ATTORNEY AFFIRMATION
NEW YORK CLE CREDIT FOR NONTRADITIONAL FORMAT COURSE

I, _____, acknowledge receipt of the course materials for:
(attorney name)

_____
(course title)

I certify that I have listened to and/or viewed the above course in its entirety. Therefore, I request that I be awarded the applicable number of New York CLE credits for this course.

Format (*check one*)

G Teleconference
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G Other _____
(Please Describe)

COURSE CODE: _____

During the course or program you will see and/or hear a CLE code. Please enter the code in the above field. If you do not include the code, you will not be awarded New York CLE credit. If there are multiple codes (for example, a separate code for each segment of a program) please enter here:

Code #2: _____ Code #3: _____
Code #4: _____ Code #5: _____

_____
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_____
Signature of Attorney

_____
Date of completion of CLE course
(*New York attorneys earn CLE credit as of the date they complete a CLE course*)

- To obtain New York CLE credit, please complete and sign this form and then submit it to the CLE provider. Once your participation is verified by the provider, a New York CLE Certificate of Attendance will be issued to you by the provider.
- New York attorneys should retain a copy of this affirmation along with their New York CLE Certificate of Attendance.
- Experienced New York attorneys (attorneys who have been admitted to the New York Bar for more than two years) may earn CLE credit through nontraditional formats. Newly admitted attorneys (attorneys who have been admitted to the New York Bar for two years or less) should confirm that the format is permissible for the category of credit.
- Please note that in New York, one hour of CLE credit consists of at least 50 minutes of instruction. Credit hours must be calculated in no less than 25-minute (.5-hour) increments.

Dutchess County Bar Association

Continuing Legal Education (CLE) Program Evaluation Form

Please circle the number that best describes your rating of each question.

	Excellent	Good	Average	Poor
How would you rate the overall content of the program?	1	2	3	4
How would you rate the written material of the program?	1	2	3	4
To what extent did the program meet the following objectives:				
a. Present information you wanted	1	2	3	4
b. Provide answers to your questions	1	2	3	4
c. Provide you with knowledge or new skills	1	2	3	4
Please rate the speakers regarding content or presentation and ability to present subject material:				
Hon. Michael Hayes	1	2	3	4
Rebecca Blahut, Esq.	1	2	3	4
Kenneth Bernstein, Esq.	1	2	3	4
Kyle Steller, Esq.	1	2	3	4
Melissa Dizon, Esq.	1	2	3	4

How would you rate the technology for this course? 1 2 3 4

6. What month and year were you admitted to the NYS Bar? _____

7. What is your primary area of practice? _____

8. How did you learn about this program? _____

9. What changes would you recommend if this program were presented again?_____

10. What CLE Programs would you like to see us present in the future?_____

Name:_____

ARTICLE 81 GUARDIANSHIP
VIRTUAL CLE AGENDA
September 18 and 25, 2025

PANELISTS

PART I

	Name	Topic
1.	Hon. Michael G. Hayes, Surrogate, A.J.S.C.	Introductory Remarks (15 minutes)
2.	Hon. Michael G. Hayes, Eric S. Conroy, Esq. and Erica S. DeTraglia, Esq.	MHL Article 81, Article 83 and SCPA Article 17-A (15 minutes)
3.	Jeffrey Rothschild, Esq.	Guardianship Proceedings: Overview and Background (50 minutes)
4.	Genoveffa Flagello, Esq., MHLS	The Court Evaluator: Duties, Responsibilities and Ethics (MHL §§81.09); The Hearing (MHL §§81.11, 81.13, and 81.14) (50 minutes)
5.	Kelly L. Traver, Esq.	Ethical Responsibilities of Court Evaluators, Attorneys of Alleged Incapacitated Person, and Guardians (50 minutes)
6.	Genoveffa Flagello, Esq., MHLS and Kyle A. Steller, Esq.	Rights of the Alleged Incapacitated Person (pre-hearing); The Attorney for the Alleged Incapacitated Person; Role, Duties, Ethics (MHL §81.10) (60 minutes)

PART II

1.	Hon. Michael G. Hayes, Surrogate, A.J.S.C.	Introductory Remarks (15 minutes)
2.	Rebecca M. Blahut, Esq.	Community and Institutional Resources and Entitlements (20 minutes)
3.	Kenneth M. Bernstein, Esq.	Part 36 of the Rules of the Chief Judge (35 minutes)
4.	Kyle A. Steller, Esq.	Duties, Responsibilities and Ethics of the Guardian; Preparation of Reports (50 minutes)
5.	Melissa A. Dizon, Esq.	Rights of the Incapacitated Person (post-hearing); Current Legal Issues; Medical and Treatment Issues (60 minutes)

Article 81 Guardianship
Dutchess County Bar Association
September 18 and 25, 2025
Total CLE hours: 7 hours for professional practice credits

PART I

I. Introductory Remarks (15 minutes)

Hon. Michael G. Hayes, Surrogate of Dutchess County

1. Welcome, administrative matters of course attendance and accreditation
2. This course entitles enrollment on Part 36

II. MHL Article 81 and SCPA Article 17-A Compared

Presented by Hon. Michael G. Hayes, Eric Conroy, Esq. and Erica S. DeTraglia, Esq. (15 minutes)

1. Article 17A and 17 Guardianships versus Article 81
2. Article 83

III. Guardianship Proceedings: Overview and Background

Presented by Jeffrey Rothschild, Esq. (50 minutes)

1. Concepts and Legislative Findings (MHL §81.01); Civil rights deprivation, due process issues, drastic remedy, tailoring, flexibility, self-determination, independence and participation
2. Proving the required elements (MHL §81.02[a])
   a. Appointment of a guardian is "NECESSARY", PLUS
   b. AIP "AGREES" to the appointment, OR
   c. AIP is "INCAPACITATED"
      I) Inability to provide for self, and
      ii) Inability to understand consequence of inability to provide for self
3. Definition of MHL §81.03
4. Least Restrictive Form of Intervention (MHL §81.03[d])

IV. Pre-Hearing Procedural Issues

Presented by Jeffrey Rothschild, Esq.

5. Jurisdiction (MHL §§81.04 [a] and [b]) and Venue (MHL §81.05)
   a. Residents, non-residents
   b. Surrogate's Court: "or has any property in the county"
6. Who May Commence a Proceeding: Petitioners (MHL §81.06)

7. Who Must be Notified (MHL §81.07)
   a. Notice v. service, OSC, supporting papers
   b. Persons entitled to service
   c. Manner of service; "personally delivered"
8. Order to Show Cause/Notice requirements
   a. Language of the AIP; Date, Time and Place of Hearing
   b. Statement of AIP's Rights
   c. Name, Address and Phone Number of Court Evaluator and/or Attorney
   d. Powers Requested (MHL §81.07[b][3])
   e. Legend (MHL §81.07[c])
9. Supporting affidavits required? (MHL §81.07[b][3])
10. Petitioner shall file notice of pendency if interest in real property will be affected (MHL §81.24)
11. Provisional Remedies
   a. Temporary Guardians (MHL §81.23[a])
   b. Injunction and Temporary Restraining Order (MHL §81.23[b])
   c. May not enjoin or restrain AIP/IP (MHL §81.23[b][1])

V. The Court Evaluator: Duties, Responsibilities and Ethics (MHL §81.09, §81.40)

Presented by Genoveffa Flagello, Esq. (50 minutes)

1. Who may serve
2. Independent witness v. advocate; responsibility to the court
3. Statutory duties (MHL §81.09[c])
   a. Meet AIP, explain rights, determine if counsel is necessary
   b. Interview petitioner/parties/professionals
   c. Attend all court proceedings
   d. Preservation of endangered property
   e. Investigate and file written report and recommendations
4. The Report: investigation, recommendations, tailoring, least restrictive form of intervention (MHL §81.09[c][5]
5. Access to medical, psychological and/or psychiatric records; consent/privilege/court order; HIPAA and other federal statutes (MHL §81.09[d])
6. Employment of medical and other experts by Court Evaluator
7. Role during the hearing and afterwards
8. Compensation of Court Evaluator (MHL §81.09[f])
   a. Reasonable
   b. Payable by AIP, petitioner

VI. The Hearing (MHL§§81.11, 81.13, 81.14)

Presented by Genoveffa Flagello, Esq.

9. Always must be held and must be conducted in the presence of the AIP (MHL §81.11[c])(see exceptions)
10. When court must explain AIP's rights (MHL §81.11[e])
11. Jury trial (MHL §81.11[f])

12. Rules of evidence (MHL §81.12[b])
13. Power of the court and burden of proof (MHL §§81.02, 81.12[a])
14. Consider all resources and alternatives: financial, social, medical
15. Time of hearing and decision
16. Standby, alternate and/or successive alternate guardians; empowered to act, must be confirmed within sixty (60) days
17. Record of the proceeding (MHL §81.14)
    a. Sealing of the record
    b. Exclusions of persons
18. Compensation of Attorney for Petitioner (MHL §81.16[f], Court Evaluator MHL §81.09[f], Attorney for AIP; "reasonable allowance"

VII. Ethical Responsibilities of Court Evaluators, Attorneys for the Alleged Incapacitated Person, and Guardians

Presented by Kelly L. Traver, Esq. (50 minutes)

1. Court Evaluator under MHL §81.09
    a. AIP's privacy and privileges (CPLR §4504, MHL §33.13, PHL §2785) Report
    b. Recommending appointment of counsel
2. Counsel

-Appointed counsel or privately retained counsel? Jury?

    a. Rule 1.3: Abiding by client's decisions concerning the objectives of representation

    Rule 1.4: Consult with the client as to the means by which they are to be pursued
    b. Advocacy when client's judgment is not good
    c. Rule 1.2: Allocation of responsibility between counsel and client

-When client has poor judgment and makes bad decisions? When the client can't communicate, won't communicate, needs help or is the victim of elder abuse

    a. Rule 1.14: "[M]aintain a conventional relationship"
    b. Reasonable belief of diminished capacity and risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in her own interest, "the lawyer may take reasonably necessary protection action," which may include consulting with others with the ability to take protective action, seek appointment of a guardian ad litem or guardian
    c. Rule 1.16: Protecting the AIP's due process and other rights
3. Duties of Guardian
    a. Source and scope of powers: order and judgment, commission, and Article 81
    b. MHL §81.01 interventions should be tailored to the AIP's individual needs taking into account the AIP's personal wishes, preferences and desires and which affords the AIP the greatest amount of independence and self determination
    c. Financial obligations of Guardian as Fiduciary
    d. Guardian cannot consent to ECT, psych meds, admission to mental hygiene or substance abuse facility; cannot commence divorce proceedings unless court

