

Patricia E. Kefalas Dudek & Associates

Passionate Advice and Advocacy for all
Stages of Life



July 2019



AAPD Action Alert

Ask Congress to Sign-on as Original Cosponsors to Bills Protecting the Rights of Disaster-Impacted People with Disabilities

The American Association of People with Disabilities is working with the [Partnership for Inclusive Disaster Strategies](#) (the Partnership) on two historic pieces of disability and disaster legislation that will dismantle barriers faced by people with disabilities, older adults, and Medicaid eligible people impacted by disasters. These bills should improve outcomes throughout disasters and increase resources for disability organizations, emergency managers and local communities.

The Real Emergency Access for Aging and Disability Inclusion for Disasters Act (READI) and the Disaster Relief Medicaid Act (DRMA) was introduced into both the Senate and the House of Representatives on June 10th.

[Click Here for More Information
and Links to Promote These Proposed Legislations](#)

Michigan AG launches Elder Abuse Task Force, wants guardianship laws changed in wake of 7 investigation

Adult children separated from their ailing parents. Vulnerable adults being put into unlicensed group homes. Those are just a few of the guardianship problems 7 Investigator Heather Catallo has been exposing since 2017.

Now, the Michigan attorney general and several state Supreme Court justices have formed a new Elder Abuse Task Force.

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Children who receive free and reduced-price school lunches may be eligible for food benefits this summer

Sixteen Michigan school districts and intermediate school districts have been selected for a program that provides food benefits during the summer for any child who received free or reduced-price school lunches. The Michigan Department of Health and Human Services (MDHHS) Women, Infants and Children (WIC) program, in collaboration with Michigan Department of Education, is participating in the 2019 Summer EBT for Children program.

[Click Here For More Information & a List of Participating Districts](#)

MiABLE Update Summer 2019

Michigan Department of Treasury

The Michigan Department of Treasury is pleased to announce that the MiABLE 529 Saving/Investment Program has surpassed **\$10 million** in assets. Over 2700 accounts have been opened since MiABLE first began enrollment November 1st, 2016 as the fifth ABLÉ program in the United States.

The ABLÉ Act allows certain individuals with disabilities to save/invest without jeopardizing eligibility for public benefits like SSI, Medicaid, and SNAP. Assets in an ABLÉ account can be used for qualified disability expenses (QDE) including:

- education
- housing
- transportation
- employment training and support
- assistive technology
- personal support services
- health care, illness prevention, medical equipment, and overall wellness
- financial management and administrative services
- legal fees
- expenses for oversight and monitoring
- end of life expenses

MiABLE account holders can request debit cards to pay for Qualified Disability Expenses.

MiABLE staff have been educating parent groups, disability advocacy organizations, employee resource groups, and other potential MiABLE account holders throughout the state.

Request for events can be directed to miable@michigan.gov
Public events can be found at <https://www.miable.org/Events.php>

Check out the MiABLE commercials at:
<https://www.youtube.com/watch?v=ewhWhilXw1Q> &
<https://www.youtube.com/watch?v=FAhH7pYD3og>

Desperation And Broken Trust When Schools Restrain Students Or Lock Them In Rooms

Restraint and seclusion are most often used on students with disabilities or special needs. Those terms can mean anything from holding or using restraints on students to isolating them in a separate room or space.

The U.S. Department of Education's Office for Civil Rights requires that school districts report every time a student is restrained or secluded. And while tens of thousands of cases are reported, many suspect those numbers fall short.

[Click Here For the Full Article](#)

Moving? Make Sure Your Special Needs Planning Moves With You

If you have already established an appropriate special needs trust for your child, then congratulations! You've taken a wonderful step towards ensuring that your child can take maximum advantage of the government programs available for her needs, while also providing the child with security for all the things the government can't or won't provide.

Having gone through this process, assisted by a qualified special needs planner, you may think that you've done your job to protect your child's benefits, and in most cases, you have done a great deal. *However, if you are thinking about moving to another state with your child, or if your child has grown up and is moving to another state, beware.* Provisions in your child's trust are almost always designed specifically for your current state of residence and may not work properly in the new home.

