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FILING FOR PUBLIC BENEFITS – PRELIMINARY APPLICATION ISSUES

By: Dana E. Bookbinder

The pile of paperwork required and an often-inefficient government processing system can make filing an application for public benefits an enormous project. When applying for Medicaid or other public benefits, it is crucial for applicants to be well prepared and well versed in the legal implications of all information to be supplied in support of the application. Also, when the state or county office fails to meet a deadline or erroneously renders a disposition on an application, the applicant must be prepared to exercise his Constitutional and state statutory rights. Following is a sample list of Medicaid application issues, which should be addressed to avoid unnecessary delays and denials.

1. Selecting a Program - Applicants for public benefits must decide which programs for which they wish to apply. The choice of programs may depend on the applicant's living situation, physical condition, and financial status.

2. Timeliness of Filing - Although families have the opportunity to expedite their Medicaid eligibility through asset protection planning under the guidance of an elder law attorney, it is vitally important that applicants do not apply for Medicaid prematurely.

3. Authorization to Apply - In most cases, the applicant himself is unable to visit the welfare office and offer detailed information on his financial status. The law, therefore, specifically provides that a relative, welfare agency staff member, staff member of the institution in which the applicant resides, or a professional such as a doctor or attorney may apply on the applicant's behalf.

4. Physical Criteria - Qualifying for Medicaid involves not only financial criteria, but also physical requirements. Therefore, applicants must demonstrate through a physical exam that he or she is unable to perform the activities of daily living, including feeding, dressing, bathing, toileting and continence.

5. Intake Procedures - Counties often differ with regard to their procedures for the intake of benefits applications. While some counties are more lenient as to what types of documents may be submitted by mail, the initial filing of a Medicaid application generally requires a face-to-face interview with a Medicaid caseworker.

6. Substantiating the Data - The Medicaid application itself is several pages, and the answers to each question must be substantiated by legal or financial documentation, usually dating back as far as three years from the date of the application.

7. Additional Documentation and County Variation - In addition to the personal and financial data, applicants who have been able to protect assets through planning for benefits may also have additional supporting information to submit to the welfare office.

8. Enforcing the Applicant's Rights - Enforcing clients' rights can be done through a fair hearing, which is an informal proceeding before an administrative law judge. These hearings are often used to expedite the decision making process of the county and state welfare agencies. Individuals who do not exercise their federal and state rights to a prompt decision on their Medicaid applications might otherwise find themselves waiting over a year to learn whether their nursing home bills, which had been accruing, will be covered by the benefits programs.



Begley & Begley P.C. is a law firm that concentrates on Estate & Tax Planning, Elder Law, Estate Administration, Guardianship and Will Contests, Real Estate, as well as Medicaid Planning. We are based in Moorestown, NJ, with offices in Avalon and Lawrenceville.

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If you are interested in having an Elder Law Attorney from Begley & Begley speak at an event, please contact Laura Dickens at (856) 787-4233.

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