Do Lady Bird Deeds Protect House From Medicaid Coming After It After I Die?

No. Some folks say "Yes!" but they are mostly wrong.
How It Works:

1. Medicaid lets you keep your homestead.
2. But only if the homestead is in your name. Or your spouse's name. NOT in a trust. EXCEPT a "protection" trust. (Confusing, eh?)
3. Most states, including Minnesota, Wisconsin, Illinois, Indiana, and Ohio (and 39 more), immediately slap a "Medicaid Mortgage" on your homestead. Because dear taxpaying, bill-paying, mortgage-paying chump, your state wants its Medicaid Money back. Medicaid benefits? Ha ha ha. Just a loan.
4. A very few states, including the Water Wonderland of Michigan, have no Medicaid Mortgage. These states wait until you die. When your stuff goes through probate they pounce!
5. But. Avoid probate and your kids might actually get the house.

Problem: How to avoid probate and comply with Medicaid rules while alive?
Short Answer: The "ladybird" (also known as a "transfer on death" or "enhanced life estate" deed) leaves the homestead in your name and transfers it to the kids when you die. Avoiding probate. Protecting the homestead!
Longer Answer: You are out of luck in the Medicaid Mortgage states. They simply ignore the ladybird deed. And now all your kids own the homestead together. Can you say "Hatfields and McCoys Family Feud"? I knew you could. Out of the frying pan, into the fire. Not always, but what put your family in a minefield? Take-Away: Ladybird deeds are a useful tool. We use them every day. As part of crisis planning. But usually, inept attorneys are using ladybird deeds as some sort of magical solution. Promising that the ladybird deed will "protect the house from Medicaid". And that is simply not the whole story.

So, Trusts Are Highly Recommended Versus A Will??

It is not that simple. Generally, a trust can do anything a will can do. And do it better. Avoiding probate. Protecting the next generation. Getting the stuff to the kids in the way you want. More flexibility. More security. Some trusts can even be used to avoid nursing home poverty.
If done correctly. But we do not like to make grand, sweeping proclamations. That is how so many families get into so much trouble with ladybird deeds.
Unfortunately, almost all trusts fail. When the going gets tough, 96% of trusts (just like yours) fold like wet cardboard. Because there was no follow-through. And now you are going to probate court. Say hello to nursing home poverty. Whoops.
But we still like trusts. Love 'em! Powerful! Useful! If done correctly.
How It Works:
1. Your will is simply instructions to probate court. The only way your will "works" is through probate. Wills do not avoid probate. Wills invite, insist, demand probate.
2. Trusts avoid probate. But only for the assets titled in the trust.
3. And your estate planning attorney did not put your assets in your trust. Maybe the house. Which you took out of the trust when you re-financed. Or moved.
4. To avoid malpractice, your lawyer gave you a Memo. The Memo says, "Put your stuff in your trust." Remember that big binder you got? With all those papers? Somewhere in there is the

Memo. Which nobody reads. Including you. Until later.
5. You die. Nothing, or hardly anything, is in your trust. And now your stuff must go through probate.
  a. Your kids are angry! Kids say to the lawyer: “Mom and Dad did this avoid- probate trust and now you want us to pay all over again to go through probate! You are terrible!”
  b. The lawyer says, “Not my fault! Read the Memo! It is Mom and Dad’s fault. Now pay me all over again to go through probate. Sign here.”
  c. Kids say: “Oh. Yeah. I guess so. Where do I sign?”
6. And that is why lawyers include the Memo that nobody reads. The CYA Memo.
7. But what if your attorney did follow through? What if all your stuff was put in the trust? What if the trust worked in the real world? Happy days, right? Right! Which is why we always get the stuff in the trust as part of the process. It is not easy. It is essential. To keep the promise. To you. To your family.
Done correctly, trusts do avoid probate. Trusts can also be used to protect your stuff from lawsuits and long-term care.
Want to know how? Come to a LifePlanTM Workshop and find out. Dates and times of our weekly workshops are published on this page. So easy.
Take-Away: When done properly, trusts are almost always a better solution than wills. When. Done. Properly.