PART II

I. Introductory Remarks (15 minutes)

Hon. Michael G. Hayes, Surrogate of Dutchess County

1. Welcome, administrative matters of course attendance and accreditation
2. This course entitles enrollment on Part 36

II. Community and Institutional Resources and Entitlements

Presented by Rebecca M. Blahut, Esq. (20 minutes)

1. Professionals and alternatives to guardianships
2. Benefits, entitlements public and private:
   a. Medicare
   b. Medical Assistance benefits (Medicaid)
   c. Social Security Requirement Benefits, Social Security Disability Benefits (SSD), Supplemental Security Income (SSI)
3. Hospital discharge issues; Nursing Homes: admission, resident rights, oversight Agencies
4. Community resources: Office of the Aging, county offices, Department of Social Services (DSS), home health agencies, Visiting Nurses, assisted living facilities, adult homes, prevention and supportive services, treatment services, case management

III. Part 36 of the Rules of the Chief Judge (22 NYCRR 36)

Presented by Kenneth M. Bernstein, Esq. (35 minutes)

Categories, primary and secondary appointments (§36.1)
Exceptions, including guardians who are relatives, nominated or proposed; SNT trustees; NFPs; appointments without compensation (§36.1[b])

1. Distinguish "lay" guardians from "professional" Part 36 list appointments
2. Appointments, lists, disqualifications (§36.2[a], [b], and [c])
   a. Non-list appointment/"good cause" in writing
   b. Relationship/employment disqualifications
   c. Guardianship specific disqualifications
      i) Attorney for AIP as guardian/absolute bar
      ii) Court Evaluator as guardian/extenuation circumstances
3. Limitations on compensation:
   a. $15,000.00 and $75,000.00 Rules (§36.2[d])
   b. Continuity of representation or service exception (§36.2[d][4])
4. Appointment process, Part 36 paperwork:
   a. Notice of appointment/certification of compliance (UCS-872)
   b. Statement of Approval of Compensation (UCS-875)
   c. Reporting law firm compensation (UCS-876)(§36.4[c]
   d. Foreclosure referee exception (§36.4[d])

5. Public records and publication (§36.5)

IV. Duties, Responsibilities and Ethics of the Guardian

Presented by Kyle A. Steller, Esq. (50 minutes)

1. Understanding and Complying with Court Orders
   a. The order and judgment
   b. Designation (MHL §81.26) and bond (MHL §81.25)
   c. Commission (MHL §81.27)
      i) Issued by the clerk
      ii) Within five (5) days of filing the designation, bond
      iii) Specific powers to be listed
2. Fiduciary Relationship (MHL §81.20): utmost care and diligence, utmost degree of trust, loyalty and fidelity, surcharge on guardian; limitation of powers; afford greatest amount of independence and self-determination
3. Powers of Guardian: Guardian for property management (MHL §81.21)
   a. Marshaling assets and establishing an accurate inventory
   b. Developing and submitting budget and care plan for the needs of incapacitated person and any dependents of incapacitated person
   c. Determining eligibility for government and private benefits and make application
   d. Keeping accurate financial records that reflect all income and expenditures
   e. Seek court approval for any unusual expenditures: renovation vehicles
   f. Contracts for sale of property require court approval
   g. Local and secure Last Will and Testament
   h. Prudent Investor Rule: overall strategy of market risk, trustee may delegate investment responsibility
   i. Court approval to hire specific professionals: counsel to guardian, accountant, appraiser, property manager, real estate broker
      i) Distinguish "lay" guardians
      ii) Part 36 guardians
4. Powers of Guardians: Guardian for personal needs
   a. Devising a care plan and supervising medical, dental, mental health or related services for the incapacitated person
   b. Powers: personal care and assistance, social environment, travel, license, authorize access to or release of confidential records, education, apply for benefits, keeping accurate financial records the reflect all income and expenditures
   c. Seek court approval for any unusual expenditures: renovation, vehicles
   d. Contracts of sale of property require court approval
   e. Locate and secure Last Will and Testament
   f. Prudent Investor Rule: overall strategy of market risk, trustee may delegate investment responsibility
   g. Court approval to hire specific professionals: counsel to guardian, account, appraiser, property manager, real estate broker
      i) Distinguish "lay" guardians
      ii) Part 36 guardians
5. Powers of Guardians: Guardian for personal needs

authorized to do so

4. Case studies – WHAT WOULD YOU DO?

VIII. Rights of the Alleged Incapacitated Person (Pre-Hearing)

Presented by Genoveffa Flagello, Esq. and Kyle A. Steller, Esq. (60 minutes)

1. Right to the least restrictive form of intervention
2. Functional assessment and function limitation
3. Tailored orders
4. Rights during the proceeding (MHL §81.11)
   a. Right to counsel
   b. Right to object to the disclosure of medical records
   c. Right to be present at the hearing
   d. Right to present evidence and call and cross-examine witness(es)
   e. Right to demand a jury trial
   f. Nomination of guardian by AIP (MHL §81.17)
   g. Alternatives to guardianship/alternative resources (POA, HCP)
   h. Burden of proof; affirmative defense/element of proof (MHL §81.12)
   i. Interview techniques/challenges

IX. The Attorney for the Alleged Incapacitated Person; Role, Duties and Ethics (MHL §81.10)

Presented by Genoveffa Flagello, Esq. and Kyle A. Steller, Esq.

5. Right to Counsel; AIP's choice or court appointed
6. When the court must appoint counsel
7. Communication with Client
   a. Refusal by Client
   b. Disability, mental illness
8. Ethical issues of representation; zealous advocate vs. best interests
9. Formulate a care plan for personal and property management; seek creative alternatives, include neighbors, church, agencies, etc.
10. Access to and use of medical psychological and/or psychiatric records; HIPAA and other federal statutes
11. Court may waive Court Evaluator appointment (MHL §81.10[g])
12. Compensation of Attorney for AIP (MHL §81.10[f])
    a. Reasonable
    b. Paid by AIP, petitioner
13. Order and Judgment; Notice (MHL §81.16[e])
    a. Responsibility to explain order and judgment to IP

a. Devising a care plan and supervising medical, dental, mental health or related services for the incapacitated person

b. Powers: personal care and assistance, social environment, travel, license, authorize access to or release of confidential records, education, apply for benefits

c. Special Powers: medical treatment (MHL §81.29[e]), life sustaining treatment including nutrition and hydration (Article 81 does not change current NY law), place of abode, title to property (MHL §81.29[c]), bond amount fixed by court (MHL §81.25)

d. Unauthorized action: voluntary admission to mental hygiene facility; revocation of power of attorney, health care proxy or living will; court revocation of POA, HCP, DNR (MHL §81.29[d]), contract or conveyance if court finds incapacity at time of making; *see* Matter of Rochester General Hospital (Levin), 601 N.Y.S.2d 375, (Sup. Ct, Monroe County 1993) court's inherent power

6. Mandatory minimal visits with IP

7. Locate and secure Last Will and Testament; determine persons to be notified in case of death of ward

8. File statement identifying real property (MHL §81.20[a])

V. Rights of the Incapacitated Person (Post-Hearing)

Presented by Melissa A. Dizon, Esq. (60 minutes)

1. Findings of the court required; Order and Judgment (MHL §81.15)
   a. Necessity, PLUS
      i) Agreement, OR
      ii) Incapacity, harm, lack of understanding and appreciation
   b. Functional limitations, specific powers, duration
   c. Type and Amount of Property and Financial Resources
2. Effect of the Appointment of a Guardian on the IP
   a. Due process rights
   b. All powers not granted to Guardian are retained by IP
3. Dispositional Alternatives (MHL §81.16)
   a. Dismissal
   b. Protective arrangements
   c. Single Transactions
   d. Special Guardian
   e. Appointment of Guardian; Least Restrictive Form of Intervention

VI. Current Legal Issues

Presented by Melissa A. Dizon, Esq.

4. Dealing with Durable Powers of Attorney (GOL 5-1501), guardian may not revoke (MHL §81.22[b][2])

5. Dealing with Health Care Proxies (PHL 2981), Do Not Resuscitate ("DNR") Orders (PHL 2965), guardian may not revoke (MHL §81.22[b][2])

6. Dealing with End-of-Life Issues

a. *Matter of O'Connor*, 72 N.Y.2d 517, 534 N.Y.S.2d 886 [1988]. Clear and convincing evidence must exist as to the patient's wishes regarding life-sustaining treatment

expressed while the patient was competent

b. End-of-Life Decision-making for the Mentally Retarded and Developmentally Disabled (SCPA 1750, 1750-b)

c. "Living Wills", guardian may not revoke (MHL §81.22[b][2])

7. Medical Testimony and Confidentiality Issues, HIPAA

8. Problems of the mentally ill-Article 19 and Article 81, AOT (MHL §9.60) proceedings

a. Involuntary hospitalization/assisted outpatient treatment

b. Is guardianship a solution?

9. Psychotropic Medications, *Rivers v. Katz*, 67 N.Y.2d 485, 504 N.Y.S.2d 74, 495 N.E. 2d 337 [Ct App 1986]

VII. Medical and Treatment Issues

Presented by Melissa A. Dizon, Esq.

10. Orientation to medical terminology

11. (Review if necessary: Functional Limitations and Least Restrictive Form of Intervention)

12. Diagnostic and Assessment Procedures

a. Dementia, mental illness, developmental disabilities, alcoholism and substance abuse

b. Extend and reversibility of impairment

c. Medications and adverse reactions

d. Psychological and emotional problems associated with the aging process; mental or physical disability

e. Stresses of care-giving

f. Psychological and social concerns of elderly or disabled

ARTICLE 81 GUARDIANSHIP CLE
DUTCHESS COUNTY BAR ASSOCIATION
September 25, 2025

Community and Institutional Resources and Entitlements - Rebecca M. Blahut, Esq.

1. **Professionals and alternatives to guardianships**

Powers of Attorney and Healthcare Proxies

Use of Supplemental Needs Trusts (Morales Trust if Guardianship is implemented)/ ABLE Accounts – In re Morales, 214 N.Y.L.J. 19 (July 28, 1995); www.mynyable.org

Structured Settlements

Family Agreements

Mediation

Certified Geriatric Care Mangers

Aging Life Care Association
https://www.aginglifecare.org/

NY Chapter of Aging Life Care Association
https://www.nyalca.org/

NY MHL §81.16: Dispositional Alternatives

§81.16 (b): " If the person alleged to be incapacitated is found to be incapacitated, the court without appointing a guardian, may authorize, direct, or ratify any transaction or series of transactions necessary to achieve any security, service, or care arrangement meeting the foreseeable needs of the incapacitated person, or may authorize or ratify any contract, trust, or other transaction relating to the incapacitated person's property and financial affairs if the court determines that the transaction is necessary as a means of providing for personal needs and/or property management for the alleged incapacitated person."

