

IMPORTANT ALERT REGARDING MEDICAID CUTS IN NY

A recent change in NYS law can directly affect our loved ones with disabilities. New Medicaid rules are now making it harder for applicants to receive community based Medicaid.

People with disabilities receive services from the Office for Persons with Developmental Disabilities, the Office of Mental Health, and the Department of Health. These services are funded through Medicaid. Each person receiving these services must, therefore, obtain Medicaid, often Medicaid Waiver, funding to attend and participate in programs. Most of these programs are pursuant to the Home and Community Based Waiver (HCBS). The services provided are provided in the Community and not in an institution.

On April 1, 2020, the New York State Budget was passed by the Legislature and signed by Governor Cuomo. The Budget included significant changes to New York State Medicaid Home Care Program. The changes are effective for applications for community Medicaid beginning on October 1, 2020. It appears from the statute that these changes apply to both OPWDD and OMH services, there are some who believe it does not.

The most significant change for people with disabilities has to do with the implementation of a 30 month (2.5 year) "look back" period. What does this mean?

To put it simply, if you were to apply for Medicaid on behalf of your loved one ("the applicant") in October 2020, the assets of the applicant will be traced back to April 1, 2018 due to the 30 month "look back." That is, you will have to provide all financial records of the applicant from April 1, 2018 through September 30, 2020. Medicaid is looking to see if the applicant gave any money away—if the applicant made any "uncompensated transfers" or gifts. An "uncompensated transfer" is a transfer of assets (ie stock, cash, a home) for less than fair market value. If an uncompensated transfer or gift has been made, then there will be an imposition of a penalty period during which Medicaid will not pay for services.

This is a serious problem because there is no present mechanism for you to pay for someone to privately pay for OPWDD services. Thus, your loved one could be sitting home without a program during the penalty period.

There are ways that we can help you address the issue and to deal with any assets held by your loved one.

What should you do if you are looking to apply for Medicaid for your loved one with disabilities?

1) Contact your care coordinator. * Your care coordinator (ACA, Care Design) can help you navigate the application process.

2) Apply for Medicaid as soon as possible. * Once your child turns 18, you should apply for Medicaid as soon as possible.

3) If your loved one has money or other assets in their name you need to plan to address the look back issue. There are planning tools available to address these issues, among them, special needs trust/supplemental needs trust or an ABLE account may.

* If your loved one has assets in their name over \$15,000, they will not be eligible for Medicaid. If he/she has assets in their name over \$2,000, they will not be eligible for SSI. The use of supplemental needs trusts (a/k/a special needs trusts) can help solve this issue.

We know this is a confusing time. Please reach out to our office if you have any questions or need assistance.

Stay healthy and safe,
Saundra Gumerove & Associates