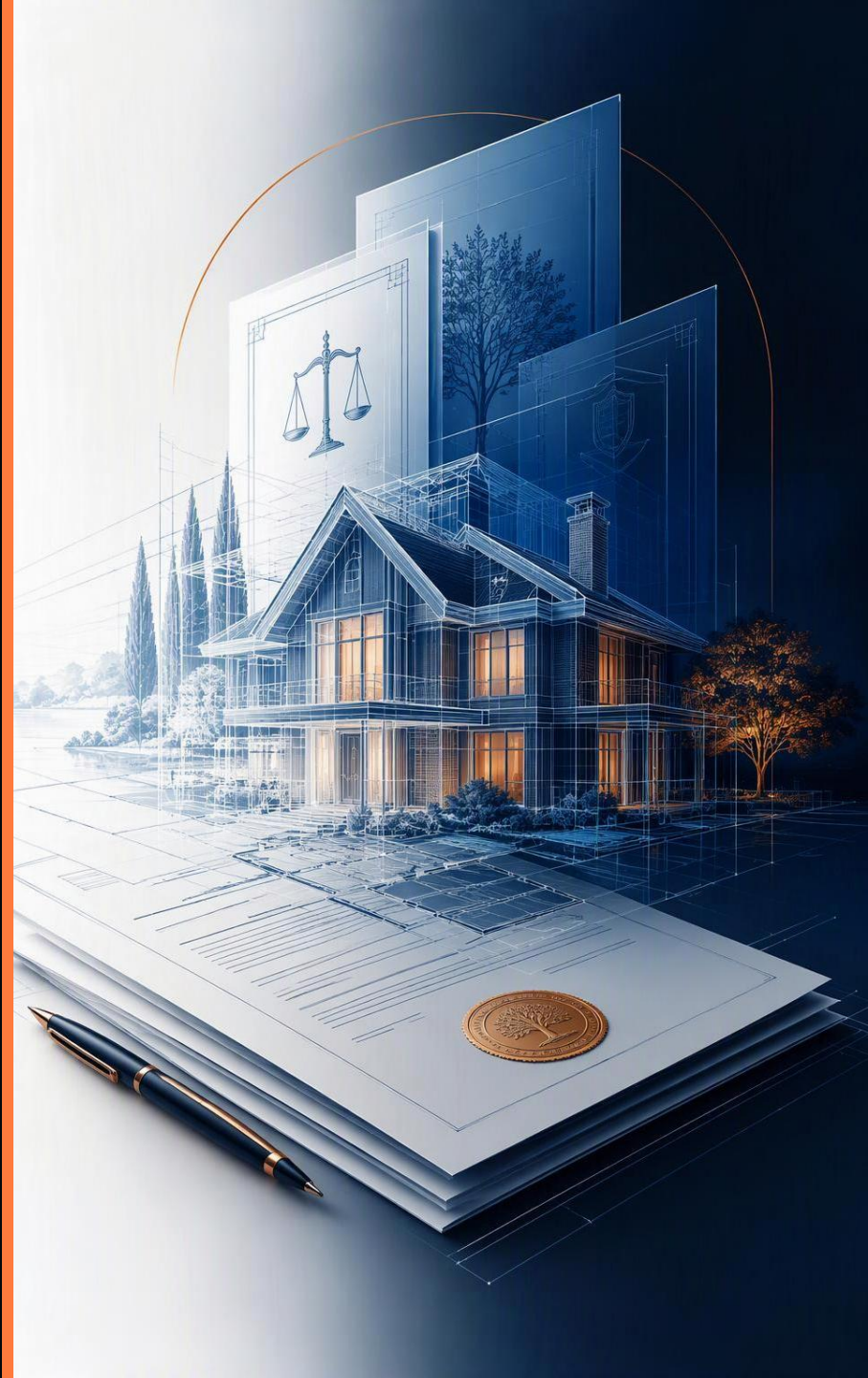
03 Planning can start five years before medical need arises—or in a crisis when medical need occurs

04 An asset exempt now may be recoverable at death and may still have costs to be maintained



These plans may require new estate planning.

ESTATE PLANNING



Additional Information

- HCBS Medicaid's manual for this program:
  - https://health.mo.gov/partners-providers/home-community-based-services-provider-information/home-and-community-based-services-manual
- Appendix J - Summary of all programs current figures
  - https://dssmanuals.mo.gov/wp-content/uploads/2022/07/mhabd-appendix-j.pdf
- Find HCBS service providers in your area here:
  - https://hcbsfusion.health.mo.gov/etk-modhss-prod/page.request.do?page=page.portal.providersearch