Examples of situations to employ 81.16 ("special guardians"):

AIP has POA and HCP but needs to be placed in a nursing home which is beyond attorney-in-fact and healthcare agent's authority - court may authorize placement without appointing a permanent guardian.

AIP's assets can be transferred to a spouse or other person to qualify for Medicaid, but POA does not authorize gifts - court can authorize transfers without appointing a permanent guardian.

2. **Benefits, entitlements public and private**

a. **Medicare**

Medicare is health insurance for:
- People 65 or older
- People under 65 with certain disabilities
- People of any age with End-Stage Renal Disease

Types:

Medicare Part A (Hospital Insurance) helps cover:
- Inpatient care in hospitals
- Skilled nursing facility care (short term) - requires a 3-day hospital stay as an inpatient prior to admission to nursing facility
- Hospice care
- Home health care (not 24/7)

Medicare Part B (Medical Insurance) helps cover:
- Services from doctors and other providers (speech, physical and occupational therapies, etc.)
- Outpatient care
- Home health care (not 24/7)
- Durable medical equipment
- Some preventative services

Medicare Part C (Medicare Advantage) helps cover: Same as Parts A & B, but is run through private insurance companies

Medicare Part D (Prescription Insurance) helps cover: Cost of prescriptions

Medicare **does not** cover:
- 24 hour home care
- Meals delivered to a home
- Homemaker services
- Personal care
- Long-term nursing home care (custodial care)
- Routine dental or eye care
- Dentures
- Cosmetic surgery
- Acupuncture
- Hearing aids and exams for fitting them
- Routine foot care

Medigap Insurance: IF you have Medicare Parts A& B you may obtain, at your cost, private insurance in the form of a Medigap Policy.

Helps cover copayments, coinsurance, deductibles and services Medicare does not cover.

Does not cover: long-term care, vision or dental care, hearing aids, eyeglasses or private-duty nursing.

RESOURCES: 1-800-MEDICARE or www.medicare.gov
See attached - NYSBA Elder and Special Needs Law Journal 2025, Volume 35

b. **Medical Assistance benefits (Medicaid)**

Medicaid is a government assistance program which provides aid to individuals who meet certain resource and income limits. Medicaid has many programs for low income individuals, including HEAP (for heating bills), WIC and food stamps. Our discussion is limited to assistance with long-term medical care.

All Medicaid benefits, both at home and in nursing homes, are now managed by Managed Long Term Care agencies (MLTCs). Long-term care benefits cover dental, vision, podiatry, audiology and specialty health (PT).

Community Medicaid:

Covers the cost of home health care assistance, including home nursing care and aides. (List of providers available at NYS DOH website.)

Resource Limits:
Individual - $32,396
Couple - $43,781
Spousal Budgeting - $74,820-$157,920
(Plus burial fund of $1,500 or any amount if in an irrevocable pre-need funeral arrangement)

Income Limits*:
Individual - $1,800 (+$20 if aged, blind or disabled)
Couple - $2,433 (+$20 if aged, blind or disabled)
Spousal Budgeting - $3,948

*Use pooled trust to shelter excess income
-Couple budgeting if both are on Medicaid, Spousal if only one

Nursing Home Medicaid:

Covers the costs of long-term home health care provided in nursing home facilities.

Resource Limits:

Individual - $32,396
(Plus burial fund of $1,500 or any amount if in an irrevocable pre-need funeral arrangement)
Spouse - $74,820 (plus ½ of the combined resources exceeding the minimum to a maximum of $157,920)

Income Limits:

Individual - $50
Spouse - $3,948

*A higher resource limit or income allowance may be established by court order or fair hearing due to exceptional circumstance - not common. Veterans' disability income payments are exempt.

Additional Exempt Resources for Community Spouse:

Burial fund of $1,500
Burial fund in any amount in an irrevocable burial account
Home
Vehicle

Other Common Exempt Transfers:

Transfer of home to adult caretaker child, sibling who resides in home or adult disabled child
Transfer of all excess resources to adult disabled child, outright or in a "sole benefit" trust
"Half-a-loaf" transfers involving a gift of approximately ½ of the excess resources and a loan with a DRA compliant promissory note of the balance of the excess resources

Applicants are subject to a 5-year look-back period. Penalty period is calculated using a "factor" of $14,569 - the monthly regional nursing home rate for Dutchess County.

RESOURCES: Dutchess County Office of the Aging - 486-2555
Elderlaw attorneys - www.NAELA.org to find a local attorney

c. **Social Security Income**

Retirement Benefits

You can apply online for retirement benefits or benefits as a spouse if you:
are at least 61 years and 9 months old;
are not currently receiving benefits on your own Social Security record;
have not already applied for retirement benefits; and
want your benefits to start no more than 4 months in the future.

If you are applying for retirement benefits, there are certain Social Security "basics" you should know. The most important one is knowing your "full retirement age." Depending on your date of birth, it may be between age 66 and 67. This could affect the amount of your benefits and when you want the benefits to start. You may start receiving benefits as early as age 62. However, your monthly benefits will be reduced if you start them any time before "full retirement age."

Disability Benefits:

Social Security Disability Income (SSDI):

Social Security pays disability benefits to you and certain members of your family if you have worked long enough and have a severe medical condition that has prevented you from working or is expected to prevent you from working for at least 12 months or end in death. The determination is based solely on medical evidence and benefits are not available for disabilities based solely on alcoholism or drug addiction. Benefits are based on work credits, some of which must have been earned in recent years.

Supplemental Security Income (SSI):

The Supplemental Security Income (SSI) program pays benefits to disabled adults and children who have limited income and resources ($2,000 limit). It is designed to help aged, blind, and disabled people, who have little or no income; and it provides cash to meet basic needs for food, clothing, and shelter. SSI benefits also are payable to people 65 and older without disabilities who meet the financial limits. People who have worked long enough may also be able to receive Social Security disability or retirement benefits as well as SSI. Information re: income and resource limits is attached.

Supplemental Security Income (SSI) is a Federal income supplement program funded by general tax revenues (not Social Security taxes).

Survivors Benefits

Social Security Survivors benefits may be available for a surviving or divorced spouse age 60 years or older (50 if disabled), minor children, children who were disabled before age 22, and dependent parents older than age 62.

RESOURCES: www.ssa.gov

Sample Publications available on website:

What You Need To Know When You Get Retirement Or Survivors Benefits (Publication No. 05-10077)

What You Need To Know When You Get Social Security Disability Benefits (Publication No. 05-10153)

What You Need To Know When You Get Supplemental Security Income (SSI) (Publication No. 05-11011)

3. **Hospital discharge issues; Nursing Homes: admission, resident rights, oversight agencies**

Observation Status Bill:

Know when you go to a hospital if you are admitted or being observed
Patients are to be given oral and written notice if under observation w/in 24 hours
Medicare Part A pays for hospital stays if ADMITTED - "two midnight rule"
Medicare Part A d/n cover outpatient care... Part B does. Results in higher co-pays and no nursing home coverage.
Transfers to Nursing Home with Medicare paying for rehab ONLY occurs if you have been admitted, NOT observed in a hospital, for three days.
Ask questions, advocate, speak to your doctor
May remain "outpatient" even if in hospital for days
Right to appeal

1. In Medicare summary notice, state inappropriately billed under Part B as outpatient services and challenge outpatient status

2. File appeal for reimbursement for nursing home costs

Nursing Home Resident Rights

NYS Department of Health Publication: "Your Rights as a Nursing Home Resident in New York State and Nursing Home Responsibilities" - www.health.ny.gov/facilities/nursing/rights

Basic Resident Rights

You have the right to:

Dignity, respect and a comfortable living environment
Quality of care and treatment without discrimination
Freedom of choice to make your own, independent decisions
The safeguard of your property and money
Safeguards in admission transfer and discharge
Privacy in communications
Participate in organizations and activities of your choice
An easy to use and responsive complaint procedure
Exercise all of your rights without fear of reprisals.

Resident Rights with Respect to Transfer and Discharge

You have the right to:

Transfer to another room in the facility if you wish;
be given 30 days notice before transfer or discharge, except in cases where the resident is at risk of harming themselves or others, when the resident could be discharged earlier;
file an appeal to the New York State Department of Health in response to an involuntary transfer or discharge, for which a hearing can be held under the auspices of the Department;
examine your own medical records;
remain in the facility pending the appeal determination;
a post-transfer hearing within 30 days of transfer if you did not request a hearing prior to transfer; if you win the appeal you will return to the first available bed in the facility;
retain your bed if you have been involuntarily transferred until after the appeal decision is reached;
information such as the name, address and telephone number of the New York State Department of Health, the New York State Long Term Care Ombudsman and the Commission on Quality of Care and Advocacy for Persons with Disabilities.

Oversight and assistance: New York State Department of Health
Dutchess County Department of Social Services (APS)
Ombudsman Program
-www.ltcombudsman.ny.gov/whois/directory

4. **Community Resources**

Adult Protective Services (APS)
Dutchess County Department of Community and Family Services
845-486-3300
Adult Protective Services for Adults (APS) is a state-mandated program which is

provided without regard to income to assist adults age 18 or older who, because of mental or physical impairments, can no longer provide for their basic needs for food, clothing, shelter or medical care, or protect themselves from neglect, abuse, or hazardous situations, and who have no one willing and able to help in a responsible manner.

The law requires APS to conduct an investigation whenever it receives oral or written information concerning a person who is thought to be in need of protective services. APS must accept all referrals made within normal working hours. Adult Protective Services addresses issues that will help the client to function at an improved level. Hopefully, intervention will eliminate the client's need for future protective services.

