TREATMENT OF JOINT ASSETS WHEN NURSING HOME CARE IS INVOLVED
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When someone enters a nursing home and if that person is going to need to rely on Medical Assistance benefits to pay for the costs of the nursing home care, there are numerous and very complex laws and regulations which address how that person’s assets are treated.

In your situation, the CDs that are jointly owned are normally considered your mother’s money and that money is available for her nursing home costs. The fact that your name has been on those CDs for three years does not make any difference. The Department of Public Welfare (DPW) who administers the Medical Assistance program, will consider the jointly held CDs as your mother's and available for nursing home care, unless, you can prove that the CDs were originally yours, or that you contributed to the CDs. In most cases, jointly held assets are created for convenience or to reduce inheritance taxes. However, if you can prove that the CDs were funded with your money and not your mother’s money, DPW will allow the CDs to be titled in your name alone and not be used for your mother’s nursing home care. Proof is required, though, including the original deposits and proof that your funds were, in fact, used to create the CDs.

Many people believe that if a name is placed on an asset for three years prior to nursing home placement, that asset is protected from nursing home costs. That simply is not true.

There are ways to protect, or shelter assets, so that all the individual’s assets are not used for nursing home costs. It can be a great advantage to the person who will be entering the nursing home to have assets protected. If the individual needs additional services or care, which are not provided by Medical Assistance, the protected assets can be used to provide such care. (An example of this is purchasing a special wheelchair to assist someone with Parkinson, hiring a home health aide to help feed a stroke resident who is unable to feed themselves, or hiring a special aide to be with the resident during certain times of the day.) If there is a spouse, it is very important to protect assets to prevent that spouse from becoming impoverished.
Planning for nursing home requires an in-depth understanding of nursing home regulations, county assistance office procedures, tax laws, and the community services available. The elder lawyers in my office are trained and skilled in not only nursing home planning and asset protection, but tax implications and estate planning.

The earlier one plans, the better. Planning enables the family to learn about the illness and disease, take time to locate the proper facility or assistance for their loved one, protect assets if desired, and prepare estate planning documents for not only periods of incapacitation but for estate administration. It is important to seek out someone who is knowledgeable in this specific area of law. My office has seen many situations where assets or additional assets could have been protected, and placement could have been delayed, if the family had received proper legal advice and information. Planning is key: if you or someone you know may need nursing home care, consult an experienced elder lawyer.