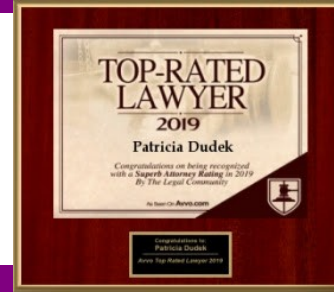


Patricia E. Kefalas Dudek & Associates

**Passionate Advice and Advocacy for all
Stages of Life**



August 2019



Medicaid Exception

Medicaid's Gift to Children Who Help Parents Postpone Nursing Home Care

In most states, transferring your house to your children (or someone else) may lead to a Medicaid penalty period, which would make you ineligible for Medicaid for a period of time. However, there are circumstances in which transferring a house will not result in a penalty period.

One of those circumstances is if the Medicaid applicant transfers the house to a "caretaker child." This is defined as a child of the applicant who lived in the house for at least two years prior to the applicant's entering a nursing home and who during that period provided care that allowed the applicant to avoid a nursing home stay. In such cases, the Medicaid applicant may freely transfer a home to the child without triggering a transfer penalty. Note that the exception applies only to a child, not a grandchild or other relative.

[Click Here to Continue Reading](#)

Were You an Equifax Data Breach Victim? You May Be Owed Money

After a massive 2017 data breach, [Equifax Inc.](#) has reached a proposed settlement that stands to cost the financial giant at least \$575 million and spells relief for U.S. consumers, government officials said Monday.

The proposed settlement needs approval from a federal judge before taking effect. Consumers may [file claims](#) for relief only after the judge signs off on the settlement, officials said. Benefits will not be paid until after the initial claims deadline has passed. Watch for [updates from the Federal Trade Commission](#) (FTC) or call a toll-free hotline, 833-759-2982.

[Click Here for the Article & More Info](#)

FEMA Has Taken Steps toward Better Supporting Individuals Who Are Older or Have Disabilities

In June 2018, FEMA started to shift responsibility for helping people with disabilities affected by disasters away from its staff trained on disability issues to all staff and to state, local, and nonprofit partners.

In our May 2019 [report](#), we recommended, among other things, that FEMA develop plans to train its staff and nonfederal partners on disability issues.

We testified that FEMA has taken steps to implement some recommendations from our report, including planning training for its nonfederal partners on disability issues. However, as of July 2019, FEMA had no written plans to train its own staff.

[Click Here to Access the Report](#)

Need Extra Time on Tests? It Helps to Have Cash

Demand for disability accommodations for schoolwork and testing has swelled. But access to them is unequal and the process is vulnerable to abuse.

From Weston, Conn., to Mercer Island, Wash., word has spread on parenting message boards and in the stands at home games: A federal disability designation known as a 504 plan can help struggling students improve their grades and test scores. But the plans are not doled out equitably across the United States.

In the country's richest enclaves, where students already have greater access to private tutors and admissions coaches, the share of high school students with the designation is double the national average. In some communities, more than one in 10 students have one — up to seven times the rate nationwide, according to a New York Times analysis of federal data.

In Weston, where the median household income is \$220,000, the rate is 18 percent, eight times that of Danbury, Conn., a city 30 minutes north. In Mercer Island, outside Seattle, where the median household income is \$137,000, the number is 14 percent. That is about six times the rate of nearby Federal Way, Wash., where the median income is \$65,000.

Students in every ZIP code are dealing with anxiety, stress and depression as academic competition grows ever more cutthroat. But the sharp disparity in accommodations raises the question of whether families in moneyed communities are taking advantage of the system, or whether they simply have the means to address a problem that less affluent families cannot.

While experts say that known cases of outright fraud are rare, and that most disability diagnoses are obtained legitimately, there is little doubt that the process is vulnerable to abuse.

[Click Here to Read More](#)

Here's where taxpayers can find answers to questions about their tax refund

As taxpayers with filing extensions submit their returns this summer and fall, some of them may have questions about their refunds. These taxpayers can use the [Let Us Help You](#) page to find answers to those questions. This page has links to information and resources that will let them know when to expect their refund and check the status of their refund, along with other related tools.

[Click Here to Access Helpful Links](#)

Reports Find Hospice Deficiencies Go Unaddressed

Hospice care is supposed to help terminally ill patients maintain their quality of life at the end of their life, but two new government reports find that serious problems in some hospices may be actually causing harm to hospice patients. The reports propose that additional safeguards are needed.

