

Selling the Home without Breaking Medicaid

What to Ask Your Texas Elder Law Attorney Before You List



*A caution guide for Senior Texas Home Owner.
The legal conversations that have to happen before
the real estate conversation.*



Included Within:

- Why your home sale is a legal question before it is a real estate question
- The three mistakes that cost Texas homeowners the most
- Ten questions to bring to your elder law attorney before you list
- The documents to gather so the meeting runs efficiently
- How the home sale interacts with VA benefits, a reverse mortgage, and Texas Lady Bird Deeds
- How to find the right Texas elder law attorney for this specific situation

What This Guide Is, and What It Isn't

A note before you read further.

Let me be clear about something up front: I'm not an attorney. I'm not a financial planner. I'm not a doctor. Nothing in this guide is legal, financial, or medical advice, and you shouldn't treat it as such.

This guide is especially careful about that line — because the question it's built around (how to sell your home without breaking your Medicaid eligibility) is one of the most legally sensitive moments in the entire senior transition. Getting it wrong can cost you hundreds of thousands of dollars. Getting it right means having a real conversation with an attorney who is licensed to advise you.

So what is this? **This is context.** It's the things I've learned matter most when someone is preparing to sell their home where Medicaid is — or might become — part of the funding picture. It's meant to help you understand the landscape, recognize what you'll need, and walk into a meeting with the right professional ready to use their time well.

The goal isn't to make you an expert. It's to help you walk into the conversation with the real expert — your Texas elder law attorney — with some sense of what questions to ask, what documents to bring, and what's at stake if the conversation doesn't happen.

Here's the thing I can't say strongly enough: so much of how this part of a senior transition goes comes down to what you do before you list the house. Who's on title. Whether the home transferred to anyone in the last five years. Whether you are married, separated, widowed, or divorced. Whether anyone else is on the deed. Whether there's a reverse mortgage. By the time the closing is scheduled, many of the best options have already closed — not because you did anything wrong, but because no one told you the window was open in the first place.

This guide may help you avoid "well, if we had known."

That's what it's for. The Senior Move Roadmap™ system includes seven guides that walk you through the transition itself — and a small set of companion pieces like this one that handle the legally and financially sensitive corners. Read it for what it is — a starting point from someone who has watched families go through this, sharing what tends to matter — then take it to a Texas elder law attorney who can apply it to your actual situation. They do the real work. I'm just trying to help you get ready for it.

And again — because it bears repeating — I'm not an attorney, a financial planner, or a doctor. Take this information as general context. Verify everything that matters with someone licensed to advise you.

Selling the Home Is a Real Estate Question on the Surface

Selling the Home Is a Real Estate Question on the Surface. Underneath, It's an Elder Law Question.

Most people, when they realize the home needs to sell to fund care, do exactly what makes intuitive sense: they call a real estate agent. The agent walks the house, runs comps, talks about timelines, maybe recommends some staging. The conversation feels practical and forward-moving. It feels like relief that a hard thing is finally being handled.

Then six months later, the homeowner's savings have run down enough that someone files a Medicaid application — and the application is denied, because \$280,000 from the home sale landed in their bank account three months ago and Medicaid is treating it as a countable asset. Or later: the application is approved, and four years afterward when the homeowner passes, the state files a Medicaid Estate Recovery Program (MERP) claim against the probate estate. Texas's MERP has meaningful protections — small-estate exemption, surviving spouse, surviving disabled child, hardship — but most of those protections only work if the planning was done before the sale, not after.

Neither of these outcomes was necessary. Both are common.

The home sale is a real estate question on the surface — and underneath, in any household where Medicaid is or might become part of the funding picture, it is an elder law question. The real estate work follows the legal work. The legal work tells you when to sell, how to structure the proceeds, who should be on title before listing, what documents need to exist, and what protections — the spousal exemption, the intent-to-return status, the caregiver child exception, Texas-specific tools like the Lady Bird Deed — are available if the right paperwork is in place before the listing goes up.

This is not true for everyone. If you are wealthy enough that Medicaid will never be in the picture, the order doesn't matter — call the agent. However if you are wealthy enough... you probably know that calling the attorney is a good idea. 3

Selling the Home Is a Real Estate Question on the Surface (cont)

If you are single, the home is paid off, the savings are modest, and there's no real chance you'll need Medicaid for long-term care within the next five years, the analysis is simpler. But if Medicaid is anywhere in the picture — already in use, likely to be needed within five years, or even just an "I don't know yet" — the order matters.