ADDITIONAL RESOURCES:

Dutchess County Office of the Aging (DUTCHESS Connects)
114 Delafield St.
Poughkeepsie, NY 12601
(845) 486-2555
www.dutchessny.gov/Departments/Aging/Office-for-the-Aging.htm

-table of contents of the Office's extensive services directory attached
-database for licensed Home Healthcare Agencies

Dutchess County Department of Community and Family Services
(845) 486-3000
www.dutchessny.gov/departments/community-family-services/community-and-family-services.html
-HEAP program (for oil/heat)
-food stamps

Office of Veterans Affairs
1335 US-44, suite 2
Pleasant Valley, NY 12569
(845) 486-2060

DUTCHESS COUNTY HELPLINE: 24/7
Call or Text (845) 485-9700 Crisis Counseling Information & Referrals Mobile Crisis Intervention Team

ULSTER COUNTY Crisis Hotline: 24/7
Call (845) 794-0861 or Ulster County Mobile Mental HealthACCESS: Supports for Living (844) 277-4820 or (888)750-2266

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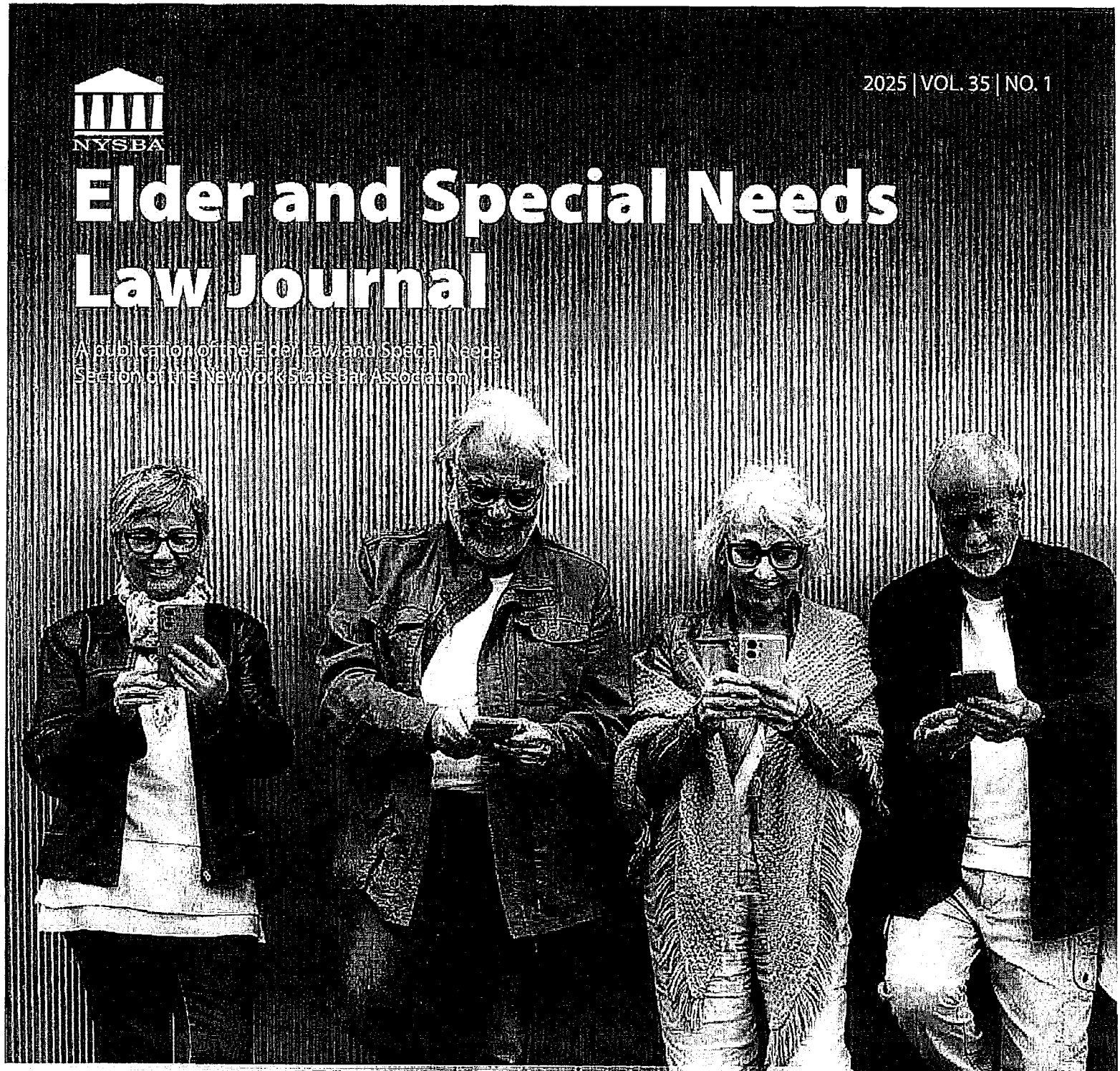
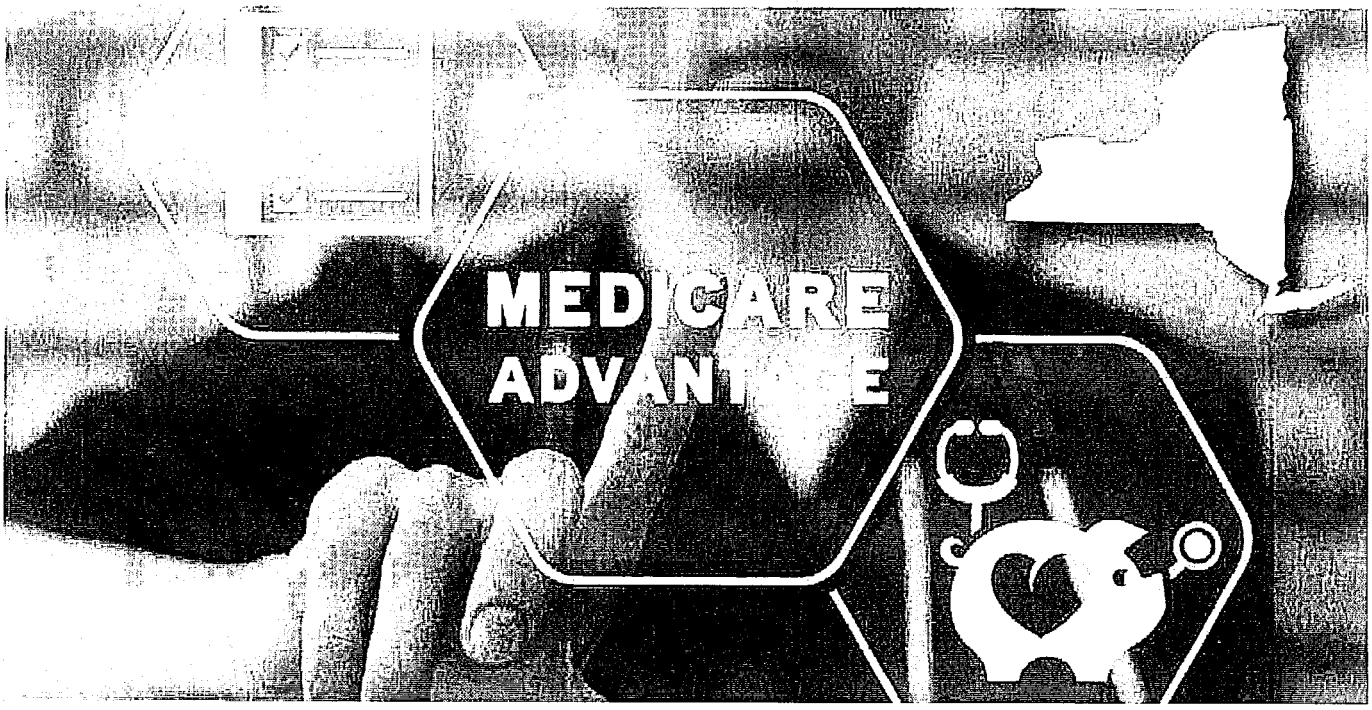
Elder and Special Needs Law Journal

A publication of the Elder Law and Special Needs Section of the New York State Bar Association





Why New York Is One of the Best States for Medicare Beneficiaries

By Britt Burner and Brian Krantz

When it comes to Medicare, not all states are created equal. New York stands out as one of the most consumer-friendly states, offering benefits that don't exist elsewhere. New York is a "guaranteed issue" state, meaning it doesn't require medical underwriting to enroll in a Medicare Supplement plan. This gives New York Medicare beneficiaries unparalleled flexibility, allowing them to change insurance plans easily at any time. New York also has high-income limits for financial assistance programs and state-sponsored benefits. Programs such as The Elderly Pharmaceutical Coverage (EPIC) allow New Yorkers to save significantly on Medicare-related costs.

As an Elder and Special Needs lawyer in the state of New York, you likely have clients or potential clients who are eligible for Medicare. Understanding the basics of Medicare, how the program works in New York, and the various cost-saving initiatives, will be valuable in attracting and retaining clients by showing your deep knowledge of the services available to them at this stage of life.

Understanding Medicare Basics

Medicare is a federal health insurance program primarily for individuals turning 65, as well as those under 65 who qualify due to Social Security Disability Insurance (SSDI). While other circumstances may grant eligibility, these are the most common.

Medicare consists of two main components: Part A, which covers hospital-related services and skilled nursing facilities, and Part B, which covers doctor visits and outpatient medical care.

Unlike Parts A and B, which are administered by the federal government, Medicare Part D prescription drug plans are managed by private insurance companies. To enroll in a Part D plan, a beneficiary must have at least Medicare Part A, though having Part B is not required.

For individuals who receive Medicaid in New York before becoming eligible for Medicare, enrollment in a benchmark Medicare Part D plan happens automatically through a private insurer. This ensures that Medicaid recipients transitioning to Medicare do not lose prescription drug coverage.

One of the most common misconceptions about Medicare is that it is free. While Medicare Part A is premium-free for individuals (or their spouses) who have worked and paid Medicare taxes for at least 40 quarters (10 years), Medicare Part B requires a monthly premium. In 2025, the standard Medicare Part B premium is $185 per month. However, higher-income beneficiaries pay more due to the Income-

Related Monthly Adjustment Amount (IRMAA). Social Security determines your Medicare Part B premium based on your modified adjusted gross income (MAGI) as reported on your IRS tax return from two years ago.

For example,

- For individuals who earned less than $106,000 in 2023 (or $212,000 for joint filers), in 2025 they will pay the standard $185 per month.
- For those who earned over $500,000 in 2023 as an individual, or $750,000 as a couple, in 2025 will pay $628.90 per month for Part B, plus an extra $85.80 per month on top of their Medicare Part D premium.

Many beneficiaries who take no medications and do not want a Part D plan are surprised to learn that failing to enroll in a Medicare Part D prescription drug plan when first eligible results in a lifelong penalty. The penalty is 1% of the national average premium for each month without Part D or creditable coverage and remains for as long as the beneficiary is enrolled in Medicare Part D.

No Medical Underwriting: A Game-Changer for New Yorkers

One of the most important aspects of Medicare that beneficiaries should understand is the impact of medical underwriting. In almost every other state, medical underwriting is required to obtain a Medicare Supplement (Medigap) plan. This means that beneficiaries must pass a health evaluation to qualify, and in many cases they can be denied coverage.

