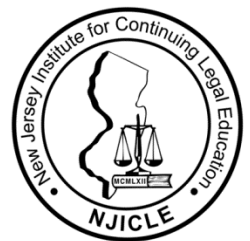

PRACTICAL MEDICAID PLANNING– A WEBINAR

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Bookbinder Law, LLC (Marlton)

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Rice Elder Law (Cherry Hill)

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Thank you for logging in. We will begin shortly.

PRACTICAL MEDICAID PLANNING



Using The Online Classroom

1. All Attendee phone lines are muted.
2. Questions may be submitted
 - Via Chat on the right hand side of your screen.
 - Questions will be answered periodically during the presentation

Note: Attendees with dial up connections will see a slower response.



Asking Questions – Easy as 1,2,3

3. See your messages here

1. Type your question here.

The screenshot shows a web conference interface. At the top, there is a toolbar with icons for chat, help, and recording. Below this is a 'Participants' panel with a table listing 'Panelists: 1' (NJICLE Staff (Host)) and 'Attendees: 0'. Below the participants list are controls for 'Make Presenter', 'Audio', and 'Mute'. A 'Chat' window is open at the bottom, showing a 'Send to:' dropdown menu set to 'All Participants' and a text input field with a 'Send' button.

2. Send



Technical Difficulties??

If you experience technical difficulties during today's webinar, please hit #0 and an operator will assist you

ATTENDANCE VERIFICATION

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VERIFICATION FORM TO NJICLE

+ FAX: 732-249-1428



+ E-MAIL: smilek@njsba.com

SEMINAR MATERIALS AND CLE FORMS

TO ACCESS SEMINAR MATERIALS,
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PLEASE GO

TO THE LINK THAT WAS E-MAILED TO YOU
TODAY.



Practical Medicaid Planning

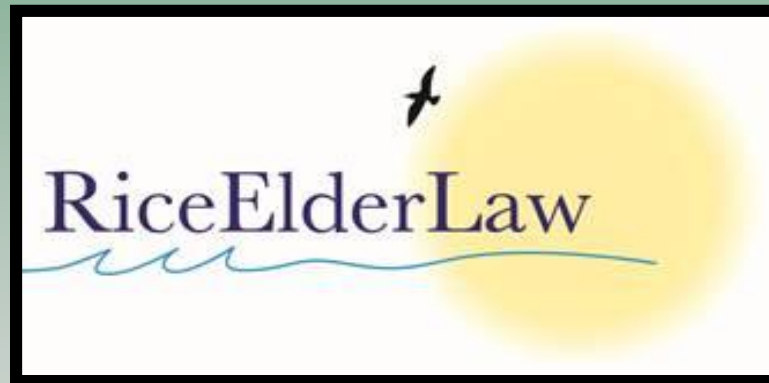
- Eligibility Criteria
- Transfers
- Application Process
- Estate Recovery





BOOKBINDER LAW, LLC
*Protecting the Future You Want*SM

Dana E. Bookbinder, Esq., CELA



Pamela A. Quattrone, Esq., MBA

What is the likelihood of needing long term care?

- 43% require Nursing Home Care
- 60% require Long Term Care
- \$4,000-5,000/mo. Home Care
- \$4,000-\$9,000/mo. Assisted Living
- \$9,000-\$13,000/mo. Nursing Home

Funding Sources

- Private Pay
- Long Term Care Insurance
- VA
- Medicaid

Why Plan?

- Best Quality Care
- Security for the community spouse
- Avoid Burden on Kids
- Preserve legacy for children
- Avoid Medicaid liens

Considerations for Planning

- Income Requirements
- Resource Requirements
- Transfer Rules
- Taxes
- Beneficiary Designations
- Estate Recovery

THE LAW

FEDERAL

- Statutes
- Regulations
- HCFA/CMS
- SSA

STATE

- Statutes
- Regulations
- Communications
- County Boards of Social Services

MLTSS

- Medicaid Managed Long Term Services and Supports
 - Uses managed care organizations to coordinate care
 - Covers home care, assisted living and nursing home

MEDICAID ELIGIBILITY FOR LONG TERM CARE

- Clinical Eligibility
- Financial Eligibility
 - Income
 - Resources
 - Transfers

CLINICAL ELIGIBILITY

- N.J.A.C. § 10:71-3
- A person meets the qualifications for nursing home level of care, which means that the person requires assistance with activities of daily living such as bathing, toileting and mobility.