The order is this:

1. Elder law attorney
2. Real estate agent
3. List the house

An hour with a Texas elder law attorney before you list — \$300 to \$1,000 in most markets — is the cheapest insurance in this whole process. The hundreds of thousands of dollars at stake make this not a place to save money.

"BUT MOM ISN'T ON MEDICAID."

That is the most common reason families skip this conversation. It is also the most common reason they regret skipping it.

The question **IS NOT** whether you are on Medicaid today. The question is whether Medicaid **might fund your care within the next five years** — when your savings have been spent down by assisted living or memory care costs that few people fully understand at the start of the journey.

Most families' honest answer to that question is **"I don't know yet."** That answer is itself the reason to have the conversation now, while options are still open. Once the home sells, several of the best options close — and they don't reopen.

Selling the Home Is a Real Estate Question on the Surface

The Three Mistakes That Cost Texas Families Most

Three patterns account for the great majority of expensive Medicaid mistakes around the home sale. Each one is preventable. None of them is obvious if no one has told you to watch for it.

1. The Five-Year Look-Back

When someone applies for Medicaid long-term care benefits in Texas, the state reviews every financial transaction the applicant made in the prior sixty months. This is called the look-back period. Any uncompensated transfer during that window — money given to a family member, a house transferred for less than fair market value, a check written to pay off someone else's debt — triggers a penalty period during which Medicaid will not cover care. The penalty is calculated based on the value of the transfer divided by the state's transfer divisor — \$262.37/day in Texas, effective September 1, 2025. The figure is adjusted periodically (historically each September) and should be verified with HHSC at the time of planning.

The painful feature: the penalty period does not begin running until the applicant would otherwise be eligible for Medicaid. The penalty kicks in at the exact moment you most need the coverage — which is by design.

What people think they can do — Give the house to a child to "protect" it from Medicaid.

What actually happens — The transfer is treated as uncompensated. A \$280,000 home given to a child in 2024 produces a penalty period of roughly three years when you applied for Medicaid in 2026. During that penalty period, Medicaid will not pay for care, and the household must cover the gap out of pocket. The transfer didn't protect anything. It postponed Medicaid eligibility at the worst possible moment.

What the attorney can do — Structure transfers in ways the look-back doesn't catch. Time the planning so look-back exposure is minimized. Use Texas-specific tools — a properly drafted Lady Bird Deed, an irrevocable Medicaid Asset Protection Trust, the caregiver child exception where it applies — that accomplish the protective goal without triggering the penalty. Each strategy has trade-offs the attorney can map. All of them have to be in place before the application, not after.

Selling the Home Is a Real Estate Question on the Surface

2. The Spend-Down Trap

Your home, while you live in it — or, in some circumstances, while you "intend to return to it" — is an exempt asset under Medicaid rules up to a federal equity-value cap (\$752,000 in 2026, adjusted annually). And when a spouse — or a minor or disabled child — still lives in the home, the equity cap doesn't apply at all. For most Texas homes this is fully exempt. For higher-value homes in Austin, parts of Houston, and certain Dallas-area neighborhoods, the cap can matter and the exemption may be partial rather than full.

What people think they can do — Sell the house, deposit the proceeds, use them to pay for assisted living.

What actually happens — What actually happens — Depending on your current Medicaid status and the size of the proceeds, the cash either disqualifies you from Medicaid (if you were eligible), or pushes your application window out by years (if you were about to apply), or creates a spend-down situation where the proceeds must be used in specific ways within specific timeframes to preserve eligibility.

What the attorney can do — What the attorney can do — Plan the sale to either preserve Medicaid eligibility — sometimes by structuring the sale so the proceeds don't land as one countable lump — or strategically spend down the proceeds in ways Medicaid recognizes: prepaying certain care expenses, paying off a home mortgage before sale, funding a Medicaid-compliant annuity, or moving funds into specific types of trusts. The right strategy depends entirely on your situation. It has to be developed before the sale closes.

Selling the Home Is a Real Estate Question on the Surface

3. The Missed Exemptions and Protections

Medicaid law contains more protections for the home than most people know exist. The spousal exemption protects the home (and a portion of savings) when one spouse needs care and the other stays in the home. The intent-to-return status protects the home even after you've moved to a community, if the right paperwork is in place. The caregiver child exception allows the home to be transferred to an adult child who lived with and cared for you for at least two years immediately before institutionalization — without triggering the look-back. The exception is real but the documentation standard is stringent: it typically requires a physician's letter confirming the level of care provided, the child's records of caregiving, and corroborating evidence that the care actually delayed institutionalization. Households who qualify often qualify without realizing it — but the documentation has to be assembled.