Medicare provides a comprehensive hospice benefit that covers any care that is reasonable and necessary for easing the course of a terminal illness. Most hospice care is provided in the home or in a nursing home. State agencies or private contractors survey hospices to make sure they comply with federal regulations. If a hospice fails to meet a standard, the surveyor cites the hospice with a deficiency.

A pair of reports by the U.S. Department of Health and Human Services' Office of Inspector General (OIG) found that from 2012 through 2016, more than 80 percent of hospices surveyed had at least one deficiency and one in five had a deficiency serious enough to harm patients. About 300 hospices were identified as "poor performers" and 40 had a history of serious deficiencies.

The reports found that the most common types of deficiencies involved poor care planning, mismanagement of aide services, and inadequate assessments of beneficiaries. Some of the most serious problems that were found included a beneficiary who developed pressure ulcers on both heels, which worsened and developed into gangrene, requiring amputation of one leg. Another beneficiary developed maggots around his feeding tube insertion site. Both of these beneficiaries had to be hospitalized, which hospice is meant to prevent.

[Click Here to Continue Reading](#)

NY Court Authorizes Parents to Establish ABLE Account for Adult Daughter

A New York court lifts restraints on the parent-guardians of an adult daughter with special needs, allowing them to establish an ABLE account and transfer assets on her behalf. [*In re A.B.D.*](#) (N.Y. Surr. Ct., 2016-388351/A, June 13, 2019).

[Click Here for Further Details](#)

5 Ways I'm Using My ABLE Account This Summer

Laura C. Robb - [The Mighty](#) - July 29, 2019

Imagining possibilities is a normal part of life. It's exciting to dream, plan, and watch goals turn into reality. I have an ongoing list of places to go and dreams to do... one day. Being born with [arthrogryposis](#) means I'm instantly limited, but my physical disability has also allowed me to become a creative problem-solver.

How can I pursue my dreams? How do I make any dream an achievable goal? As I create a plan, I think about whatever physical assistance I will need. But that's not the only obstacle I face. Financial limits can be an additional obstacle.

Fortunately, ABLE accounts are removing many of these barriers.

With [ABLEnow](#), I have the option to save and make dreams happen over time. This means my "one day" can start now.

This summer I already checked off an item on my list. I went on a road trip with my parents. We drove many miles to a conference and took a few scenic detours along the way. For one of our detours, we visited Niagara Falls. The savings in my ABLEnow account came in handy, as I was able to use my ABLEnow Card to pay for an accessible parking spot.

Now that I've finished my trip, I've started to think about a number of other ways I can use my ABLEnow account throughout the summer season:

1. Travel dreams
2. Conference costs
3. Transportation fees
4. Medical bills
5. Educational goals

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Passing Retirement Benefits to a Child with Special Needs: It's Complicated

Many parents have their retirement savings socked away in 401(k)s and IRAs. So that your beneficiaries do not have to pay taxes on the funds prematurely, it's important to properly structure the beneficiary designations for these accounts. Unfortunately when a beneficiary has special needs, things get complicated.

If the beneficiary receives the IRAs and 401(k)s directly, the required minimum distributions (RMDs) could prevent your child from receiving the government benefits he needs, such as Medicaid or Supplemental Security Income (SSI). But if you designate a special needs trust as the beneficiary of a retirement account, there could be adverse income tax consequences.

Fortunately, with proper trust drafting, such tax results usually can be prevented.

[Click Here to For More Info & a Summary of the Issues](#)

Filmmakers, Memory Specialists Turn Story Into Science to Better Understand Alzheimer's

After chronicling the experiences of Alzheimer's patients in seven cities across the country, documentary filmmaker Zach Jordan says that despite everyone's unique journey, he found almost all encounter stigma related to the disease and experience no clear path through the health care system.

"We only visited seven American cities, but the diversity and depth of each story we collected is profound," says Jordan, who is working on the project with fellow filmmaker Peter Schankowitz. "While each story is unique and personal, the larger issues that every American city faces are the same: In 2019, aging and Alzheimer's remain difficult issues to tackle because of stigma."

The venture, sponsored by AARP and called "My Alzheimer's Story Project," plans to take these stories and use them as an aid for research at the [Penn Memory Center in Philadelphia](#). The findings will be used to better understand patients and direct individual care.

