



The Independent

Law & Disability Issues Conference

Every year the Community Health Law Project presents a free conference on law and disability issues. The conference is sponsored by the New Jersey State Bar Foundation and the New Jersey Institute for Continuing Legal Education, with funding from the IOLTA Fund of the Bar of New Jersey. The most recent Law & Disability Issues Conference took place on March 27, 2012, and included two keynote presentations followed by two workshops.

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Keynote Presentations

Sarah Barth, Senior Program Officer, Center for Health Care Strategies

An overview of Affordable Care Act and elderly and disabled Medicaid program opportunities supporting states' efforts to move people from institutional care in community settings: A National Update.



Left to right: Sarah Barth, Harold Garwin, Joel Cantor

Joel C. Cantor, ScD, Professor of Public Policy, Director, Center for State Health Policy, Rutgers University

Update on Health Reform Implementation in New Jersey: Accountable Care Organizations & Health Insurance Exchanges. Implementation of the Patient Protection and Affordable Care Act (ACA) is proceeding in most states, in spite of uncertainty in its legal status and political standing. An update on implementation in NJ of state responsibilities under the ACA and a state-initiated effort to improve care and slow cost growth in the states' Medicaid program was given.

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Law & Disability Issues Conference

Workshop 1

2012 ADA Update

The latest developments regarding the Americans with Disabilities Act and related civil rights laws protecting the rights of people with disabilities.

Moderator: Steven Leder, Esq., Managing Attorney,
Community Health Law Project

Panel: James Weisman, Esq., United Spinal Association; Richard Yaskin, Esq., Law Offices of Richard Yaskin, P.C., Cherry Hill, NJ; Stuart H. Weiner, Esq., Community Health Law Project; Mary Ciccone, Esq., Disability Rights New Jersey



Left to right: Steven Leder, Mary Ciccone, Richard Yaskin, James Weisman, and Stuart Weiner



Left to right: John Monahan, Raquel Jeffers, Lynn Kovich and Dennis Lafer

Workshop 2

Managed Behavioral Healthcare

An overview of the Comprehensive Waiver and the development of an Administrative Services Organization/Managed Behavioral Health Organization was provided. Pending reforms in the system that include the comprehensive Waiver and the development of the ASO/MBHO was also discussed.

Moderator: Dennis Lafer, Mental Health Policy Consultant

Panel: Lynn Kovich, Assistant Commissioner, Division of Mental Health and Addiction Services; Raquel Jeffers, Deputy Director, Division of Mental Health and Addiction Services; John Monahan, LCSW, President & CEO, Greater Trenton Behavioral HealthCare

Bryn Whittle

Seton Hall Law Career Conference

On October 22, 2011, Seton Hall Law hosted a day-long career conference sponsored by the American Society of Law, Medicine, and Ethics. For the second year, Bryn Whittle, CHLP senior staff attorney, served as a panelist discussing non-profit health care organizations and career options in health care law. Bryn, joined by other alumni, at this national ASLME conference, was an important part of the many career development and networking events held for the benefit of students and alumni.



Remembering our Colleague ...

Marc Snyder



I think the most telling thing that I can say in remembering my dear friend and colleague Marc Snyder in his professional role, is that if I ever needed an attorney to represent me, Marc would be my first choice. The basic question I would ask in choosing an attorney is: is he competent to represent me and would he do so with all his resources? Unquestionably, when thinking about Marc, the answer is an absolute yes. I would have had no qualms about hiring him to represent me or referring anyone who needed legal help to him.

In the world of public interest law, no one was more committed to his clients than Marc. And within our organization no one was more committed to the Law Project's goals. For more than 30 years Marc protected the rights and entitlements of hundreds, perhaps thousands, of persons with disabilities. Marc was there for them as well in the fights to expand those rights and entitlements. He was a staunch advocate for all, whatever the disability - mental, developmental, physical - and he was there, too, for those who struggled not only with disability but with resulting homelessness. Marc's peerless representation secured for his clients the basics of life, including food, shelter, social and medical services and civil rights. He was there to help, to represent, to raise a voice in opposition to overbearing service agencies or health providers, and to do battle with safety-net governmental and administrative entities on which his clients' subsistence depended. Again and again Marc stood, successfully, as the last line of defense between his clients and the fall into oblivion.

Marc was a cornerstone of the Law Project's success. He was with us first as a staff attorney and then a managing attorney. In addition, he was an important presence on many coalitions and non-profit boards that serve our clients. Marc was smart, witty, good looking, athletic, and a wonderful colleague. Because of Marc, all of us live in a more caring society. Because of Marc, New Jersey and its citizens, especially those with disabilities, are so much better off, and our legal profession is so much more deserving of respect.

“Marc - a caring advocate for all.”