In Texas, the Lady Bird Deed (formally, the Enhanced Life Estate Deed) lets the homeowner transfer the home at death without probate and without triggering the look-back. The deed protects against the look-back precisely because it doesn't transfer ownership during the homeowner's life — they retain the right to revoke, sell, and mortgage the home until death. Modifying the deed to remove those retained powers eliminates the protection. A self-drafted version, or one drafted by a real estate attorney unfamiliar with elder law, may fail when it matters. The drafting has to be done by an attorney who handles Medicaid planning.

What people think they can do — Assume none of these protections apply. Or hear about one — the Lady Bird Deed, usually — and try to execute it themselves.

What actually happens — Protections are missed because they weren't claimed correctly. Self-executed planning tools are done with the wrong language and either fail to provide the protection or trigger unintended consequences.

What the attorney can do — Identify which protections apply to your specific situation. Claim them correctly. Integrate them with the rest of the plan. This is the most common case where an elder law attorney's fee returns more than it cost — sometimes by orders of magnitude.

Selling the Home Is a Real Estate Question on the Surface

"CAN'T WE JUST TRANSFER THE HOUSE TO MY CHILD TO AVOID ALL THIS?"

This is the move most people think will work — and the one most likely to cost them. A direct transfer of the home from you to your child can be treated as an uncompensated transfer under the five-year look-back. It postpones Medicaid eligibility by months or years at the exact moment you need it.

A direct transfer also has a tax cost most people don't see coming: when your child eventually sells the home, they take your original basis rather than the stepped-up basis they'd receive if the home transferred at death. For a home held for decades, that difference can be hundreds of thousands of dollars in capital gains exposure. **Pages 13-14 explain.**

Texas has planning tools that accomplish much of what people are trying to achieve with the direct transfer — the Lady Bird Deed is the most common — but they have to be executed correctly, with the right legal language, by an attorney who handles Medicaid planning. This is the conversation to have with the attorney before the deed gets written, not after.

The Ten Questions to Bring to Your Texas Elder Law Attorney (1-5)

If you bring these pages to the meeting, you've done some of the work the attorney needs to help you. The questions are organized in the rough order an elder law attorney would think through your situation. Don't memorize them — sometimes the attorney will have their own process and other times just hand the attorney the list.

1. "Where do I stand with Medicaid — today, and in the next five years?" Why it matters: The plan is fundamentally different for someone already on Medicaid, someone applying within the year, someone who may need it within five years, and someone unlikely to need it at all. The attorney needs the honest answer here, not the hopeful one.

2. "Who is on the title to my home right now, and has the title changed in the last sixty months?" Why it matters: The current title structure determines what planning is still possible. Any title change in the last sixty months may be relevant to the look-back analysis. Bring the deed itself to the meeting, not the memory of what the deed says.

3. "If I am married, what is the spouse's situation?" Why it matters: The spousal exemption protects significant assets — including the home — when one spouse needs care and the other remains in the community. Whether the spouses are both living, divorced, separated, or one is already in care changes the entire plan.

4. "Have I made any transfers, gifts, or loans in the last five years that might count as uncompensated under Medicaid rules?" Why it matters: A \$15,000 check to a grandchild for tuition. Paying off a sibling's credit card. Lending money to a friend without documentation. All of these may show up on the Medicaid look-back and trigger penalty periods. Bring the bank statements; the attorney will tell you what counts.

5. "Is a Texas Lady Bird Deed the right tool here — or is there another planning tool I should know about?" Why it matters: Texas recognizes the Lady Bird Deed (Enhanced Life Estate Deed), which allows transfer of the home at death without probate and without triggering the look-back. Other tools — life estates, Medicaid Asset Protection Trusts, irrevocable trusts — may also fit. The attorney decides which, when, and how to draft.

The Ten Questions to Bring to Your Texas Elder Law Attorney (6-10)

6. "What is the right structure and timing for the sale itself?" Why it matters:

Whether to sell now, six months from now, or after a planning step has been completed. Whether you should be on title at closing, or someone else. Whether the closing should happen before, during, or after a Medicaid application. The when and the how can change the financial result by hundreds of thousands of dollars.

