



# The Polner Abrahams REPORT

Insights for Intelligent Estate, Special Needs & Elder Law Planning

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Courtesy of The Law Office of Beth Polner Abrahams

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## Change Is Coming... Change Is Here!

Change is coming! Special needs planning, the appointment of guardians, Medicaid rules, SSI and Social Security, Medicare, and planning for seniors have all been and will continue to be impacted by cutbacks in government funding, a lean New York State budget, and court decisions.

Nonprofit organizations, service coordinators and case managers, and geriatric care professionals also need to stay abreast of the latest legal options for their consumers in the increasingly complex arena of special needs planning, elder law and government benefits.

This also means you need to stay on top of changes affecting your family and loved ones.

To help meet your needs in this dynamic environment, my law office is changing how we communicate with you.

First, we are increasing this newsletter frequency and offering you the option to read newsletters on my website, instead of receiving a paper version. And my new *blog*, coming this spring, will increase the timely flow of information and give you quick access to important information links.

**Let's go green together! Now you can get this newsletter online instead of on paper.**

To sign-up for my e-newsletter alerts, email [info@bpaelderlaw.com](mailto:info@bpaelderlaw.com) with the subject line: "Yes: e-Newsletter". If you do not sign-up, you will still receive the paper version.

## SSI, Special Needs Trusts and Medicaid

Due to leaner economic budgets, you will need to plan earlier for Medicaid eligibility for your developmentally disabled family member. This can be accomplished either with an SSI application or directly with the Medicaid department if the disabled family member receives or will receive Social Security disability or adult disabled child Social Security.

In the past, at no charge, nonprofits provided 'non-Medicaid' service coordination to assist families transitioning from school district services to traditional Medicaid and SSI services. As of Spring 2009, those no-cost services are expected to be more limited or eliminated.

You may be able to manage many steps on your own if you understand the law and can answer SSI's and Medicaid's questions about your disabled family member's assets (an inheritance, medical malpractice recovery, etc.) and protections for assets that are not yet in an SNT during a guardianship proceeding.

A consultation with my office can provide the legal counsel you need before you begin the steps to advocate for your special needs family member.

To learn more, call my office at (516) 741-9175 for an appointment at your convenience.

## **MEDICAID ALERT: Federal Government Eliminates Spousal Budgeting Protections for Home Care Services**

New York State (NYS) is experiencing major changes in Medicaid coverage.

The state now must alter the way it budgets income for a 'well spouse' who lives with their Medicaid spouse in the community and who participates in programs such as Lombardi/Long Term Home Health Care and TBI Waiver for brain-injured spouses. However, service levels for the Medicaid spouse will not change.

The rules, called *spousal impoverishment*, used to permit the 'well spouse' to keep a government-determined level of monthly income (in 2009, \$2,739.00), and if their own income fell short, to receive enough of the Medicaid spouse's income to meet that monthly minimum. These are

similar to income budget rules for couples when one spouse lives in a nursing home.

The federal government informed NYS that it may not use spousal impoverishment income budgeting rules for Lombardi, TBI or other waiver Medicaid programs. The change is expected as of March 1, 2009.

Seniors over age 65 and their spouses will need to explore the use of a pooled trust to lawfully shelter extra income for the Medicaid recipient and well spouse. Married disabled persons under the age of 65 may now be able to also use the pooled or private pay back SNT.

For more information on this policy change, please call my office to arrange a consultation.

### **IS THIS NEWSLETTER HELPFUL TO YOUR ORGANIZATION?**

We will be happy to email the web access link and newsletter alerts (see page 1), or we can provide paper copies free of charge if preferred.

To download previous newsletter editions, visit [www.bpaElderLaw.com](http://www.bpaElderLaw.com) or [www.bpaSNTLaw.com](http://www.bpaSNTLaw.com).

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Dedicated to providing quality, caring and personalized legal representation.

Handling all aspects of estate and tax planning, elder law and special needs planning, and representation of incapacitated and disabled persons in guardianship proceedings.