Harold Garwin, President and Executive Director, CHLP

The 24th Annual Ann Klein Advocate Awards

On Thursday, October 20, 2011, the Community Health Law Project's annual awards dedicated to the memory of Ann Klein, former Commissioner of the Department of Human Services, were held at The Wilshire Grand in West Orange, New Jersey. CHLP's Chairperson, Nicholas Stevens, Esq., presided over the presentation of awards to four people who were nominated by their colleagues as individuals who have made extraordinary contributions to improving the lives of people with disabilities. The 24th Annual Ann Klein Advocate Awards honorees were:

**Henry Acosta, MA,MSW,LSW, Executive Director, National Resource Center for
Hispanic Mental Health**

Kessler Foundation, West Orange, New Jersey

Ed Murphy, Executive Director, The Supportive Housing Association of NJ

Shirley B. Whitenack, Esq., Schenck, Price, Smith & King, LLP

We thank the following sponsors for support of the Ann Klein Advocate Awards and the important work of the Community Health Law Project:

Invitation Underwriter: Verizon

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*Left to right: Henry Acosta, Shirley B. Whitenack, Esq.,
Rodger DeRose, President and CEO Kessler Foundation, Ed Murphy*

**The 25th Annual Ann Klein Advocate Awards will take place on
October 18, 2012, at the Wilshire Grand in West Orange.**

If you would like to attend, please call Martha Prezuhy at CHLP, 973-275-1175

10 Things You Need To Know About Medicare

Number 1. Medicare is health Insurance for people 65 or older and for people under 65 with disabilities. When you turn 65, or if you have been on Social Security Disability (SSDI) or railroad disability annuity for 24 months, you will automatically be enrolled in both Medicare Part A and B. You will receive a package in the mail three months before coverage starts.

Number 2. Medicare has four essential parts: A, B, C and D. Part A covers inpatient hospital stays and skilled care post hospitalization. Medicare does not pay for custodial or long term care. Most people do not pay a premium for Part A. They are enrolled automatically, having earned the coverage through payroll taxes when they worked. Part A deductible for a hospitalization is \$1,156 in 2012.

Part B is outpatient coverage; it applies to medically necessary doctor's services as well as some preventive screenings. It is offered automatically once you are receiving your Social Security benefits. There is a charge for the premium which is generally deducted from your Social Security check. The deduction in 2012 is \$ 99.99, an increase of \$3.00 for some, or a decrease of \$10 to \$15 for others. You have the right to refuse enrollment in Part B, but it's important to keep in mind that there is a steep penalty if you choose to enroll at a later date.

Number 3. Parts A and B are referred to as Original Medicare to differentiate from Part C which covers the Medicare Advantage programs or HMOs. These plans may provide coverage for additional services not included in original Medicare such as dental, vision and hearing care, but you are restricted to utilize the network of doctors and hospitals covered by that plan. One must choose carefully to decide on a plan that is most appropriate to one's needs.

Number 4. Part D was added to Medicare in 2006 and helps pay for prescription drugs. You can join or change a Part D plan when you first become eligible for Medicare and during the open enrollment period from October 15 to December 7. The number of co-payments for medications will depend on the plan and what medications are included in the plan's formulary. In NJ there are 30 plans to choose from with premiums averaging between \$35 and \$50 per month. There is a gap in coverage called the "donut hole." This refers to the time when the total retail cost of the medications reaches \$2,930. At that point, one becomes eligible for a 50% discount on brand named drugs until out of pocket costs reach the catastrophic level of \$4700; then a small co-pay is charged for the rest of the year. The goal of the Affordable Care Act is to close the "donut hole" completely by 2020.

Number 5. Medicare pays 80% of the approved costs of care. Since Medicare pays for many, but not all health related services and supplies, one may want to choose a supplemental policy (medigap policy) to cover costs that original Medicare does not cover, such as co-payments, coinsurance and deductibles. In NJ there are 10 standard policies to choose from with a wide range in the amounts of the monthly premium. A medigap policy may be changed at any time. It is not limited to the annual enrollment period. One can compare costs of the plans on www.medicare.gov or by calling 1-800-medicare.

Number 6. There are several programs that can help lower the costs of prescriptions. The NJ Pharmaceutical Assistance for the Aged and Disabled (PAAD) is a Part D program that reduces the cost of prescribed medication, for those eligible, to \$5.00 for generic and \$7.00 for brand named drugs. To be eligible for PAAD in 2012, maximum income for a single person is \$25,312 a year, and for a married couple the maximum amount is \$31,035. There is no asset cap for eligibility. Additionally, PAAD offers Life Line energy assistance (\$225 per year) and there is no gap in coverage during the donut hole. The Senior Gold program affords some reduction in costs for those with income \$10,000 above the PAAD eligibility level. On Senior Gold, one pays \$15 plus 50% of the remaining Part D co-pays.

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Number 7. Another program for low income beneficiaries, called Low Income Subsidy (LIS) or Extra Help, lowers the cost of medications to \$2.50 for generic and \$6.30 for brand name medications. To be eligible, a single person's annual income needs to be less than \$16,755 with resources less than \$13,070 and a married couple's income needs to be less than \$22,695 per year with resources less than \$26,120.

Number 8. Some Medicare beneficiaries with limited incomes may also be eligible for the Medicare savings programs that pay the Part B premium, saving \$100 per month. To be eligible, a single person must have income under \$1,257 per month or \$15,080 per year and assets less than \$6,940. Eligibility for a married couple is \$1,703 per month, \$ 20,426 per year and assets less than \$10,410.