7. "How should the sale proceeds be handled to preserve Medicaid eligibility — or to avoid blowing it later?" Why it matters: Cash in the bank account is a countable asset. The strategies that preserve eligibility — Medicaid-compliant annuities, specific trusts, structured spend-down approaches, paying off qualifying obligations — depend entirely on your situation. Confirm the tax treatment of any planning step with the CPA, not just the elder law side with the attorney. There is no single answer.

8. "Am I receiving — or eligible for — VA Aid & Attendance, and how does it interact with this plan?" Why it matters: Aid & Attendance has its own 36-month look-back, separate from Medicaid's 60-month, and the rules work differently. A move that is safe under one program can disqualify under the other. If VA is anywhere in the picture, the planning has to track both clocks.

9. "What is my/our MERP exposure in Texas — what can the state claim against after my parent passes?" Why it matters: Texas's Medicaid Estate Recovery Program is more limited than some states'. The state can only recover from the probate estate (not the broader definition used elsewhere), and several statutory protections may apply. The answer in Texas is often better than people expect — but only if the plan is built to use the protections.

10. "What is the order of operations — what has to happen, in what sequence, between now and the listing?" Why it matters: This is the question that closes the meeting. You should leave the attorney's office with a sequenced list of what needs to happen — and in what order — before the listing goes up. If you don't have that list, the meeting hasn't done its job.

I AM / WE ARE JUST SELLING THE HOUSE — WHY DO WE NEED A LAWYER?"

This can be the most expensive misunderstanding in the entire process — and one of the most common. The attorney isn't selling the house. The attorney is making sure that the sale, when it happens, doesn't undo years of care funding you are going to need. The hour costs \$300 to \$1,000.

The mistake it prevents has been known to cost households their entire equity.

The Documents to Gather Before the Meeting

The attorney bills for the time they spend reading documents. The more you have with you the less time their staff spends looking for them.

Bring everything you can find from the categories below. Bring originals if possible, copies if not. Don't worry if the list is incomplete — bring what you have. The attorney will tell you what else is needed.

ABOUT YOURSELF/SPOUSE Government-issued ID (driver's license or passport) □ Medicare card and Medicaid card (if either applies) □ Social Security benefit statement or recent benefit letter □ Long-term care insurance policy (if any) □ Life insurance policies, including any with cash value □ Annuity contracts (if any)

ABOUT THE HOME □ Current deed (most recently recorded) □ Any prior deeds going back at least five years (transfers, name changes, refinances) □ Mortgage statements, or reverse mortgage (HECM) paperwork if applicable □ Most recent property tax bill □ Homeowners insurance policy □ Records of any liens, judgments, or unpaid contractor bills

ABOUT THE FINANCES (the five-year history) □ Five years of federal tax returns □ Five years of bank statements — every account in your or your spouses name, or summary if full statements are unavailable □ Current statements for every financial account (checking, savings, brokerage, IRA, 401(k)) □ Records of any transfer, gift, or loan over \$5,000 in the last five years □ Records of any large purchase (vehicles, second properties, significant gifts) in the last five years

ABOUT THE ESTATE AND LEGAL DOCUMENTS □ Current will (and any prior wills if available) □ Durable Power of Attorney for finances □ Medical Power of Attorney and Advance Healthcare Directive □ Any trust documents — revocable or irrevocable □ Marriage license, divorce decree, or spouse's death certificate (whichever applies) □ Any pre-nuptial or post-nuptial agreement

ABOUT CARE AND CONTEXT □ Letter from your physician describing current diagnosis and prognosis if available/necessary □ Records of current care arrangements (in-home agency contract, AL community contract, etc.) □ VA benefit paperwork, if Aid & Attendance is in play □ Names and contact information for other professionals involved (CPA, financial planner, GCM, primary care)

A note on what to do if half of this isn't findable

Bring what you have. Tell the attorney what you couldn't find. They will give you a follow-up list, and often they will help you locate replacement copies of key documents (some deeds, tax returns, and trust documents can be reconstructed from public records or other sources).

Do not delay the meeting because something is missing. The meeting itself is where you find out what is essential and what can come later. Postponing the meeting to gather more paperwork is one of the most common ways families lose the planning window they still had when they made the appointment.

The Pieces That Touch This Decision

The conversation with your attorney is going to be longer than you think. The home sale doesn't sit alone — it touches the marriage, the VA, the tax picture, and a set of Texas-specific tools that don't exist in most states. Each of the pieces below is one your attorney will look at. None of them is optional if it applies to your family.