[Click Here to Continue Reading & View Video Clips](#)

Introducing the Access program from AT&T

AT&T is offering low-cost wireline home Internet service to qualifying households:

- With at least one resident who participates in the U.S. Supplemental Nutrition Assistance Program (SNAP) and
- With an address in AT&T's 21-state service area, at which we offer wireline home Internet service, and
- Without outstanding debt for AT&T fixed Internet service within the last six months or outstanding debt incurred under this program.
- If you are a California resident and at least one member of your household receives Supplemental Security Income (SSI) benefits you also may qualify based on the same requirements that apply to SNAP participants.

[Click Here for Additional Information](#)

Should You Sell Your Life Insurance Policy?

Older Americans with a life insurance policy that they no longer need have the option to sell the policy to investors. These transactions, called "life settlements," can bring in needed cash, but are they a good idea?

Life settlements offer seniors a way to get cash to supplement retirement income and help pay for living expenses, health care, or other needed items. They can be a good alternative to surrendering a policy or letting it lapse. But as with any financial transaction, you need to exercise caution.

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

Unlocking Dyslexia

(Excerpt from NPR Newsletter)

So, what exactly is Dyslexia?

The most commonly used description is the International Dyslexia Association (IDA)'s current definition: "Dyslexia is a specific learning disability that is neurobiological in origin. It is characterized by difficulties with accurate and/or fluent word recognition and by poor spelling and decoding abilities. These difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. Secondary consequences may include problems in reading comprehension and reduced reading experience that can impede growth of vocabulary and background knowledge."

But that definition may soon change. Earlier this year, Susan Brady, professor emeritus of the University of Rhode Island's School of Psychology, published an article calling for a change of this definition. Brady served as one of the IDA members and researchers who reviewed and modified this first definition in 1995. She was recently asked by the IDA to assess the adequacy of the current one.

In her article, she writes that she wants to see dyslexia move away from a simple definition to a set of characteristics — becoming a disability that exists on a spectrum.

Looking for more resources?

In our series, Unlocking Dyslexia, we offer some [tips](#) for parents — on planning, intervention and coping. We also [explore](#) "The Learning Disability That Must Not Be Named," and [dive into](#) "How Science Is Rewiring The Dyslexic Brain."

[Click Here to Access NPR's Unlocking Dyslexia Series](#)

Electronic Visit Verification: CMS Offers Guidance on "Good Faith Effort" Extensions for States

Section 12006(a) of the 21st Century Cures Act mandates that states implement Electronic Visit Verification (EVV) for all Medicaid personal care services and home health services that require an in-home visit by a provider.

EVV is required for all Medicaid-funded personal care services by January 1, 2020 and for home health services by January 1, 2023, unless the state receives a CMS authorized "good faith effort (GFE)" exemption. The Centers for Medicare & Medicaid Services (CMS) recently released guidance for states to apply for this exemption, which provides up to one year of extra time to come into compliance with EVV if needed.

View the [GFE extension guidance and form](#) and [additional information and resources](#) on EVV.

CMS mailbox evv@cms.hhs.gov remains available for questions and comments.

[Click Here to Access the full ACL statement](#)

Staffing groups call for wage increases, higher direct-care ratios

A coalition backing nursing home workers in Rhode Island is calling for a \$15-per-hour wage for certified nursing assistants and new minimum staffing hours, even as nearby states are experiencing closures at [facilities struggle to make pay-roll](#).

The District 1199 SEIU New England union blamed low wages and high staff turnover for what it calls a “resident care crisis” in the Ocean State.

“Rhode Island nursing homes are understaffed and Rhode Island caregivers are underpaid,” certified nursing assistant Shirley Lomba said at a Thursday press conference, during which the union and a coalition of other groups supporting workers and families unveiled a report titled, “Raise the Bar on Resident Care.”

[Click Here to Continue Reading](#)

New Rule Once Again Allows Nursing Home Arbitration Agreements

The Trump administration is officially rolling back a ban on the use of arbitration agreements by nursing homes that was initiated under President Obama. The Centers for Medicare and Medicaid Services (CMS) issued a rule that once again allows nursing facilities to use arbitration to settle disputes with residents.

Historically, nursing homes increasingly asked -- or forced -- patients and their families to sign arbitration agreements prior to admission. By signing these agreements, patients or family members gave up their right to sue if they believed the nursing home was responsible for injuries or the patient's death. The dispute had to be settled in private arbitration, and any injury to the patient did not have to be disclosed to the public.