Medical underwriting is a process used by insurance companies to evaluate an applicant's health history. Individuals can be denied coverage or face higher premiums if they have been recently hospitalized, diagnosed or treated for serious conditions, or advised by a doctor that they need an upcoming medical procedure. In most states, switching from a Medicare Advantage plan to a Medigap plan requires answering health-related questions, and failing underwriting could result in being denied coverage. Outside of New York, the best time to purchase a Medigap plan is during the Medigap Open Enrollment Period, which begins when an individual first becomes eligible for Medicare, either by turning 65 or enrolling in Part B. During this period, insurance companies cannot deny coverage or charge higher premiums based on health history.

New York, however, does not allow medical underwriting. This means that any applicant, regardless of their health history or pre-existing conditions, is guaranteed acceptance into a Medicare Supplement plan at any time. This policy ensures that individuals who develop health conditions later in life still have access to comprehensive coverage without fear of being denied.

Unlike in most states, where individuals must carefully time their plan changes to avoid being locked out of Medigap coverage, New Yorkers have the flexibility to adapt their Medicare coverage as their health care needs change. Many beneficiaries choose to enroll in a Medicare Advantage plan when they are healthy and then switch to a Medigap plan later if they require more comprehensive coverage.

While applicants cannot be denied coverage, insurance companies in New York may impose a waiting period for pre-existing conditions if the individual has gone without prior coverage before enrolling in a Medigap plan.

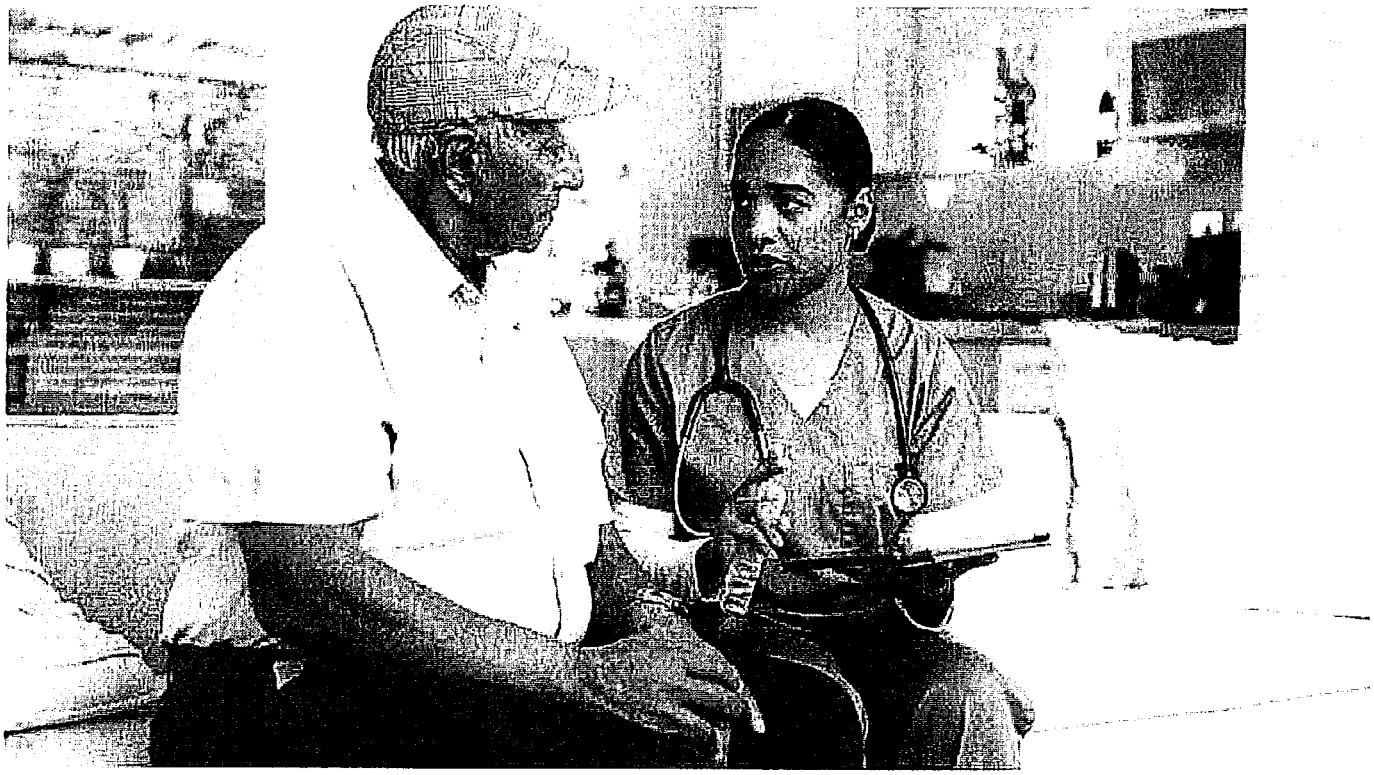
This consumer-friendly approach benefits Medicare beneficiaries, but it has also created challenges for insurance companies in New York. Since they must accept all applicants regardless of health status, many insurers have found it difficult to sustain the financial burden. As a result, some insurance companies have stopped selling Medicare Supplement plans in New York altogether, increased premiums significantly, or made the enrollment process more complicated.

Optimal Time To Switch to a Medicare Supplement Plan in New York

Timing is crucial when switching to a Medicare Supplement plan, as it must align with the ability to leave a Medicare Advantage plan. There are two main time frames when this can be done.

The annual enrollment period, from October 15 to December 7, allows individuals to switch from a Medicare Advantage plan to a Medicare Supplement plan, with the new plan taking effect on January 1. Additionally, the Medicare Advantage Open Enrollment Period (MA OEP), from January 1 to March 31, provides another opportunity to drop a Medicare Advantage plan and enroll in a Medicare Supplement plan, with the new coverage starting on the first day of the following month. In New York, no specific reason is required to make this switch – beneficiaries simply need to act within these designated periods.

Another critical factor to consider is prescription drug coverage. Because most Medicare Advantage plans include drug coverage, switching from a Medicare Advantage plan to either a new Medicare Advantage plan or a standalone prescription drug plan will automatically cancel the previous Medicare Advantage plan. However, Medicare Supplement plans do not include drug coverage. If a beneficiary switches from a Medicare Advantage plan to a Supplement plan but does not enroll in a standalone Part D prescription drug plan, their Medicare Advantage plan will remain active, making the Supplement plan ineffective. To avoid this, beneficiaries must ensure their Medicare Advantage plan is properly canceled when transitioning to a Supplement plan.



Special Enrollment Opportunities in New York

Special Enrollment Periods (SEPs) provide Medicare beneficiaries with the ability to make changes outside of standard enrollment windows. In New York, these periods offer an even greater advantage due to the state's no medical underwriting rule. One of the most important SEPs applies to individuals who are institutionalized in specific health care facilities.

Medicare Part A covers inpatient hospital care, including semi-private hospital rooms, meals, and nursing care. However, to qualify for skilled nursing facility (SNF) coverage under Medicare, beneficiaries must have been hospitalized as an inpatient for at least three consecutive days, not counting the discharge day. Additionally, the SNF stay must be directly related to the condition for which the patient was hospitalized. Medicare covers skilled nursing facility stays as follows:

- Days 1-20: Medicare covers 100% of costs with no coinsurance.
- Days 21-100: Beneficiaries are responsible for a daily amount of $209.50 for each day, which can be covered by a Medicare Supplement plan.

If a Medicare beneficiary moves into, resides in, or moves out of a skilled nursing facility, nursing home, intermediate care facility, rehabilitation hospital, or long-term care hospital with an expected stay of at least 90 days, they qualify for an Institutionalized SEP. This SEP begins on the first day of institutionalization and ends two months after discharge. During this period, individuals can enroll in a Medicare Advantage plan, drop it, and switch to a Medicare Supplement plan in New York without medical underwriting.

This SEP is particularly advantageous for Medicare beneficiaries in New York, as it provides a level of flexibility that is not available in most other states. Many institutionalized facilities actively encourage patients to transition away from Medicare Advantage plans in favor of traditional Medicare with a Supplement plan. This is because Medicare Advantage plans often require beneficiaries to pay daily copayments for their stay and place restrictions on the length of time they can remain in a facility. By switching to traditional Medicare with a Supplement plan, beneficiaries gain more freedom, and their coverage is often more comprehensive. Not only does this allow patients to stay in facilities longer and receive the care they need, but it also ensures that facilities are properly compensated for the services they provide.

How Medicare and Medicaid Work Together in New York

Medicare serves as the primary payer, covering hospital care under Part A and medical services under Part B. Medicaid acts as the secondary payer, covering Medicare deductibles, coinsurance, and copayments. In many cases, Medicaid also helps cover services that Medicare does not provide, such as long-term care. However, Medicaid programs vary by

state, and while some states may use different names, all have programs designed to assist low-income individuals.

Individuals who qualify for both Medicare and Medicaid are known as dual eligibles. These beneficiaries also have the option to enroll in Dual Eligible Special Needs Plans (D-SNPs), which are Medicare Advantage plans specifically designed for those who qualify for both programs. These plans are heavily marketed because they allow insurance companies to generate revenue while also helping clients coordinate their benefits.

D-SNPs integrate Medicare and Medicaid services, streamlining care management, improving coordination, and reducing administrative burdens for beneficiaries. Many dual-eligible individuals face challenges related to housing instability, food insecurity, and transportation issues, and D-SNPs often provide additional support services to address these needs.

To attract enrollees, insurance companies offer extra benefits beyond traditional Medicare, including dental, vision, and hearing coverage, transportation services, and over-the-counter (OTC) benefit cards that can be used for food, health products, and personal care items. Prescription drug coverage is also included, often reducing medication costs to minimal amounts.

Medicare Savings Programs in New York

Medicare Savings Programs (MSPs) are state-administered programs that assist low-income individuals in paying their Medicare premiums. New York has some of the most lenient MSP qualifications in the country, making these programs accessible to a larger population. In 2023, the state expanded MSP income eligibility from 135% to 186% of the Federal Poverty Level (FPL), making an estimated 300,000 additional New Yorkers eligible for assistance.

When an individual qualifies for an MSP, they automatically receive Extra Help, a federal program that reduces Medicare Part D prescription drug costs. The New York State Department of Health has designated local Departments of Social Services as the primary administrators of MSP benefits.