THE SPOUSAL EXEMPTION (AND WHAT COMMUNITY PROPERTY DOES, AND DOESN'T DO)

When one spouse needs long-term care and the other remains in the home, Medicaid law protects the spouse staying behind — the community spouse in Medicaid language. The home itself is exempt while the community spouse lives in it. A portion of savings is also exempt under the Community Spouse Resource Allowance (CSRA), which has federal floors and ceilings (in 2026, a minimum of \$32,532 and a maximum of \$162,660, adjusted each January) and is calculated case-by-case.

Texas is a community property state, which is significant for estate planning and especially for taxes (the double step-up discussed below). For Medicaid eligibility, however, the picture is different from what most people assume. Both spouses' assets are generally treated as available to the spouse needing care, regardless of whether the assets are characterized as community or separate property. The CSRA then protects a defined amount for the community spouse on top of that aggregated picture. Community property characterization doesn't carve up Medicaid resources 50/50 the way it carves up other things.

Add to your list: "If you are married, walk us through how the spousal exemption and the CSRA work in our situation — and where Texas community property does and doesn't change the analysis."

VA AID & ATTENDANCE — A SEPARATE CLOCK, AND A CAPPED MONTHLY BENEFIT

If you are receiving Aid & Attendance, or may apply for it, the home sale interacts with VA rules on a different timeline than Medicaid. VA has its own thirty-six-month look-back (separate from Medicaid's sixty-month) and a net-worth limit (\$163,699 for December 2025 through November 2026, adjusted annually with the Social Security COLA — verify the current figure at [va.gov](https://www.va.gov)).

The two look-backs also work differently in mechanics. Medicaid penalizes most uncompensated transfers in the sixty-month window. VA penalizes only transfers that would have pushed the veteran above the net worth threshold, calculated against the maximum monthly pension rate. A move that is safe under one program can disqualify under the other — and the analysis has to be run under both rules separately.

The benefit itself is helpful but capped. In 2026, the maximum Aid & Attendance benefit is approximately \$2,874/month for a veteran with a spouse or dependent and approximately \$2,424/month for a single veteran (rates adjust each December with the Social Security COLA). For a household staring at \$7,000–\$10,000/month memory care costs, A&A is meaningful but is not a substitute for the broader funding plan.

Add to your list: "If I have — or may apply for — VA Aid & Attendance, how does the 36-month ~~12~~ rule change the timing and structure of the sale?"

THE TAX QUESTION (AND THE STEP-UP TRAP)

When you sell the home during your lifetime, capital gains apply to the appreciation above your basis (typically the original purchase price plus improvements). The personal residence exclusion under §121 of the tax code allows \$250,000 of gain for a single filer or \$500,000 for a married couple to be excluded — if you have owned and used the home as your principal residence for at least two of the last five years before the sale. If you've been in a community for more than three years, the use test may not be met and the full gain becomes taxable. A disability/care exception under §121(d)(7) may help, but it has its own conditions and isn't automatic. Confirm with the CPA before assuming the exclusion applies. When the home transfers at death instead, the heirs receive a step-up in basis — the home is treated as if purchased at fair market value on the date of death, and the historical appreciation disappears for tax purposes.

Some Medicaid planning strategies that transfer the home during life are brilliant from the Medicaid side and disastrous from the tax side. A concrete example: a home bought for \$80,000 in 1985 and worth \$400,000 today. Transferred to an adult child during the homeowner's life, the child takes the homeowner's basis (\$80,000). When the child later sells for \$400,000, they owe capital gains on \$320,000 of appreciation. The same home held until the homeowner's death and then sold by the heirs has a stepped-up basis of \$400,000 — virtually no taxable gain. The Medicaid-side benefit of the lifetime transfer is real; so is the tax-side cost. The attorney plans both at once, or coordinates with a CPA who can.

Add to your list: "Walk us through the tax implications of any planning step you're recommending — particularly any move that would transfer the home before death."

THE TEXAS DOUBLE STEP-UP — A MAJOR TEXAS-SPECIFIC ADVANTAGE

This is the piece of tax law most worth knowing for Texas homeowners: because Texas is a community property state, when one spouse dies the entire community property — not just the deceased spouse's half — receives a stepped-up basis to fair market value. In separate-property states, only the deceased spouse's half steps up; in Texas (and the small number of other community property states), both halves do. This is the "double step-up."

For a long-held Texas home that has significantly appreciated, the double step-up can mean hundreds of thousands of dollars of capital gains exposure avoided. The same \$80,000-basis, \$400,000-value home from the previous example: when the first spouse dies, the surviving spouse's full basis becomes \$400,000. The surviving spouse can sell the home with virtually no capital gains exposure beyond appreciation that occurs between the date of death and the sale date.

