

THE BEGLEY LAWYER ALERT

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NEW JERSEY CHARITY CARE

By Austin F. DuBois, Esquire

In addition to programs like Medicaid, which are generally forward-looking in nature, New Jersey offers additional backward-looking government benefits for persons with low assets and income without insurance. The primary program is New Jersey Charity Care.

Normally, if a person is concerned about being provided with health care coverage but lacks the means to obtain it, they can apply for Medicaid and the state and federal governments will provide health care coverage. However, the Medicaid application process is done by the individual, usually with the help of a firm such as ours, a Medicaid specialist, or the employees of the county's Board of Social Services. It is also done primarily for the individual's routine medical needs and "just in case" unfortunate and unforeseen medical treatment is ever necessary. Conversely, Charity Care is a government program that is geared toward individuals who have not had the foresight or opportunity to apply for Medicaid, and had the misfortune to have gotten in an accident, or required the immediate services of a hospital for some other medical reason.

Importantly, Charity Care is provided only for services rendered by acute care hospitals. As such, hospitals normally have a Charity Care on staff to screen applicants for eligibility. Applicants also must be New Jersey residents and lack sufficient health care coverage. And of course, there are financial criteria.

Charity Care has, like Medicaid, a "snapshot" date which is the first day of hospitalization. The asset and income criteria are assessed as of that date. The

applicant's assets cannot exceed \$7,500 and family assets cannot exceed \$15,000. The applicant's primary residence is exempt from this calculation.

Strategy: Should an applicant's assets exceed these limits, he/she may "spend down" the assets to the eligible limits through payment of the excess toward the hospital bill and other approved out-of-pocket medical expenses.

Important Definition: Family Size

Family size is relevant because the income requirements for Charity Care eligibility are determined in reference to the United State Department of Health and Human Services (HHS) Poverty Guidelines. The HHS sets the poverty guidelines by an income-to-family size ratio. The larger the family size, the higher the income threshold for poverty (larger families are "poor" at higher incomes than smaller families or individuals).

"Family size" includes the individual, their spouse, any minor children the applicant supports, and any adult children for whom the applicant is legally responsible. For minor children, family size includes both parents, the spouse of a parent, minor siblings, and any adults in the family for whom the applicant's parent(s) are responsible. *Note:* A pregnant woman counts as two family members.

"Legal responsibility" would refer to an incapacitated adult child of whom the applicant is the Guardian, but would not refer to adult children for whom the applicant is paying for college.

Examples:

A father and mother are unmarried, but have a 21-year-old son with Down's syndrome over whom the mother is Guardian, and a pregnant 17-year-old daughter.

If the father applies for Charity Care, his family size will be **3**:

1. himself
2. his daughter
3. the daughter's unborn child

The daughter counts because she is a minor, and counts for another member because she is pregnant. The son doesn't count, because he is not a minor, nor is the father legally responsible for him. The mother doesn't count because she is not his spouse.

If the mother applies for Charity Care, her family size will be **4**:

1. herself
2. her son
3. her daughter
4. the daughter's unborn child

The father doesn't count because he is not her spouse. The son counts because she is legally responsible for him.

If the daughter applies for Charity Care, her family size will be **5**:

1. herself
2. her unborn child
3. her father
4. her mother
5. her mother's incapacitated son

Her parents count because she is a minor. Her mother's incapacitated son counts because her mother is legally responsible for him.

Note: If either parent had any other minor children or had remarried, those children and spouses would also count toward the daughter's family size.