New York offers two primary MSP categories:

- Qualified Individual (QI): Income limit of $2,426 (single) or $3,279 (couple).
- Qualified Medicare Beneficiary (QMB): Income limit of $1,800 (single) or $2,433 (couple).

Unlike many other states, New York does not impose an asset limit for MSP eligibility – qualification is strictly based on gross monthly income. Gross Social Security income is counted before the Part B premium deduction, and other health insurance premiums, such as Medigap or dental plans, can be deducted from income.

"EPIC is a New York State-specific prescription assistance program that supplements Medicare Part D costs for income-eligible seniors aged 65 and older."

Key benefits of the MSP program include:

- Paying the Medicare Part B premium, saving beneficiaries $2,220 annually.
- Automatic qualification for Part D Extra Help.
- Elimination of the Part B Late Enrollment Penalty.
- Allowing Part B enrollment outside of standard periods.
- QMB also covers the Part A premium for individuals who do not have enough work history for free Part A.

The Elderly Pharmaceutical Insurance Coverage (EPIC) Program

EPIC is a New York State-specific prescription assistance program that supplements Medicare Part D costs for income-eligible seniors aged 65 and older. Unlike many other states, New York allows seniors to apply for EPIC at any time during the year, provided they are enrolled in a Medicare Part D drug plan. The application process has some of the highest income thresholds in the country for a State Pharmaceutical Assistance Program (SPAP), making it easier for New Yorkers to qualify.

EPIC offers two plan options:

- Fee Plan: Available for individuals earning up to $20,000 (single) or $26,000 (married).
- Deductible Plan: Available for individuals earning up to $75,000 (single) or $100,000 (married).

EPIC does not replace Medicare Part D but instead helps cover the cost of prescriptions by reducing out-of-pocket expenses on a sliding scale. Beneficiaries receive an EPIC card, which must be presented alongside their Part D plan when filling prescriptions.

Enrollment in EPIC provides an additional election period per year to switch a Medicare Advantage or Part D plan. The new plan takes effect the month following the application's receipt. If an individual loses their SPAP eligibility, they qualify for another Special Enrollment Period (SEP), which begins the month of notification and ends two months later.

Inflation Reduction Act: Key Medicare Changes in 2025 and the $2,000 Cap on Drug Costs

One of the most significant policy changes impacting Medicare beneficiaries is the Inflation Reduction Act. This legislation introduced several key reforms aimed at reducing out-of-pocket prescription drug costs under Medicare Part D.

In 2024, cost-sharing in the catastrophic phase of Part D was eliminated, meaning beneficiaries no longer have to pay out-of-pocket once they reach this stage.

In 2025, a new $2,000 annual out-of-pocket cap for Medicare Part D beneficiaries takes effect. This cap is a major relief for those with high prescription drug costs, as it ensures that once a beneficiary spends $2,000 on covered medications, they will not have to pay anything further out-of-pocket for the rest of the year. However, this cap does not apply to drugs that are not covered under a Part D plan, medications covered under Part B (such as infused drugs administered in an outpatient setting), or monthly premiums.

While this reform benefits those with high prescription drug expenses, it has also had unintended consequences. Many insurance companies have increased Part D plan premiums to compensate for the new cap, and some have consolidated or eliminated plans entirely. As a result, many beneficiaries – especially those who take few or no medications – have questioned why they are required to enroll in a Part D plan when they may see little immediate benefit.

New York's Unique Medicare Benefits: Maximizing Coverage and Savings

New York's consumer-friendly policies, including its no medical underwriting rule, lenient MSP qualifications, and EPIC program, make it one of the most advantageous states for Medicare beneficiaries.

The ability to switch Medicare Supplement plans at any time without medical underwriting ensures that individuals can adjust their coverage as their health care needs change, even with pre-existing conditions. The state's Medicare Savings Programs offer premium assistance with some of the highest income limits in the country, making coverage more affordable for many. The EPIC program provides additional prescription drug cost relief for middle-income seniors while allowing for an extra plan switch each year. Skilled nursing facilities often favor Medigap plans over Medicare Advantage, as they allow for longer covered stays with fewer restrictions.

Additionally, the Inflation Reduction Act introduces a $2,000 cap on Medicare Part D drug costs, which provides significant savings for beneficiaries with high prescription expenses. However, the law has also contributed to higher premiums for some plans.

Medicare is a very complex, confusing topic. Seniors who are 65+ or approaching Medicare eligibility are likely uneducated on their options and overwhelmed by the noise and information available to them. As an Elder and Special Needs lawyer, you have the opportunity to share critical information and reiterate that beneficiaries in the State of New York, in particular, have unparalleled access to great coverage, with a variety of ways to reduce associated costs.

Brian Krantz is a leading Medicare advisor with over 15 years of experience helping individuals navigate the complexities of Medicare. Based in New York and licensed in all 50 states, Brian specializes in Medicare Supplement (Medigap), Medicare Advantage and prescription drug plans, ensuring his clients maximize their coverage while minimizing costs. He has worked with thousands of beneficiaries, including professionals, retirees, and those transitioning from employer-sponsored plans. Brian is committed to simplifying Medicare and providing clear, unbiased guidance to help clients make informed decisions. You can read more about Brian and his company at www.planmedicare.com

Britt Burner is a partner at Burner Prudenti Law, P.C. with offices in Manhattan, East Setauket, Westhampton Beach, and East Hampton. She is an active leader in the legal community, currently serving as chair of the Elder Law and Special Needs Section of the New York State Bar Association. She also serves as a charter member of the Advisory Council of the Katz Institute for Women's Health at Northwell.

AGING SERVICES DIRECTORY

Dutchess County
Office for the Aging

Updated April 2025

845-486-2555
114 Delafield St., Poughkeepsie NY 12601
dutchessny.gov/aging

MISSION STATEMENT

The Office for the Aging plans, coordinates and provides an array of community based services to the elderly and persons who require assistance in the long term care system, in an effort to promote independence, dignity and quality of life.

Through its distinctive role of committed advocate and community partner, the agency strives to ensure clients needs will continue to be met now and in the future.

Maintaining the dignity and independence of older adults is the primary goal of the Office for the Aging. This Aging Services Directory is a tool that outlines programs and services vital to the accomplishment of this goal.

We hope this handbook will improve the quality of life for Dutchess County's older adults and those who care for them.

Sue Serino
Dutchess County Executive

Todd N. Tancredi, Director
Office for the Aging

Updated and revised April 2025

Dutchess County Office for the Aging

Aging Services Table of Contents

The Office for the Aging (OFA) offers services designed to maintain the quality of life of those age 60 and over. Continuing Care at OFA serves people of all ages in need of Long Term Care Services. The Office for the Aging provides:

- Direct community-based services to senior citizens.
- A point of entry into the service delivery system for those eligible for all types of long-term care.
- A source of referral to other programs, information and services available in the general community.

This handbook is organized following the continuum of care model, a tool used by health care professionals to ensure that the full range of needs required by those 60 years of age and over are met. The handbook is organized starting with community-based services: the nutrition, recreational, and educational opportunities that support older adults in the maintainence of independent living. The handbook then proceeds to the next level of care: sources of in-home care services and programs that support those who wish to avoid institutional placement. The last pages of the booklet contain information about institutional arrangements for those older adults who need a higher level of care.

The Office for the Aging serves all Dutchess County residents 60 years of age and older, their caregivers, and others in the Long Term Care System.

The Dutchess County Office for the Aging is a County Agency funded under Title III of the United States Older Americans Act, the New York State Office for the Aging, and the County of Dutchess.

CONTACT US

Dutchess County Office for the Aging
114 Delafield St.
Poughkeepsie, NY 12601

845-486-2555 • 866-486-2555 outside the 845 area code

Web: dutchessny.gov/aging
Email: ofa@dutchessny.gov
Facebook: facebook.com/DutchessCountyOFA

Business Hours: Mon-Fri, 9 a.m. - 5 p.m.

Call or email before visiting.
Many issues can be resolved without having to leave the safety of your home.

OFA NUTRITION SERVICES

dutchessny.gov/ofanutrition

Dutchess County Office for the Aging Friendship Centers serve a hot, nutritious midday meal and offer informational, educational and recreational programs. Sites are open 10 am - 2 pm Monday through Friday unless otherwise noted.

+ open 9 am - 2 pm

* Monday through Thursday only ** Tuesday through Thursday only

Beacon	845-838-4871	Forrestal Heights Senior Housing
East Fishkill	845-226-3605	East Fishkill Community Center
Millerton *	518-789-3081	North East - Millerton Library Annex
Pawling **	845-855-9308	Pawling Town Hall Annex
Poughkeepsie +	845-486-2564	Office for the Aging (114 Delafield St.)
Red Hook	845-475-1129	Red Hook Community Center
South Amenia *	845-373-4305	South Amenia Presbyterian Church (Wassaic)
Tri-Town *	845-275-8565	First Presbyterian Church (Pleasant Valley)

Meal reservations are required. Each person is given the opportunity to make a suggested voluntary contribution of $5.00. Transportation may be available.

Monthly menus and Friendship Center activity calendars are published at **dutchessny.gov/OFAnutrition.**

OFA NUTRITION SERVICES

(continued)

Home Delivered Meals, both hot meals and frozen, for one to five weekdays, may be arranged for homebound older adults (age 60+) through the Office for the Aging at **845-486-2555** or toll free at **866-486-2555.** A listing of other home delivered food options is also available.

In the event of inclement weather that prevents regularly-scheduled hot meals from being delivered, shelf-stable meals will be provided. Area media will be alerted whenever OFA meal deliveries are altered by weather, and updates will be posted at **facebook.com/DutchessCoGov** and **twitter.com/DutchessCoGov.**

The following Meals on Wheels organizations also arrange for meal delivery to homebound older adults. Days of service and fees vary by organization.

Hyde Park School District (and Village of Rhinebeck) – 845-229-5896 or **mealsonwheelsofhp.org**

Poughkeepsie – 845-452-2245 or **mealsonwheelsofgp.com**

Millbrook (and Verbank) – 845-677-3485

Wappingers Falls – 845-297-9797 extension 4

Nutrition Education includes presentations and a monthly newsletter prepared by the Nutrition Services Coordinator.

Nutrition Counseling is available at the Friendship Centers and by appointment. Call 845-486-2555 to find out more.

HEALTH PROMOTION AND RECREATION PROGRAMS
dutchessny.gov/seniorexercise

The Dutchess County OFA Exercise Program to improve strength and balance among seniors is offered by trained volunteers at some Office for the Aging Friendship Centers and several other locations throughout Dutchess County.

