

# ELDERLAW

## NEWS

New Jersey

Legal News for the Aging and Disabled

January 2002

### ALTERNATIVES TO NURSING HOMES: HOME-BASED CARE, ASSISTED LIVING FACILITIES AND ADULT DAY CARE

#### **I. Introduction.**

Many disabled and elderly people live independently in their communities without undue problems. However, due to poor health or financial limitations, over time some people become unable to live independently or manage their daily activities without assistance. There are several programs available in New Jersey to assist those people who remain in the community. This article addresses some of the most common options available for assistance in the home and for independent living in a congregate setting.

#### **II. Programs Providing Home-Based Care.**

##### **1. Community Care Program for the Elderly and Disabled (CCPED)**

A. Purpose – to help elderly and disabled persons to remain in the community rather than be cared for in a nursing home or hospital. N.J.A.C. 10:60-2.1, et seq. The program is funded by the federal government through Medicaid and by the State through Casino Revenue monies.

B. Availability – CCPED is available statewide, but is limited to about 3,300 “slots” for the entire state. Each county is allocated a specific number of slots, and most counties have waiting lists.

C. Eligibility Criteria – Appli-

cants must:

a. Be age 65 or over, or under age 65 and disabled; and,

b. Be eligible for Medicare or have other health insurance which includes hospital and physician coverage; and,

c. Be assessed by the Department of Health and Senior Services as in need of a nursing home level of care; and,

d. Have monthly income which exceeds the SSI benefit rate (\$545 in 2002) but which does not exceed the Medicaid income cap (\$1,635 in 2002); and,

e. Have assets which do not exceed \$2,000 (excluding residence); and,

f. Have not made gifts of real or personal property to another person within 36 months of the date of the CCPED application.

D. Services Available Under CCPED – Case Management, Home Health Care, Homemaker Services, Medical Day Care, Non-emergency medical transportation, Respite Care, Social Adult Day Care and No-cost prescription drugs.

E. Planning Techniques – all the planning techniques used to establish eligibility for Nursing Home Medicaid are available under CCPED.

**2. Jersey Assistance for Community Caregivers (JACC)** – JACC serves the elderly and disabled who are not

financially eligible for Nursing Home Medicaid or CCPED but who do require a nursing home level of care. JACC provides a broad selection of in-home services and support.

**3. New Jersey Easy Access, Single Entry (NJ EASE)** – a State initiative to reorganize county senior services so they are more accessible, responsive and appropriate. Instead of contacting many agencies, through NJ EASE consumers can call just one toll-free number (1-877-222-3737) to receive information about all appropriate programs and services.

**4. Pharmaceutical Assistance to the Aged and Disabled (PAAD) / Senior Gold** – Eligible persons pay a \$5.00 co-pay for each prescription medication. Eligibility is limited to New Jersey residents who receive Social Security disability or who are aged 65 or older, and whose annual income is less than \$19,238 (single) or \$23,589 (married).

**Senior Gold** – a modified PAAD program with income limits \$10,000 higher than the traditional PAAD program. Under Senior Gold, participants must pay a \$15.00 co-pay plus one-half of the prescription cost after subtracting the \$15.00 co-pay. However, after the participant

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expends \$2,000 toward prescription costs in a year, the obligation to pay the additional 50% terminates.

**5. Hearing Aid Assistance to the Aged and Disabled (HAAAD)** – provides \$100 toward the purchase of a hearing aid. Eligibility requirements are the same as PAAD.

**6. AIDS Community Care Alternatives Program (ACCAP)** – provides full Medicaid benefits and other services to persons diagnosed with AIDS who need nursing home care but choose to remain in the community.

**7. Respite** – provides short-term temporary caregiver services for respite care.

**III. Assisted Living Facilities.**

1. Purpose – to provide a combination of residential housing support services and health care for the elderly and disabled who require help with the Activities of Daily Living (ADL), but who do not yet require a nursing home level of care. Assisted Living (AL) is the most rapidly expanding type of housing for the elderly and disabled.

2. Services Provided – Meals, laundry and housekeeping are provided by the facility. Assistance is usually also provided with dressing, grooming, bathing, taking medications and other daily activities.

3. Paying for AL – Most AL residents pay privately from their own assets. Medicare will not pay for AL care. Medicaid has approved 1,500 slots statewide for AL residents who are aged or disabled, require a nursing home level of care, and who meet income and resource requirements.

**IV. Adult Day Care Facili-**

**ties.** There are two types of Adult Day Care in New Jersey: Social Day Care and Medical Day Care.

1. Social Day Care – provides services for the independently ambulatory senior who is continent and who can monitor his or her own medications. Most programs are provided by not-for-profit organizations. There are no statutory regulations governing the provision of social day care.

2. Medical Day Care – facilities must be licensed by the State and meet the minimum state statutory requirement under N.J. A.C. 8:43F. These facilities provide specialized care to seniors and the disabled in order to assist them in reaching their highest level of functioning as well as to protect their health and safety. ❄❄❄

Most Americans over the age of 45 are in for sticker shock if they or a loved one ever require long-term care, according to the results of a new survey by the AARP. The AARP survey, entitled *The Costs of Long-Term Care: Public Perceptions Versus Reality*, asked Americans age 45 and older a range of questions designed to measure their understanding of the costs and funding sources associated with three types

**Survey Finds Many Unaware of Long-Term Care Costs**

of long-term care: nursing homes, assisted living facilities, and home care. The results show that Americans age 45 and over generally do not know how much long-term care services cost. The study also suggests that many Americans over age 45 are deluding themselves about who will pick up the tab for long-term care should they ever need it. There is also a discrepancy between what people think Medicare and Medigap insurance cover and what they actu-

ally cover. (To learn more about this topic, attend an upcoming workshop, described on page 4 of this newsletter) ❄❄

Have you considered your pets when planning for the disposition of your estate? If not, you should, according to The Humane Society of the United States, the nation's largest animal protection organization. The Society reports that more than 60 percent of all U.S. households—more than 63 million Americans—own a pet, and nearly a quarter of these households are headed by individuals 65 years or older.