[Click Here to Read More](#)

Study Finds Many Doctors Unaware of Their Legal Du- ties to Treat People with Disabilities

In medical settings, accommodations for people with intellectual or physical disabilities can be a matter of life and death. If a doctor refuses to see certain patients, the result may be an irreversible delay in a necessary procedure. To take just one example, without a sign language interpreter, a deaf individual may be unable to communicate her symptoms and provide the necessary information for a doctor to accurately diagnose her.

Nonetheless, a new study suggests that many doctors are woefully uneducated about their legal obligations to accommodate people with disabilities under the Americans with Disabilities Act (ADA)

[Click Here to Access the Full Article](#)

AAIDD Opposes a Proposed Revision to the DSM-5's Entry for Intellectual Disability

The American Association on Intellectual and Developmental Disabilities (AAIDD) today [July 29th, 2019] submitted comments to the American Psychiatric Association (APA) strongly opposing a proposed change to the DSM-5 concerning the diagnostic criteria for intellectual disability (ID, also listed as intellectual developmental disorder in the DSM-5).

AAIDD is the oldest inter-disciplinary professional society with a focus on intellectual disability in the world. Since its inception, AAIDD has produced guidelines naming, defining, and diagnosing the condition known today as “intellectual disability.”

On September 7, 2018 AAIDD proposed that the following sentence be deleted from the DSM-5's diagnostic criteria for ID: “To meet diagnostic criteria for intellectual disability, the deficits in adaptive functioning must be directly related to the intellectual impairments described in Criterion A.”

On July 8, 2019 APA offered a proposed revision, open for public comment, to address the issues raised by AAIDD; however, AAIDD strongly opposes the current proposed revision. “I hope that APA sincerely considers the comments it will receive on this proposed revision and brings its entry on ID into alignment with the empirical evidence and the clinical and scientific consensus in our field,” said Robert Schalock, PhD, FAAIDD, lead author of the 11th edition of the AAIDD manual.

The proposed revision and comment portal are available at <https://www.psychiatry.org/psychiatrists/practice/dsm/proposed-changes>. The proposed revision is open to public comment and the comment period ends August 14, 2019.

[Click Here to Read the Full AAIDD Press Release](#)

Report: Recent Declines in Medicaid Coverage Linked to Paperwork Obstacles

Many children with special needs rely on [Medicaid](#) for their health coverage, and each year a beneficiary's eligibility for coverage must be reevaluated.

In 2018, Medicaid and the [Children's Health Insurance Program](#) (CHIP) saw a surprising drop of about 1.6 million enrollees—including about 744,000 children. New evidence indicates that a leading factor in the decline is paperwork barriers connected with the re-eligibility process, primarily concentrated in a few states that have unusually strict requirements for determining re-eligibility.

“This decline is profoundly concerning and cannot be explained by any change in the underlying economy,” the report states. “There is strong evidence that a driving factor is state policy decisions to engage in punitive annual (or even monthly) eligibility redetermination processes in which large percentages of Medicaid enrollees lose coverage. These states have made a discretionary decision to default to taking away coverage from people.”

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

DIY Estate Planning?! More Risks Than You'd Think...

(From: Michigan Law Center, PLLC)

A DIY approach to anything sounds attractive in this day and age because you can do it on your time and probably save money. We see projects online for making your own furniture, clothes, pet supplies and much more. You can DIY pretty much anything, but certain things need to be left to the professionals.

In recent months we've seen an increasing number of ads for a "Do-It-Yourself Estate Planning." This practice lets you do your own estate plan, on your own time and customize it to your liking. You'll walk away with a full plan, but you won't have the legal guarantee that these documents will be upheld if or when you should become incapacitated.

While these documents look similar to the ones we prepare. They lack something that only a licensed attorney can offer: the experience to ensure your legal needs are being met and a customized a detailed plan help protect you and your family. We can say without a doubt that we have never had an identical estate plan drafted in our office. Everyone is different; therefore, everyone needs something different.

If you choose the DIY Trendy route, we think it's only fair you're getting the full picture of the consequence of your actions. These sites are not run by attorneys and are therefore forbidden to provide legal advice.

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UCP Michigan/UCP Detroit are seeking a fulltime Director of Programs and Advocacy.

To apply, please submit resume and introduction/cover letter to Leslynn Angel at langel@ucpdetroit.org and use the subject line "Director of Advocacy and Programs.

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