The double step-up is preserved only if the home is held until the first spouse's death rather than transferred during life. A Medicaid-planning move that transfers the home during life — even one that works on the Medicaid side — eliminates the double step-up. This is the single most consequential tax interaction in Texas elder law planning, and it deserves to be on the agenda of the attorney meeting.

Add to your list: "Are we preserving the Texas double step-up in any planning strategy you're recommending?"

THE TAX QUESTION (cont)

TEXAS-SPECIFIC PLANNING TOOLS

Texas recognizes two deed tools that pass the home at death: the Lady Bird Deed (Enhanced Life Estate Deed) and the statutory Transfer on Death Deed. Both allow the home to pass to named beneficiaries at the parent's death without probate, without triggering the Medicaid look-back, and while preserving the step-up in basis (and, where applicable, the double step-up above). Most states don't recognize this tool; in Texas, it's the planning move people have most often heard about. Medicaid Asset Protection Trusts (MAPTs) are also available — properly drafted irrevocable trusts that move assets out of the homeowner's name with a sixty-month maturation period. Life estates are a more conventional option, though one with significant trade-offs the attorney can map. Each has a different fit, different timing, and different tax and Medicaid consequences. The attorney chooses; you execute.

Add to your list: "Which Texas planning tools fit my/our situation, and what's the timing and tax implication of each?"

THE CAREGIVER CHILD EXCEPTION

This one most people don't know exists. If an adult child lived with you and provided care that delayed institutionalization for at least two years immediately before the parent entered a nursing facility (the legal trigger is institutionalization — typically nursing-facility-level care, not every senior living move; the attorney confirms whether a specific move qualifies), the home can be transferred to that child without triggering the look-back. The standard is real, but the documentation is stringent — it typically requires medical records, a physician's letter, and dates that confirm the level of care provided. If one of your children has been the live-in caregiver for years, this exception is one of the first things the attorney should look at.

Add to your list: "Does the caregiver child exception apply to any of my children?"

The pieces above are the ones every attorney will at least consider.

One more piece deserves its own page — because it's increasingly common, it's specifically tied to families who used a HECM to fund earlier modifications, and it has a clock running on it from the moment you leave the home.

When There's a Reverse Mortgage in the Picture

The HECM-and-Medicaid scenario is increasingly common — because reverse mortgages funded a wave of aging-in-place modifications in the late 2010s and early 2020s, and many of those homeowners are now moving to communities while the HECM is still on the home. Both clocks start ticking at once, in different directions, and the household has roughly twelve months to coordinate the response.

A typical scenario: Three years ago, a couple took out a HECM to fund a \$35,000 bathroom remodel and a first-floor primary suite. The modifications worked — they bought another two years at home together. The husband has since passed. The wife stayed in the home with paid help. Six months ago, after a series of falls, she moved to a memory care community. Her savings are depleting faster than expected, and the household is preparing a Medicaid application. Last week, the HECM lender sent a notice that the loan will become due in six months. Now what?

THE TWELVE-MONTH OCCUPANCY CLOCK — AND THE ANNUAL CERTIFICATION
A HECM becomes due when the borrower has not lived in the home as their primary residence for twelve consecutive months. The clock starts the day they leave — not the day the lender finds out, not the day the household acknowledges it. In the scenario above, the wife left the home six months ago, which means the household has roughly six months to either sell the home, refinance the HECM into a conventional mortgage, or pay it off from other funds. Most households sell. The HECM repayment then comes out of the sale proceeds before anything reaches the household.

There is also a parallel requirement **most people miss:** HECM borrowers (or their representatives) must complete annual occupancy certifications. If the certification isn't returned by the deadline, the lender can call the loan even before the twelve-month clock has run. Confirm the certification deadline with the servicer alongside everything else.

When There's a Reverse Mortgage in the Picture

WHAT THE HECM DOES TO HOME EQUITY (AND MEDICAID)

While the borrower is still in the home, the home remains an exempt asset under Medicaid rules regardless of the HECM. Once they have moved out and the HECM is in repayment mode, the analysis shifts. The home equity available after the loan is repaid is what's left for the household — and how those proceeds get treated under Medicaid depends entirely on the borrower's Medicaid status at closing, the timing of the sale, and the structure of how the proceeds are used or held after the sale.