***Humane Society Urges Pet Lovers to Include Pets in their Wills***

The Humane Society says that all too often, people erroneously assume that a long-ago verbal promise from a friend, relative or neighbor to provide a home for a pet will be sufficient years later. Even conscientious individuals who include their pets in their wills may neglect to plan for contingencies in which a will might not take effect, such as in the event of severe disability or a protracted will challenge. The Humane Society is asking estate planners and attorneys to encourage their clients to take steps to ensure their companion animals' continued care and safety.

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**INCREASES TO THE GIFT AND ESTATE TAX EXCLUSIONS  
AND OTHER INFLATION ADJUSTMENTS FOR YEAR 2002**

The IRS has announced the following inflation adjustments for 2002:

- (1) The \$10,000 gift tax annual exclusion increases to \$11,000.
- (2) The generation-skipping tax exemption goes from \$1 million to \$1,100,000.
- (3) The annual gift tax exclusion for spouses who are not U.S. citizens increases from \$100,000 to \$110,000.
- (4) The estate tax exemption increases from \$675,000 to \$1 million, with the highest estate tax rate falling from 55% to 50%, and the highest income tax rate for individuals, trusts and estates capped at 38.6%.
- (5) The maximum allowable long-term care premiums that can be deducted increases in 2002, ranging from \$240 per year (age 40 or less) to \$2,990 per year (over age 70).

**MEDICAID**

**UPDATE OF SELECTED PUBLIC BENEFIT FIGURES FOR YEAR 2002**

|   |  |
|---|--|
| New Jersey's Institutional Income Cap       | \$1,635 per month                            |
| Community Spouse Resource Allowance         | Minimum     \$17,856<br>Maximum     \$84,280 |
| Minimum Monthly Maintenance Needs Allowance | \$1,452 per month                            |

**MEDICARE**

|                                      |   |
|--------------------------------------|---|
| Part A Nursing Home Co-Insurance     | \$101.50 per day<br>for days 21 through 100   |
| Part A Inpatient Hospital Deductible | \$812 per spell of illness plus<br>\$203 per day for days 61-90<br>\$406 per day for days 91-150<br>(lifetime reserve days) |
| Part B Deductible                    | \$100 per year  |
| Part B Premium                       | \$54 per year   |

**SUPPLEMENTAL SECURITY INCOME (SSI)**

|                       |                 |
|-----------------------|-----------------|
| Federal benefit rate: |                 |
| Individual            | \$545 per month |
| Couple                | \$817 per month |

**SOCIAL SECURITY BENEFITS**

|  |                           |
|--|---------------------------|
| Substantial Gainful Activity (SGA) for Disabled Persons: | \$780 in monthly earnings |
| Exempt earnings under the Retirement earnings test:      |                           |
| Age 65 and older   | \$30,000 per year         |
| Under Age 65   | \$11,280 per year         |
| Maximum Annual Income Subject to Social Security Tax     | \$84,900                  |

Donald D. Vanarelli, Esq., **certified as an Elder Law Attorney** by the National Elder Law Foundation, an ABA-approved certifying organization, and **certified as a Registered Guardian** by the National Guardianship Foundation, will be conducting **free** seminars on "Protecting Your Assets From Catastrophic Nursing Home Costs" at local libraries in the next several months. In these hands-on workshops, participants will learn how to qualify for government assisted medical programs while still preserving their assets for their heirs.

## UPCOMING WORKSHOPS

### *How To Protect Your Estate From Catastrophic Nursing Home Costs*

|                        |                         |   |
|------------------------|-------------------------|---|
| Wednesday, January 30  | Edison Library          | 1:00 PM-2:30 PM <i>and</i><br>7:00 PM-8:30 PM |
| Tuesday, February 5    | Scotch Plains Library   | 1:00 PM-2:30 PM <i>and</i><br>7:00 PM-8:30 PM |
| Wednesday, February 20 | Linden Recreation Dept. | 10:30 AM-12 NOON                              |
| Wednesday, March 13    | Clifton Library         | 1:00 PM-2:30 PM                               |

**To register, please call 908-232-7400**

## FIRM MISSION

**The Law Firm of Donald D. Vanarelli** is devoted to helping seniors and the disabled in their desire to maintain their independence and quality of life, pay for all needed care, including nursing home care, and preserve assets for family and others. We strive to provide estate and legal planning services to our clients with the highest level of excellence in legal expertise, compassion and sensitivity. Through our publications and seminars, we educate other professionals and our client community about how best to address the legal needs of seniors, the disabled and their families.

For more information, visit Mr. Vanarelli's web sites at  
[dvanarelli.lawoffice.com](http://dvanarelli.lawoffice.com) and [elderlawanswers.com/attorney/vanarelli.html](http://elderlawanswers.com/attorney/vanarelli.html)

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