[Click Here to Read the Entire Article](#)

Updated 2019 Spousal Impoverishment Standards

This CMCS informational bulletin provides an update to the 2019 Supplemental Security Income (SSI) and Spousal Impoverishment Standards. Certain Medicaid income and resource standards are adjusted annually in accordance with changes in the SSI federal benefit rate (FBR) and the Consumer Price Index (CPI). These include some of the standards described in section 1924 of the Social Security Act (the Act), which describes the financial eligibility rules (the "spousal impoverishment rules") that apply when married individuals seek coverage of certain long-term services and supports.

1924 of the Act directs that the community spouse's minimum monthly maintenance needs allowance (MMMNA) be adjusted, in accordance with changes to the federal poverty level, effective July 1st of each year.

[Click Here For the Full CMS Bulletin](#)

MDHHS issues contract cancellation notice to Lakeshore Regional Entity, seeks to establish new PIHP

To provide quality behavioral health services on a sustainable basis for West Michigan, the Michigan Department of Health and Human Services (MDHHS) is cancelling its contract with Lakeshore Regional Entity (LRE) and will establish a new pre-paid inpatient health plan (PIHP) in the region, building on recent work there with Beacon Health Options.

LRE is the PIHP for Allegan, Ottawa, Kent, Muskegon, Oceana, Mason and Lake counties. Medicaid behavioral health specialty services are administered through PIHPs, which are managed care entities required to provide all medically necessary services through community mental health authorities (CMHs). MDHHS notified LRE of its intent to cancel the contract on April 25. MDHHS later received a response from LRE and met with multiple stakeholders in the region. After reviewing the response, MDHHS decided to terminate the contract based on many factors. Some were related to finances: five years of financial deficits, failure to address the deficits the lack of a current risk management strategy and the lack of a plan to cover their portion of a projected \$16 million deficit. The termination also reflects performance issues despite multiple years of corrective action plans and weaker member outcomes relative to other regions on key metrics like inpatient hospitalization.

[Click Here to For the Entire Press Release](#)

Other Related Articles

[Lakeshore mental health plan to lose Medicaid contract over financial woes](#)

[State ends ties to West Michigan mental-health agency for poor and disabled](#)

Secure Act Would Affect Retirement Planning

Joe D. Lieberman, JD, LL.M., Law Clerk, Morris Law Group

On May 23, 2019, the U.S. House of Representatives passed The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act). H.R. 1994. The SECURE Act would make significant changes to the U.S. retirement system. The SECURE Act passed with nearly unanimous support across party lines, in a vote of 417-3. The legislation now goes to the U.S. Senate for consideration in that chamber. The SECURE Act would make a number of changes to employer-sponsored retirement plans and individual retirement accounts (IRAs), including, among others:

[Click Here For the List of Changes](#)

How to Plan Your Funeral

Thinking about your funeral may not be fun, but planning ahead can be exceedingly helpful for your family. It both lets them know your wishes and assists them during a stressful time. Taking the time to plan ahead will be a big help to your family and give you peace of mind.

[Click Here to Continue Reading](#)

Let Patients Stay Home

Fred Pelzman sees great promise in telemedicine technology

I just did my first telemedicine video visit.

The concept seems so strange, the idea of carrying out an "office visit" without the patient actually being in the office. Right now we have it structured so that when a patient calls up requesting to see me on a day when I am already fully booked (or, as is usually the case, overbooked), our front desk staff is free to offer those patients a scheduled telemedicine visit over video.

They load the portal app, and "check in" 15 minutes before the scheduled time. My phone buzzes and informs me they have "arrived," then we make the video connection. The visit then proceeds with the same back and forth we would do at a real office visit, but no vitals, and no obviously no physical since they are not actually where I can examine them.

Clearly, we don't want to be doing these kinds of visits with really critically sick patients, we definitely don't want to be evaluating people with new neurologic deficits who might be having a stroke, or crushing substernal chest pain radiating into their left arm and up to their jaw, or altered mental status, or sepsis at home.