Number 9. As a result of the passage of the Affordable Health Care Act, there are several changes that will effect Medicare beneficiaries. One is the focus on preventive services. Now Medicare beneficiaries can make an appointment for an annual wellness exam which provides the opportunity to review with one's healthcare provider the preventive screenings most beneficial given their particular family and personal health history. A five-year plan will be developed and the patient will be assessed for physical and mental declines, such as dementia and depression, hearing and visual loss. Obesity screening and counseling, as well as tobacco cessation counseling have recently been added to the list of preventive services, most of which are now offered at no cost to the beneficiary.

Number 10. Health care reform also provides some new insurance protections for those without coverage and with a pre-existing condition. It's called NJ Protect and is offered by two carriers, Horizon Blue Cross/Shield and AmeriHealth of NJ. This plan is not open to people with Medicare or coverage under a group plan. For information, call Horizon Blue Cross at 1-888-551-2130 or AmeriHealth at 1-866-681-7368. Although joining Medicare and choosing a plan that is right for you can be confusing, there are many resources available to assist. Some of the resources are listed on page 7.

Brian G. Smith New Managing Attorney **in CHLP's South Jersey Office**

It seems that I have been destined to practice public interest law. A BA from Haverford College in philosophy, a law degree with honors from Cornell University School of Law, and two years clerking for a New York State Judge gave me a good foundation. I began working for legal services in upstate New York where I handled mostly landlord-tenant and family law cases. Marriage to my wife, Carol, brought me back to the Philadelphia region where I worked for Delaware County Legal Services. There I taught Villanova Law School students how to practice law, primarily Social Security and SSI cases. In 1997, I came to New Jersey as a Senior Staff Attorney in the Community Health Law Project. That ended my long commute, but I had to take the New Jersey bar exam, years after law school. I enjoy working on the Haddonfield Friends of the Library book sale every September. My favorite hobby is family history. I have over 50,000 people on my family tree including John Wayne, Winston Churchill and Robert the Bruce. I live in Haddonfield, New Jersey with my wife, Carol, and our dog, Buddy. Carol is a certified archivist. She works for the Philadelphia Contributionship (the oldest insurance company in America), the Philadelphia Fire Museum, Carpenters' Hall, Christ Church, and St. Peter's Church among others. We have two children in college - Jeffrey is in the honors program at the University of Delaware, majoring in environmental science, biology and ecology, and Katie is at Princeton, planning on majoring in ecology and evolutionary biology.



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Other helpful resources:

www.medicare.gov 1-800-633-4227 for enrollment information, and information about choosing and comparing plans

www.socialsecurity.gov 1-800-772-1213

www.state.nj.us/health/senior/ship.shtml State Health Insurance Program (SHIP) for personal assistance with Medicare concerns

www.aging.nj.gov or 1-800-792-8820 NJ Division of Aging and Community Services

1-877-222-3737 NJ Ease for information and resource referral

www.benefitscheckup.org National Council on aging

<http://www.medicarerights.org> or 1-800-333-4114 Medicare Rights Center

1-800- 792-9745 NJ Pharmaceutical Assistance to the Aged and Disabled (PAAD)

Social Security Administration's Electronic Filing Services

There was a time not too long ago when a claimant who was denied benefits would have to wait for hours in a crowded waiting room in a local Social Security district office to get help from a claims representative in filling out the paperwork needed to file an appeal. It was also a time when representatives who helped claimants fill out paper appeal forms would spend upwards of \$5 per envelope to send the appeal via certified mail in order to have proof it was filed on time; or spend hours at the local hearing office copying exhibits from a paper file in order to prepare for a hearing - a paper file which took up space and required staff to maintain and prong exhibits as they were mailed in. Paperwork could be lost. Whole files could be lost.

The Social Security Administration, faced with the increased demands of claims of an aging baby-boomer generation, and after decades of hiring freezes which reduced staff, has in recent years undergone a sea-change in how it conducts business thanks to advances in technology. Everything is now electronic.

Claimants can apply for retirement and disability benefits directly online at www.ssa.gov making it unnecessary to go to the district office. Denied claims can be appealed electronically, eliminating lost appeals or allegations of untimely appeals. Appointed representatives can now access their clients' claim folders (eFolders) pending at the hearing and Appeals Council level via a secured website and can readily see what evidence is already available to the judge, helping to avoid duplicate submission of records.

According to a report from SSA's Office of Inspector General released August 22, 2011, in the first eight months of fiscal 2011, the SSA's Office of Disability Adjudication and Review recorded 52 percent of appeals filed electronically through iAppeals was up from 30 percent in fiscal 2008. It also found the growth in electronic filing through iAppeals, as well as progress in several other programs, is helping to reduce workloads at the agency's field offices.

There is, therefore, a heavy push to increase the use of electronic filing for this reason, including making the withholding of payments to representatives contingent on the mandatory use of the electronic filing process. There are still problems; however, there is no question that the increased use of technology by the Social Security Administration has made things much easier for representatives and the public in general.

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