

Michigan Department of Health and Human Services' Attempt to Ration Medicaid Services to People with Disabilities Fails

A year after filing their similar federal lawsuits, two young men, Thomas Mitchell & Jacob Hartshorne, with developmental disabilities have settled their lengthy legal battle with the State of Michigan's Department of Health and Human Services and Community Mental Health of Central Michigan. The two agencies work together to provide Medicaid long term services and supports. They unilaterally eliminated medically necessary supervisory services, despite no change in any law or policy. Due to the agencies "reinterpretation" of the definition of Community Living Supports provision in the (1915 (b)(c)) Medicaid Waiver, both men were denied access to their sleep time supervisory services. The families asserted a violation of the Americans with Disabilities Act and other federal laws which have an integration mandate

[Click Here for the Full Press Release & Access to Additional Information & Court Documents](#)

Trump administration delays Medicaid standards on home and community-based care by 3 years

Federal standards requiring states find ways of delivering care to Medicaid enrollees in home, community-based settings kicks in 2022, not 2019.

The Trump administration has given states three extra years to carry out plans for helping elderly and disabled people receive Medicaid services without being forced to go into nursing homes.

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DOL Announces That Fiduciary Rule Will Go Into Effect June 9

Earlier this year, President Trump signed an executive order delaying the so-called fiduciary rule, the first part of which was scheduled to go into effect in April 2017, and calling for a review. The DOL is still reviewing the rule and can still make changes to it or repeal it based on the review, but the agency said there was no basis to further delay the rule's implementation. It is possible that additional changes will be made before the rest of the rule is scheduled to go into effect on January 1, 2018.

—> [Click Here to Read More](#)

What is the Difference Between Medicare and Medicaid?

Although Medicare and Medicaid are both federally funded health insurance programs, they have different eligibility requirements and the benefits differ.

Click [here](#) for a brief outline of their difference.

Judge says state needs to do more to help parents with disabilities in child welfare cases

The Michigan Supreme Court handed a big win to parents with disabilities in child welfare cases.

If the state removes a child from their home and puts them in foster care, generally the goal is to reunite the child and parent as soon as possible. The parent is given services and a plan with specific goals they have to meet before reunification, and if those goals aren't met, their parental rights can be terminated.

Historically the burden fell to the parent's attorney to raise the issue of intellectual disability and get the plan modified, but the recent In re Hicks/Brown ruling places that burden on the Michigan Department of Health and Human Services.

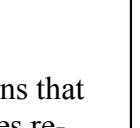
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Proving Age Discrimination Is Difficult

As baby boomers continue to work past retirement age, age discrimination lawsuits are becoming more common. Two out of three workers between ages 45 and 74 say they have seen or experienced age discrimination, according to AARP. However, experiencing it and proving it are two different things.

The federal Age Discrimination in Employment Act (ADEA) forbids employers with 20 or more employees to discriminate against people who are age 40 or older. The law prohibits an employer from discriminating in hiring, firing, wages, job assignments, promotions, or any other aspect of employment. It is also illegal to harass employees based on their age. (Your state may have its own laws regarding age discrimination as well.)

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Factors Affecting States' Ability to Respond to Federal Medicaid Cuts and Caps: Which States Are Most At Risk?

In 2017, Congress has been debating legislation, the American Health Care Act (AHCA), which would end the enhanced federal matching funds for the Affordable Care Act (ACA) Medicaid expansion and fundamentally alter the structure and financing of the Medicaid program. Specifically, it would cap and significantly reduce the amount of federal funding provided to states for Medicaid through a per capita cap or block grant.

The cap on federal funding would lock-in current state spending patterns that reflect historic Medicaid policy choices. All states could face challenges responding to federal Medicaid cuts and caps to varying degrees, but states with certain characteristics are more at risk. States that adopted the Medicaid expansion have experienced gains in coverage and financing that are at risk under proposals like the AHCA that would end the enhanced federal match for the expansion. However, states that have not adopted the expansion would lose the option to access enhanced federal matching dollars for coverage in the future.

Click [HERE](#) for the entire article and to read its analysis, which examines 30 factors in five groups that could be high risk factors affecting states' ability to respond to federal Medicaid cuts and caps and identifies states ranked in the top five for each factor as high risk

Many vets unaware of compensation for Agent Orange-related disabilities

Veterans may be eligible for service-connected disability compensation for diseases the VA has recognized as associated with exposure to Agent Orange if they served in Vietnam between Jan. 9, 1962–May 7, 1975; veterans who served in certain areas in Thailand between Feb. 28, 1961–May 7, 1975; veterans who served in or near the DMZ in Korea between 1968-1969, and "brown water" Navy veterans may also be eligible.