But when a patient calls with a minor issue, something that up to now we've been handling through a patient portal message or telephone call, perhaps the added value of the video interaction may improve the quality of the care we provide, as well as increase the patient satisfaction and the provider satisfaction with handling healthcare in this resource limited environment.

Now, clearly, there are plenty of situations where a quick email or text or patient portal message will suffice, and the patient getting to look at my ugly mug on their phone or laptop doesn't really add any value.

But I can foresee a lot of times where laying eyes on a rash, or seeing how a patient looks with the flu, whether they appear sicker than they are billing themselves to be, or less so, might prove to be quite clinically valuable.

Also these type of visits add a lot of value for the patient, in that they don't have to come in from their home far away, or take off time from work, or even get out of bed when they are knocked out from the flu, to have a significant clinical interaction with their primary care provider.

As video telemedicine evolves, we are going to be expanding these to multiple different types of care, into subspecialty medicine, and a lot of other types of practices.

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Social Security Disability Benefits: An Overview

For more than half a century, Social Security disability benefits have served as a lifeline for millions of people with special needs. In fact, Social Security offers two distinctly separate disability benefit programs -- each serving nearly 10 million people -- with different purposes, eligibility requirements, and benefit levels. Social Security Disability Insurance (SSDI) is geared toward people who spent a significant amount of time in the workforce, but are unable to work due to a disability.

To be eligible for SSDI, a person must have been employed for at least 10 years and no longer be able to perform in any "substantial gainful activity" in the workforce as a result of a disability that is expected to last for more than one year or result in death. The Social Security Administration (SSA) typically defines "substantial gainful activity" as being able to earn more than \$1,000 monthly.

[Click Here for More Information](#)

New Issue Brief: Implementing *Jimmo v. Sebelius*: An Overview

In 2013, a federal district court approved a settlement agreement in *Jimmo v. Sebelius, No. 5:11-CV-17* (D. VT). The *Jimmo* Settlement confirmed that Medicare coverage should be determined based on a beneficiary's need for skilled care (nursing or therapy), **not** on the individual's potential for improvement. **The *Jimmo* Settlement and court decisions pertain to all Medicare beneficiaries throughout the country and apply regardless of whether an individual is in traditional Medicare or a Medicare Advantage plan.**

Unfortunately, more than six years after the Settlement's approval, the Center still regularly hears from Medicare beneficiaries and providers about problems with its implementation in home health, skilled nursing facility, outpatient therapy, and inpatient rehabilitation hospital settings across the country.

[Click Here to Continue Reading](#)

Senior's Transfer to Pooled Trust Triggers Medicaid Penalty Period

A U.S. court of appeals rules that a transfer to a special needs pooled trust by a Medicaid recipient who is age 65 or older triggers a Medicaid penalty period. *Richardson v. Hamilton* (1st Cir., No. 18-1223, June 20, 2019).

[Click Here for a Description of the Decision](#)

New WHO Guidelines On Preventing Dementia Focused On Lifestyle Changes *Open Minds*

According to new guidelines released by the World Health Organization (WHO), people can reduce their risk of cognitive decline and dementia through lifestyle changes. The risk of developing cognitive problems is lower for people who exercise regularly, those who are non-smokers, those who avoid harmful use of alcohol, those who control their weight and who eat a healthy diet, and those who maintain healthy blood pressure, cholesterol and blood sugar levels. All of the WHO guidelines have similar outcomes: improved cognitive function, improved incident MCI, and dementia prevention/alleviation. The recommendations also have effects on quality of life, functional level, lowering adverse events, and improving drop-out rates.

[Click Here for the Full Article Including a Description of the Recommendations from the WHO](#)

Agent Who Withdrew Money for Medicaid Planning Purposes Does Not Have to Return Funds

A Pennsylvania court rules that an agent under a power of attorney does not have to return money the agent withdrew from a joint account because the evidence showed the agent removed the money for Medicaid planning purposes. *In re Estate of Hirnyk* (Pa. Super. Ct., No. 84 WDA 2018, April 16, 2019).

[Click Here to Read More About the Decision](#)

For more news and information about Patricia and Patricia E. Kefalas Dudek & Associates please visit us online.

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