Do Your Assets Have To Be Minimal To Qualify For Medicaid?

It is sadly true that this destructive and deadly myth leads to low quality care, nursing home poverty, and shattered dreams for thousands of middle-class folks like you. Most people think you must be near bankrupt to qualify for Medicaid. That is why most middle-class people pay and pay, spend and spend until they are near bankruptcy before they will apply for Medicaid. And without your lifetime of savings, you are at the government’s mercy. But the truth is far different. Much better. If you plan ahead, you can preserve almost all of your assets. That’s what the LifePlanTM is all about. Come to a workshop, find out.
But. You did not plan ahead. Bankruptcy for you? No! You can still have a homestead worth up to $603,000. You can have a motorized vehicle of any value. You can have personal property of any value. You can own and operate a business or farm. Of any value. You can have a huge annuity in your spouse’s name that makes huge monthly payments to your spouse. And more.
But. There are real limits. You can only have $2000 or less of “countable assets.”
While applying for Medicaid and during the “presumed asset eligible period” your spouse can only have a maximum of $130,000 of countable assets. With Medicaid the rules must be followed to a T! Close does not count. Over by a dollar? You may as well be over by a million dollars. And every Medicaid application is audited. For one year. For five years. It is up to them.
Your assets do not have to be “minimal” to qualify for Medicaid. But you must account for every nickel. You must comply with the Medicaid rules. You must prove it in audit. And that is what we have been doing for the last 20 years for thousands of individuals and families just like you.

Are Assets Held In A Revocable Trust Included In Your Wealth When Qualifying For Medicaid?

Short answer, yes. Longer answer, revocable trust assets are worse.
How It Works: You can have certain exempt assets. Like a homestead and a car. Stuff in the house. Those things are not "included in your wealth," they are exempt. Unless you put those things into a revocable living trust.
If your homestead is in a revocable trust, you do not have an "exempt homestead." For Medicaid purposes, that house is now cash. For Medicaid purposes. Whoops!
The good news is that when you take the house out of the trust, it is not cash anymore. When it is back in your name it is exempt homestead once again. Feel better now?
In fact, for married couples with less than $260,000 in countable assets, like investments, putting the house in the revocable trust can save you up to $65,000.
Medicaid is not simple. Or straightforward. Or logical. Do not be looking for common sense in the Medicaid arena. But Medicaid can be a tremendous blessing to Middle-class Michigan. Medicaid is an essential part of providing the best long-term care for yourself or your loved ones. But. There are so many voices saying so much that just isn't so. Things that may have been true years ago. Even months ago. But Medicaid changes month by month. And we are keeping up. For you. Find out how at a LifePlanTM Workshop.

If I Want To Retire At 60 What Should I Do?

Best Answer, courtesy of the late, great Joan Rivers: "Marry a rich man. It's as easy to fall in love with a rich guy as it is to fall in love with a poor guy. And they all leave their underwear on the floor."
Maybe you already figured out the lifesavings/ wealth part of the equation and are wondering about estate planning? Once you have retired, it is essential to keep what you have earned, since there isn't any more coming. Your focus must be on hanging on to what you have rather than trying to accumulate more. This is where the LifePlanTM strategy is most valuable.
According to www.longtermcare.gov, 70% of Americans who are now aged 65 will eventually need skilled care. For an average of 3 years. One-fifth will need care for more than 5 years. That gets expensive. Lifesavings get drained. Quickly.
However, if you plan at age 60, by age 65 all assets (except tax-qualified accounts) can be protected from long-term care costs. And lawsuits too. Your plan should include a revocable trust, will, health care power of attorney, HIPPA privacy release, advance directive, designation of funeral representative, enhanced financial power of attorney, protection trust, certificates of trust existence, assignment documents, deeds, and 2-4 months of "funding" services. Not easy, but good.

Getting started is easy. Come to a free LifePlanTM Workshop. In person. Or by ZOOM. Either way you will get reliable information gathered over 31 years by serving tens of thousands of families and individuals.

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It is not chance. It is choice. Your choice.

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