The HECM is also a non-recourse loan — meaning the borrower (or their estate) is obligated to repay only the lesser of the loan balance or 95% of the home's appraised value. If the loan balance has grown to or above the home's value at the time it becomes due, the household is not personally liable for the difference. But the home is sold to satisfy the lender, and the household won't see any equity above the 95% threshold. For HECMs where the balance has climbed significantly, the household needs the current payoff statement and an updated appraisal in the same week — the gap between them is what's at stake.

THE NON-BORROWING SPOUSE SITUATION

A separate note for couples where only one spouse was named as the HECM borrower at origination — usually because the other spouse was under 62 at the time, or wasn't on title. The rules for the non-borrowing spouse's right to remain in the home have changed multiple times since HUD's 2014 reforms, and they depend on when the HECM was originated and how the loan was structured. This is one of the most consequential and least understood scenarios in HECM-and-Medicaid planning. If your HECM had only one borrower on it, this needs to be on the first agenda of the elder law attorney meeting — and ideally also reviewed with a HUD-approved housing counselor.

When There's a Reverse Mortgage in the Picture

THE COORDINATED RESPONSE

Four professionals need to be in the conversation, and one of them needs to lead. The HECM servicer is the source of the current loan balance, the certification deadlines, and the timing of when the loan becomes due. The HUD-approved housing counselor (independent of the lender, \$0–\$125) can map the HECM-side options in a way the servicer typically won't. The elder law attorney is the source of the planning around how the sale interacts with Medicaid (and any VA benefits). The senior-focused real estate specialist handles the sale itself.

In households who get this right, the elder law attorney usually leads — they're the ones who can see both clocks and structure the sequence. In households who get this wrong, the real estate agent gets called first, the home is listed without the Medicaid planning, and the household discovers the consequences after closing.

IF THERE'S A HECM AND MEDICAID IS — OR MAY BE — IN THE PICTURE, YOUR FIRST FIVE CALLS:

- Call the HECM servicer and request a current payoff statement, an updated occupancy verification, and the next annual certification deadline.
- Mark the calendar with the date the borrower left the home as primary residence. Twelve months from that date is your hard deadline.
- Schedule a HUD-approved housing counselor session for an independent review of the HECM-side options (find one at hud.gov/findacounselor, or call 800.569.4287).
- Bring the HECM paperwork, the payoff statement, and the counselor's notes to the elder law attorney meeting from earlier in this guide.
- Don't list the home until the attorney has confirmed the timing and the structure.

Finding the Right Texas Elder Law Attorney

WHAT TO LOOK FOR

The strongest single credential is the CELA designation — Certified Elder Law Attorney, granted by the National Elder Law Foundation (NELF). Roughly 500 attorneys in the United States hold it, and it requires demonstrated experience, peer references, and a rigorous exam. Texas has a meaningful but limited group of CELA-designated attorneys. NAELA membership (National Academy of Elder Law Attorneys) is a less rigorous filter but still meaningful — NAELA members are practicing elder law as a focus rather than as a side practice. The State Bar of Texas Elder Law Section is another reasonable filter for Texas-specific practice. What matters underneath the credentials is whether the attorney handles Medicaid planning specifically and whether they've handled cases similar to yours.

WHAT TO EXPECT ON COST

An initial consultation typically runs \$300 to \$1,000 in Texas markets, depending on the firm and the complexity of the situation. Longer engagements — a complete Medicaid planning case with document preparation, transfers, and application support — typically run \$3,000 to \$10,000, with more complex cases higher. Hourly rates in Texas elder law practice typically run \$300 to \$1000. Some firms offer flat-fee packages for common Medicaid planning scenarios. Ask up front; reputable firms will quote you a range before you commit.

THREE QUESTIONS TO ASK BEFORE YOU HIRE

"What percentage of your practice is Medicaid planning specifically?" A firm that does 5% elder law and 95% estate planning might not be the right fit for a Medicaid case.

"Have you handled cases like mine/ours — specifically [describe your situation in one sentence]?" The answer should be specific. "Yes, regularly" is a good answer. "I'm sure we can figure it out" is not.

"What is your fee structure for the work I/we likely need?" A clear answer is a good sign. A vague answer is information about how the engagement will go.

Finding the Right Texas Elder Law Attorney

WHERE TO FIND CANDIDATES

- National Elder Law Foundation directory at nelf.org — for CELA-designated attorneys.
- National Academy of Elder Law Attorneys directory at naela.org — broader, less filtered, larger pool.
- State Bar of Texas Elder Law Section at texasbar.com — Texas-specific.
- Referrals from professionals who already work with elder law attorneys — your parent's CPA, financial planner, geriatric care manager, hospice social worker, or hospital discharge planner often have specific names. These referrals tend to be high-signal because the referring professional has seen the attorney's work.