Income Eligibility Requirements:

The applicant's eligibility for Charity Care is not a black and white matter: there is a certain range of income where Charity Care will pay part of your hospital bill. That range is where income is between 200% and 300% of the HHS Poverty Guidelines. If an applicant's income is *less than or equal to* 200% of the Guideline amount, Charity Care will pay the medical expenses in full. If the applicant's income is *greater than* 300%, that applicant is ineligible. The intermediate rates are illustrated by the table below:

Percentage of Guideline Amount

Paid by Patient

less than or equal to 200%	0%
greater than 200% but less than or equal to 225%	20%
greater than 225% but less than or equal to 250%	40%
greater than 250% but less than or equal to 275%	60%
greater than 275% but less than or equal to 300%	80%
greater than 300%	100%

Examples:

A family of four (4), according to the HHS Poverty Guidelines, must have an income of \$21,200 to be considered poverty-stricken. To be eligible for Charity Care, a family of four can earn up to \$63,600 (300% of \$21,200). However, in the event that they did earn \$63,600, they would still be responsible for 80% of their medical bills.

A family of four (4) can earn up to \$42,400 (200% of \$21,100) of income and N.J. Charity Care will pay for all of their medical bills. Anywhere between 200% and 300% is governed by the sliding scale seen above.

Of course, as its name implies, Charity Care is a payer of last resort. It is meant for those who really have no other reasonable means of paying their hospital bills. Therefore, it is also the case that hospitals are under a duty to seek payment of their bills from any other source prior to utilizing the benefits available from Charity Care. For practicing attorneys, especially plaintiffs' personal injury attorneys, this means that even though your accident client may have otherwise been eligible for Charity Care upon their admission to a hospital, the hospital will not allow them to apply, pending the resolution of the lawsuit. If successful, a lien will be placed on the damages awarded or settlement.

Announcements

"Begley, Begley & Bookbinder, P.C." has expanded its representation of our senior citizen client base to advocate them in claims for veterans benefits, particularly those for Aid and Attendance. Over the past month, Thomas D. Begley, Jr., Thomas D. Begley, III, Dana E. Bookbinder and Austin DuBois have been designated as accredited attorneys authorized to undertake this work.

Speakers

If you are interested in having an Elder & Disabilities Law Attorney from Begley, Begley, & Bookbinder speak at an event, please contact Colleen Caruso at (856) 787-4237.

We will be holding a *Medicaid Planning Seminar* as follows

March 4, 2009

10:00 am The Mansion in Voorhees

2:00 pm Mt Holly Library, Mt. Holly

7:00 pm Moorestown Community House,
Moorestown

For Questions or to RSVP, please call us at 800-533-7227

Begley, Begley & Bookbinder

Begley, Begley & Bookbinder, P.C. is an Elder & Disability Law Firm with offices in Moorestown, Stone Harbor and Lawrenceville, New Jersey and Huntington Valley, Pennsylvania and can be contacted at 800-533-7227. The firm services southern and central New Jersey and eastern Pennsylvania.

The Firm provides services in connection with protecting assets from nursing home costs, Medicaid applications, Estate Planning and Estate Administration, Special Needs Planning and Guardianships. If you have a legal problem in one of these areas of law, contact Begley, Begley & Bookbinder at 800-533-7227.

Begley, Begley & Bookbinder has prepared **Special Reports** concerning:

- ❖ *Planning for Long Term Care*
- ❖ *Estate Planning for Parents with Children with Disabilities*

- ❖ *Understanding Estate Planning*
- ❖ *Estate Administration*
- ❖ *Blended Families*
- ❖ *Bloodline Trusts*
- ❖ *Vacation Area Homes – Tax and Management Issue*
- ❖ *Special Needs Trusts*
- ❖ *Utilizing Special Needs Trusts in Matrimonial Cases.*
- ❖ *Using Special Needs Trust to Protect Public Benefits*
- ❖ *Resolving Your Nursing Home Medicaid Application Challenge*
- ❖ *Domestic Partners*
- ❖ *Providing for Your Pet*
- ❖ *Providing for Your Grandchildren*
- ❖ *Charitable Giving*
- ❖ *Planning for Your Business*
- ❖ *Medicare Set-Aside Arrangements*

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Our web site contains a library of firm newsletters, articles, on-line forms for Medicaid, Estate Planning and Guardianship, as well as our upcoming speaking engagements, our products, and other relevant information.

If you have any comments, e-mail us at ccaruso@begleylawyer.com

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