OFA also holds **Tai Chi** classes, which can help improve strength, coordination, balance and body awareness, all of which can help prevent falls. Tai Chi programs can also be adapted to people in wheelchairs and those who have recently undergone surgery.

Bingocize is a 10-week health promotion program that combines the game of bingo with fall prevention exercise.

The **SAIL** (Stay Active and Independent for Life) remote (online) exercise program is also available. SAIL is a strength, balance and fitness program that can be done standing or sitting.

A Matter of Balance classes to improve balance and prevent falls are offered at locations throughout the county. The classes are typically held in the spring and fall, one day a week for eight weeks. Advance registration is required. Find out more at 845-486-2555.

To enroll in any type of OFA exercise class, call 845-486-2555.

The Celebration of Aging honors Dutchess County residents turning 100 years or older, and Dutchess resident couples who have been married 70 years or more. We honor these older adults in the Summer issue of our quarterly THRIVE60+ newsletter. If you know Dutchess County residents who fit either category - or both - contact bjones@dutchessny.gov or 845-486-2544.

Summer Picnics are held throughout Dutchess County in cooperation with municipalities, businesses and civic organizations. Music, socialization, lunch, and outreach by the Office for the Aging staff come together to provide fun for residents. More at **dutchessny.gov/OFApicnics**.

The OFA Senior Prom is an annual senior dance usually held on a Monday in October. Each year's prom features a unique theme. The theme for the 2025 Senior Prom is "Masquerade Ball."

TRANSPORTATION

Funded wholly or in part by the Dutchess County Office for the Aging:

Dutchess County Office for the Aging Vans and Buses transport senior clients of our OFA Friendship Centers; the Friendship Centers also offer shopping and recreational trips to clients.

Community Action Partnership of Dutchess County (845-452-5104, dutchesscap.org) picks up older adult residents of the city of Beacon who do not drive, and transports them to OFA's Beacon Friendship Center at Forrestal Heights. Also, any older adult that does not drive and regardless of whether they attend the Friendship Center, may be eligible to be transported to Walmart or Shop Rite in Fishkill once per week for one hour of shopping.

Friends of Seniors (845-485-1277, friendsofseniors.org) provides non-emergency medical transportation (and other services) for the frail elderly (60+).

GoGo Grandparent (GoGo, for short) is an on-demand senior transportation option for older adults in Dutchess County, with limited free rides to non-emergency medical appointments within Dutchess County for those who are *not* Medicaid clients. (For information on Medicaid transportation, see the following page.) GoGo is also available to all Dutchess County older adults, regardless of Medicaid eligibility, to visit loved ones in hospital, nursing home or hospice, within Dutchess County. Call OFA at 845-486-2555 to register and check availability. GoGo is available anywhere Uber/Lyft drivers operate in Dutchess County.

GoGo Veterans is a new transportation program providing free rides to veterans in need of reliable transportation for essential services. Through the 'GoGo Veterans' program, eligible veterans can receive:

- Two free rides per month within Dutchess County to medical appointments, including VA hospitals and local healthcare providers.
- One free ride in Dutchess County per month to a grocery store, pharmacy, or personal visit, helping veterans maintain independence and quality of life.

A veteran must be registered to take advantage of this program. Call the Dutchess County Office for Veterans Affairs at **845-486-2060** to get registered.

More transportation options on following page

TRANSPORTATION (continued)

North East Community Center (518-789-4259, ext. 101; neccmillerton.org) Provides transportation services for older residents of the Towns of Amenia, Dover, North East, Pine Plains, Stanford and Washington, and the Villages of Millerton and Millbrook. Rides for medical, pharmacy and food appointments receive priority; however, other assistance is provided if there is driver/vehicle availability.

Pawling Resource Center (845-855-3459, pawlingresourcecenter.org) serves the transportation needs of Town and Village of Pawling seniors. They will travel to Putnam County or nearby Connecticut.

Government and Not-For-Profit transportation services:

Dutchess County Public Transit (845-473-8424) - Fixed routes, Rail Link Shuttles and Flex service throughout Dutchess County operating seven days a week, in 30-180 minute frequencies.

Dial-A-Ride (845-473-8424) is provided by Dutchess County Public Transit and available to residents of the towns of Fishkill, East Fishkill, Hyde Park, Poughkeepsie, Wappinger and City of Poughkeepsie. Pre-registration is required.

Dutchess County Public Transit ADA Complementary Paratransit (845-473-8424) is operated by Dutchess County Public Transit and provides transportation services in a number of locations from a rider's home to his or her destination. Reservations are required and service availability may be limited. In addition, ADA Complementary Paratransit Service is available for qualified individuals who live within 3/4 mile of a regularly scheduled Dutchess County Public Transit bus route. For more information about these services, visit dutchessny.gov/publictransit or call Dutchess County Public Transit at 845-473-8424.

Castle Point (845-831-2000 ext. 5145) transports veterans to medical appointments at Veterans Hospitals.

Your Local House of Worship may have a transportation program. Call them for more information.

For information on Medicaid transportation, call 866-244-8995 or visit medanswering.com.

OFA Friendly Calls

"Friendly Calls" connects Dutchess County older adults with volunteers who call them weekly, speaking for 20-30 minutes and providing all-important social interaction, helping OFA achieve its mission of helping older adults remain active, age with dignity and live independently as long as possible. The purpose of the program is to decrease feelings of social isolation and loneliness, while increasing connectedness which has been shown to increase one's quality of life.

Volunteers connect with local, pre-screened older adults who have identified an interest in fostering connections with others and reducing social isolation through weekly telephone conversations that cultivate relationships between participants. Volunteers will take part in a one-hour orientation at OFA to learn more about what Friendly Calls volunteering entails.

Following an initial introductory conversation, volunteers will speak 20 -30 minutes each week with the older adults assigned to them over an eight-week period. If both participants express interest, they can extend their calls past the initial eight weeks.

"Friendly Calls" volunteers report to an OFA Program Manager, designated to oversee the operation of the program.

To qualify for the program, prospective volunteers must be:

- at least 18 years old;
- an active listener, a good conversationalist and able to speak clearly and slowly if needed;
- interested in meeting a new friend and open to hearing new ideas.

Contact OFA at 845-486-2555 or ledgar@dutchessny.gov for more information.

VOLUNTEER OPPORTUNITIES

Recruitment of volunteers is ongoing for the following Office for the Aging services to older adults:

- Friendship Center volunteers
- Home Delivered Meals drivers
- Clerical Assistance
- Picnic and Outdoor Event Help (spring, summer and fall)
- Health Insurance Counseling (HIICAP)
- Exercise coaching
- A Matter of Balance leaders
- Tai Chi leaders
- Friendly Calls volunteers (see Page 9)

A printable OFA Volunteering form is available at **dutchessny.gov/OFAvolunteer**.

Free training is provided as necessary.

Reimbursement is available for Home Delivered Meals drivers who use their own vehicles for deliveries.

Many of the above volunteering options are suitable for students who need to fulfill school and/or house-of-worship community service requirements, particularly our OFA Picnics and other OFA events.

For more information on volunteering with the Office for the Aging, contact outreach coordinator Brian Jones at **bjones@dutchessny.gov** or 845-486-2555.

Office for the Aging / Continuing Care

Office for the Aging Continuing Care provides access to anyone, regardless of age and payment source, to long term care services. Case Managers and Public Health Nurses can assess the clients in their home, the nursing home or in the hospital, establish a realistic plan of care, and provide advice on available funding sources. They may also make suggestions regarding other alternatives such as Adult Day Care, Adult Homes, Assisted Living, Foster Care, Home Health Care, Respite Services, and Nursing Home placement.

Office for the Aging / Continuing Care can help arrange for the provision of services, which may include home care such as homemaking and personal care. Homemaking tasks include light housekeeping, laundry, shopping, and meal preparation. Personal care tasks include assistance with bathing, dressing, grooming, toileting, and feeding. When indicated, nursing care may be arranged.

Additionally, the Continuing Care unit will:

- **Provide** information and referral on available programs. Some examples are Medicaid Personal Care, Expanded In Home Services for the Elderly (EISEP) Program, Case Management, and foster care.
- **Refer** clients to agencies providing services such as medical transportation, telephone reassurance, and equipment like wheelchairs, hospital beds, walkers, and canes.
- **Review** the needs of the client and his or her family and explore alternatives for care and financing.
- **Assign** a Case Manager or Public Health Nurse who will visit the home to create an unbiased plan of care.
- **Arrange** for and monitor delivery of services and provide ongoing case management.
- **Assist** with information and paperwork for nursing home placement.
- **Maintain** client confidentiality.

(continued on next page)

a. Language of the AIP; Date, Time and Place of Hearing
b. Statement of AIP's Rights
c. Name, Address and Phone Number of Court Evaluator and/or Attorney
d. Powers Requested (MHL §81.07[b][3])
e. Legend (MHL §81.07[c])

9. Supporting affidavits required? (MHL §81.07[b][3])
10. Petitioner shall file notice of pendency if interest in real property will be affected (MHL §81.24)
11. Provisional Remedies
    a. Temporary Guardians (MHL §81.23[a])
    b. Injunction and Temporary Restraining Order (MHL §81.23[b])
    c. May not enjoin or restrain AIP/IP (MHL §81.23[b][1])

IV. Community and Institutional Resources and Entitlements

Presented by Rebecca M. Blahut, Esq. (10:05 a.m.-10:25 a.m.)

1. Professionals and alternatives to guardianships
2. Benefits, entitlements public and private:
    a. Medicare
    b. Medical Assistance benefits (Medicaid)
    c. Social Security Requirement Benefits, Social Security Disability Benefits (SSD), Supplemental Security Income (SSI)
3. Hospital discharge issues; Nursing Homes: admission, resident rights, oversight Agencies
4. Community resources: Office of the Aging, county offices, Department of Social Services (DSS), home health agencies, Visiting Nurses, assisted living facilities, adult homes, prevention and supportive services, treatment services, case management

V. The Court Evaluator: Duties, Responsibilities and Ethics (MHL §81.09, §81.40)

Presented by Genoveffa Flagello, Esq. (10:25 a.m.-11:15 a.m.)