THE CLOSING ARGUMENT

An hour with a Texas elder law attorney before you list — typically \$300 to \$1000 — is the cheapest insurance in this whole process. The hundreds of thousands of dollars at stake make this not a place to save money. The families who skip this step almost always wish they hadn't. The families who take it almost always describe the consultation as the single highest-leverage hour they spent during the entire transition.

"THE REAL ESTATE AGENT SAID THEY HANDLE EVERYTHING."

Real estate agents handle real estate. The best of them — including those with the SRES (Seniors Real Estate Specialist) designation — handle the transaction itself with skill, sensitivity, and care for the family's situation. None of them are licensed to advise on Medicaid eligibility, the look-back, MERP exposure, or the planning tools that protect the family. That isn't the agent's job, and a good agent will tell you so directly.

The right model is the two professionals working together: the elder law attorney plans the sale; the real estate agent executes it. Either one acting alone leaves the family exposed. Together, they protect what you built.

You received this for a reason

FOR THE ELDER LAW ATTORNEY WHO HANDED YOU THIS —

You gave this guide to a family because they were preparing to sell a home, and you wanted them walking into your office ready to use the hour well rather than starting from zero.

This guide doesn't compete with what you do — it credentials you. The questions, the documents, the planning tools, the order of operations — all of it points back to the conversation only you are licensed to have. The guide tells the family one thing repeatedly: don't list until you've talked to the attorney. That's the message it carries into every household it reaches.

When the family is ready to sell — and the timing, structure, and proceeds-handling fit the plan you built — Daniel handles the real estate side and coordinates with you on the closing, the title work, and any specific structural needs the plan requires. He understands that the legal conversation happens first. He won't compromise your plan to close a deal.

For the family who also needs real estate help — when the time comes, the right specialist coordinates with your elder law attorney's plan rather than around it. Two professionals, one outcome.

Daniel Stine is the architect of the Senior Move Roadmap™, a free guide system used by families navigating senior transitions and recommended by senior care professionals nationwide. He is also a Houston-area real estate agent specializing in senior transitions, with the SRES designation — Seniors Real Estate Specialist. He understands both sides of this moment: the legal conversation that protects the family, and the real estate work that actually sells the home. He doesn't replace your elder law attorney. He works alongside them.

When the legal planning is complete and the home is ready to list, Daniel handles the sale with the timing and structure the attorney's plan requires. The two professionals working together is the protective combination this guide is built around.

Tools to Move you Forward

Most people don't read a guide like this one — let alone before they need it. The fact that you did puts you well ahead of where most homeowners are when the moment comes, and far ahead of where you'd be if a crisis forced this conversation under pressure. Keep it. Share it with whoever needs to know.

You're doing one of the most loving things a person can do — for yourself, and for the people who would otherwise have to figure this out without you. Most homeowners never get this far ahead of the question. You did. The ones who come through this with their Medicaid eligibility intact and their family spared the worst surprises almost always did exactly this work — exactly this far ahead.

Now that you've started, here's how to put it to work:

- This is your prep document for the elder law attorney meeting. Bring it.
- If questions came up while reading or filling it in, that's the list to work from. An elder law attorney or financial advisor can answer most of them in a single conversation.
- Since you are in Planning Mode, feel free to checkout the Before It's Time Guide & Workbook
- If Medicaid is anywhere in your picture — already in use, possibly needed within five years, or even just a "we don't know yet" — schedule an hour with a Texas elder law attorney before any decision about the home. Not after you've called a real estate agent. Before.

More guides written for you:



**Aging In Place
Sr. Edition**



**Protecting
Medicaid**



**Where Does
the Money
Come From?**



**Before It's Time
Guide**



**Before It's Time
Workbook**

If your family is reading too:

- The full Senior Move Roadmap™ system is free at SeniorMoveRoadmap.com — seven step-by-step guides for families navigating a move together, plus side paths for crisis situations and aging in place, and companion pieces on funding, family conversations, and protecting Medicaid when selling the home.



**Senior Transitions
Steps 1-7**

If you're in Houston and need help figuring out next steps, I'm happy to walk through your situation and help you create a simple plan.

Call or Text 281.845.1260

dan@movemomtx.com

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