—> [Click Here](#) for additional details and a list of presumed disabilities.

Feds To Waive Penalties For Some Who Signed Up Late For Medicare

Each year, thousands of Americans miss their deadline to enroll in Medicare, and federal officials and consumer advocates worry that many of them mistakenly think they don't need to sign up because they have purchased insurance on the health law's marketplaces. That decision can leave them facing a lifetime of enrollment penalties.

Now Medicare has temporarily changed its rules to offer a reprieve from penalties for people who kept Affordable Care Act policies after becoming eligible for Medicare.

—> [Click Here for the Full Article](#)



Older Americans Need to Be on Alert as House Passes Amended American Health Care Act

Widows and widowers are entitled to Social Security benefits from their deceased spouse equal to the collection amount at the time of death, or the potential entitlement amount if the spouse had not yet applied for the benefit. In order to best advise their clients, accountants and attorneys should understand the laws that govern this benefit.


Widows and widowers are not confined by a time frame during which they need to apply for the benefit; however, there are some eligibility restrictions and considerations to be aware of regarding the state of the marriage at the time of death.

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Older Americans Need to Be on Alert as House Passes Amended American Health Care Act


Many seniors and those with disabilities need Medicaid to cover home care costs, which allow them to remain in their own homes while receiving care. If the American Health Care Act becomes law, what impact will it have on seniors? As presently drafted, the American Health Care Act will radically change Medicaid's financing structure to fixed federal contribution per beneficiary. This would both fundamentally alter a state's financial incentives, while concurrently, reducing the federal government's financial commitment to the program over time.

To read the full article and thoughts from former NAELA president and co-founder click [HERE](#).



Additional Articles from Elder Law Answers

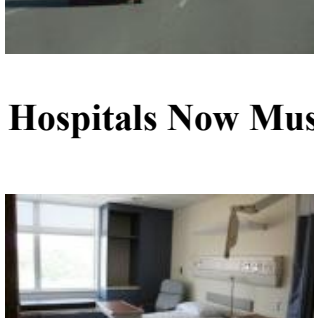
The Use of Immediate Annuities in Medicaid Planning for Married Couples



Immediate annuities can be a useful tool to protect the spouse of a nursing home resident who applies for Medicaid. These types of annuities allow the nursing home resident to spend down assets and give the spouse a guaranteed income. But immediate annuities may not work in every state, so be sure to check with your attorney.

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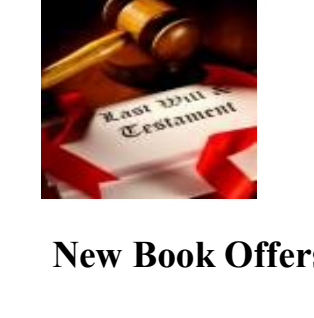
New Protections for Nursing Home Residents



New Obama-era rules designed to give nursing home residents more control of their care are gradually going into effect. The rules give residents more options regarding meals and visitation as well as make changes to discharge and grievance procedures.

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Aging Drivers and the Law



For better or for worse, our current culture is very car-dependant; in many places, cars are the only convenient link to the outside world. Unfortunately, as people age, driving can become more difficult and more dangerous.

—> [Click for Full Article](#)


Hospitals Now Must Provide Notice About Observation Status



All hospitals must now give Medicare recipients notice when they are in the hospital under observation status. The notice requirement is part of a law enacted in 2015 but that just took effect.

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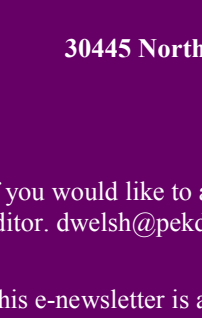
Four Provisions People Forget to Include in Their Estate Plan



Even if you've created an estate plan, are you sure you included everything you need to? There are certain provisions that people often forget to put in in a will or estate plan that can have a big impact on your family.

—> [Click for Full Article](#)

New Book Offers Guidance Through the Medicare Maze



Philip Moeller. *Get What's Yours for Medicare: Maximize Your Coverage, Minimize Your Costs.* Simon & Schuster. New York, N.Y. 2016. 291 pages.

Medicare is a mixed blessing. In short, Medicare is now so complex that expert guidance is almost essential. That's where Get What's Yours for Medicare comes in.

—> [Click for Full Article](#)