1. Who may serve
2. Independent witness v. advocate; responsibility to the court
3. Statutory duties (MHL §81.09[c])
    a. Meet AIP, explain rights, determine if counsel is necessary
    b. Interview petitioner/parties/professionals
    c. Attend all court proceedings
    d. Preservation of endangered property
    e. Investigate and file written report and recommendations
4. The Report: investigation, recommendations, tailoring, least restrictive form of

Slide 1

Part 36

THE RULES
of
THE CHIEF JUDGE

"Appointments by the Court"

GUARDIAN, COURT EVALUATOR AND ATTORNEY FOR ALLEGED INCAPACITATED PERSON

22 N.Y.C.R.R. § 36 ET. SEQ.

Slide 2

Overview and Rationale

- Appointments to be fair, impartial and beyond reproach
- No favoritism, nepotism or politics
- Merit selection/training
- Limitations based on compensation
- Publication of appointments and compensation

Slide 3

Part 36 Article 81 Appointments

SUBJECT TO PART 36 RULES:

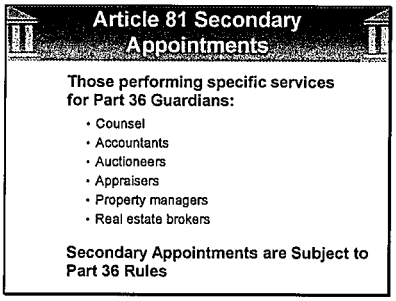
*Guardians
Exceptions
- *Friends or relatives of the AIP ("lay guardians")*
- *"Nominated" or "proposed"*
- *Nonprofit institutions or CSS*

*Court Evaluators
Exception
- *nonprofit institutions or MHLS*

*Attorneys for AIPs
Exception
- *nonprofit institutions or MHLS appointed as attorney for the AIP*

Court Examiners

Slide 4



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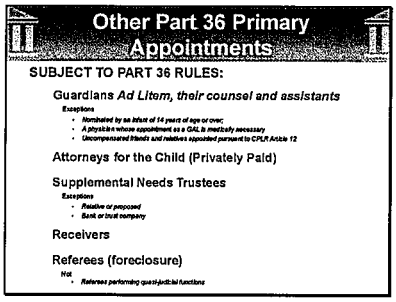

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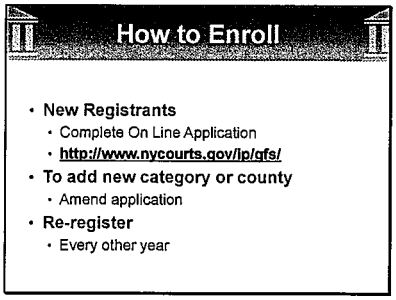

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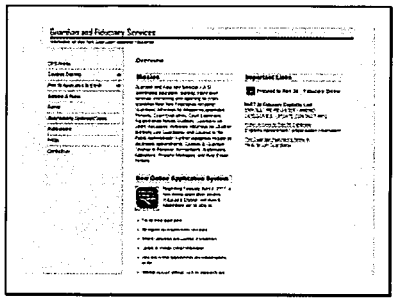


Slide 8

Disqualifications
Those Not Eligible for Appointment

- Relatives of Judge and spouse and the spouses of those relatives to 1st cousins
  - Includes housing judges, town and village judges
- All court employees
- County and state political party chairs & their close relatives
  - 2 year prohibition for official and family
  - Members, Associates, Counsel, Employees of "law firms or entities" while chair is associated with the firm

Slide 9

Disqualifications cont'd

- Disbarred or suspended attorneys
- Persons convicted of a felony, unless certificate of relief, and persons convicted of a misdemeanor for 5 years post sentence
- Persons removed from the list for cause

Slide 10

Limitations on Appointment

- Former judges and close relatives within jurisdiction for 2 - year period
- JHOs on panel "in a court in a county"
- Close relatives of court employees (salary grade 24) (district-wide)
- Judicial candidate's campaign officers and their close relatives (by that judge)

Slide 11

Appointment Process

- Judicial Order
  - Includes secondary appointments
- UCS Form 872: Notice of Appointment & Certification of Compliance
  - Email sent to appointee with link to complete online
  - Appointee certifies to eligibility online
  - No compensation if form not signed!

Slide 12

Limitations Based Upon Compensation

"The Caps"

$125,000 Rule

- If past year's compensation for all Part 36 Appointments > $125k
  - Ineligible for appointment for one year

$15,000 Rule

- One appointment per year:
  - $15k anticipated compensation in any year
    - Good Faith

Exception -- Necessary to maintain continuity of representation or service

Slide 13

Compensation Defined

- Compensation = Award by the Court
- Written order, dated and signed by Judge
- Date on the order is determinative

Slide 14

May I accept this appointment? $125,000 Rule

- Add all Part 36 compensation awards
- Prior calendar year
- If exceeds $125,000, then appointee may not accept compensated appointment in current calendar year
- Eligibility determined on date of Appointment
- Not a *per se* compensation cap
- A consequence if exceed $125,000 in one year
- New appointments only, may keep inventory

Slide 15

May I accept this appointment? $15,000 Rule

- Do I anticipate this appointment will result in compensation exceeding $15,000 in ANY calendar year?
  - If "no", then appointee may accept; the $15,000 does not apply
  - If yes, then appointee must look at all appointments in current calendar year

Slide 16

May I accept this appointment? $15,000 Rule continued:

- Current appointment compensation anticipated to exceed $15,000
- Did I accept an appointment in the current calendar year in which compensation is anticipated to exceed $15,000?
  - If "no", then appointee may accept
  - If "yes", then appointee must decline

Slide 17

"THE CAPS" One exception

- Appointment is necessary to maintain continuity of representation or service
- Application of this rule is up to the judge
- It is the appointee's obligation to inform the court if the appointee is subject to the cap

Slide 18

MHL Article 81 Appointment Limitations

- Attorney for alleged incapacitated person may NOT be guardian or counsel to guardian (absolute ban)
- Court Evaluator may not be appointed Guardian
  - UNLESS court finds "extenuating circumstances"
    - *In writing*
    - *Filed with the fiduciary clerk*

Slide 19

Secondary Appointments

- Those who perform specific services for Part 36 Guardians
  - Counsel
  - Accountant
  - Appraisers
  - Auctioneers
  - Property Managers
  - Real Estate Brokers
- Court Approval Required: Order
- Must meet all eligibility requirements
- UCS Form 872

Slide 20

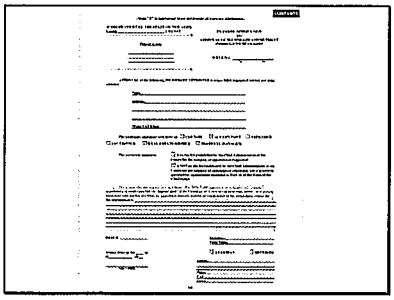
Secondary Appointment Limitations

UNLESS court finds "Compelling Reason"

- Guardians may NOT be appointed counsel to themselves
- Members of Law firm "associated" with a guardian may NOT be counsel to that guardian

Counsel to Guardian may not receive legal compensation for **"services that should have been performed by the Guardian"**

Slide 21



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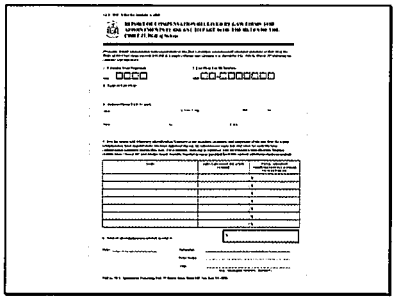

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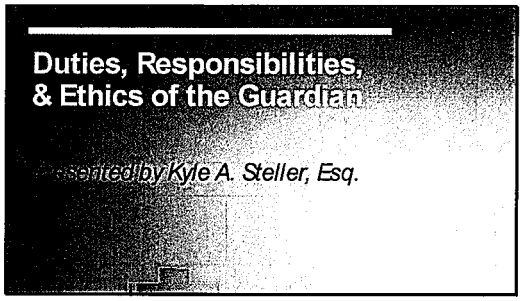


Slide 2

Understanding and Complying with Court Orders

- The Order and Judgment
- Designation (MHL Section 81.26) and Bond (MHL Section 81.25)
- Commission (MHL Section 81.27)
  - Issued by the County Clerk
  - Within Five (5) Dayes of Filing the Designation, Bond
  - Specific Powers Listed

Slide 3

Guardian is a Fiduciary MHL Section 81.20

- Care
- Diligence
- Loyalty
- Afford greatest degree of independence
- Afford greatest degree of self-determination

Slide 4

Guardian of Property Management Powers MHL Section 81.21

- Marshal assets/establish inventory
- Developing budget and care plan
- Determining eligibility and applying for public benefits
- Keeping accurate financial records
- Seek Court approval for unusual expenditures
- Contracts for sale of real property require court approval
- Locate/secure last will and testament
- Prudent Investor Rule
- Court approval to engage/hire certain professionals

Slide 5

"Lay" Guardians v. Part 36 Guardians

Slide 6

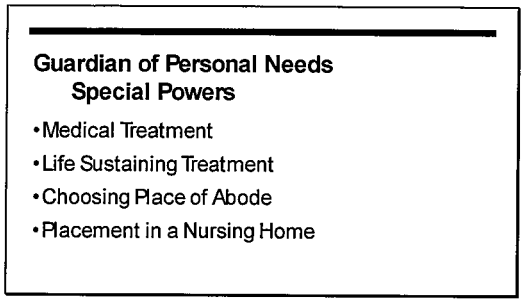
Guardian of Personal Needs Powers

Devise a care plan

Powers involving personal care and assistance

- Social Environment
- Travel
- License
- Education
- Authorize Access/Release Medical Records
- Apply for Benefits
- Maintain Records

Slide 7



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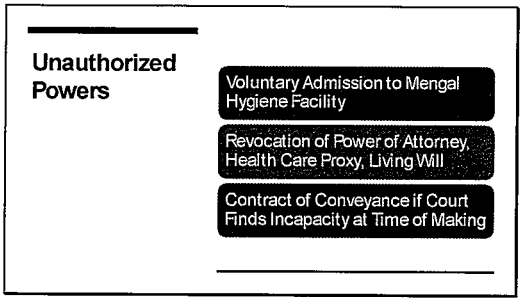

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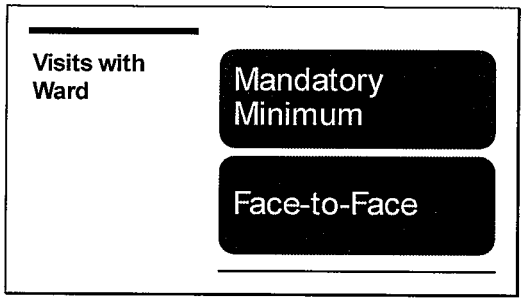

Slide 10

Last Will and Testament

Locate and Secure It

Notify Persons to Be Notified Upon Death

Slide 11

Forms

Slide 12

Questions?

Slide 13

My Contact Info

Phone (845) 298-2000

E-Mail Ksteller@Stengerglass.com