PRE-ADMISSION SCREENING (PAS)

- Administered by Office of Community Choice Options (OCCO)
- Referral is made to OCCO by:
 - Hospital – Form LTC-4
 - Nursing Home – Form LTC-2
 - Assisted Living – AL-6
 - Community – Form PA-4
- OCCO sends nurse to evaluate clinical eligibility

FINANCIAL ELIGIBILITY - INCOME

- N.J.A.C. § 10:71-5
- No longer income caps, however, if income is in excess of \$2,205 per month (2017), need to use QIT
- Gross-income (not net)

QUALIFIED INCOME TRUST (QIT)

- Income over \$2,205/mo must be deposited into QIT every month
 - Must deposit whole source of income (i.e. all of social security or all of pension)
- QIT must name Trustee
- Set up account at bank
- Must be established and funded in month of anticipated eligibility

Who Establishes a QIT?

- Beneficiary
- Guardian
- Power of Attorney

- Uses Beneficiary's Soc. Sec. No.
- Treated as Grantor Trust
- Establish with deposit up to \$20

QUALIFIED INCOME TRUST (QIT)

- Trust property can only be used for:
 - Personal Needs Allowance (PNA)
 - Minimum monthly maintenance allowance for non-Medicaid spouse (MMMNA)
 - Medicaid expenses
 - Patient cost share
- Payback to NJ upon death

State Template

- http://www.state.nj.us/humanservices/dmahs/clients/Qualified_Income_Trust_Template.pdf

RESOURCES

- N.J.A.C. § 10:71-4
- Single – less than \$2,000
- Married –
 - Medicaid spouse - \$2,000
 - Non-Medicaid spouse can keep half of all combined assets (“CSRA”)
 - Minimum \$24,180 (2017)
 - Maximum of \$120,900 (2017)

RESOURCES

- Excludable resources:
 - Medicaid beneficiary's house if occupied by him/her
 - Personal effects, household goods under \$2,000
 - Cash value of life insurance if total face value of all policies is less than \$1,500
 - Income producing business property
 - Not accessible through "no fault of his/her own"
 - Burial plots of beneficiary/spouse
 - If married:
 - House if occupied by at least 1 spouse
 - 1 car

TRANSFERS

- N.J.A.C. § 10:71-4.10
 - 5-year look-back
 - Uncompensated transfer for less than FMV
 - Includes:
 - Gifts
 - Waiving right to receive inheritance (disclaimer) or elective share
 - Not accepting injury settlement
 - Refusal to take legal action for alimony

TRANSFERS

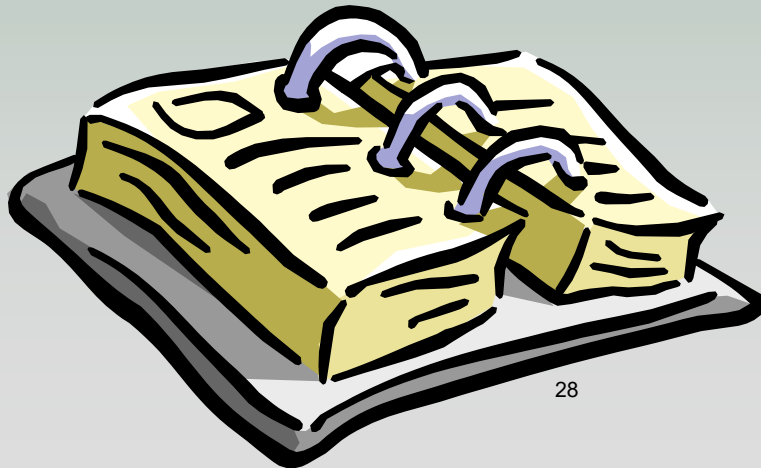
- Transfer to friend or relative for care/services presumed gratuitous unless documented before commencement of services

PENALTY FOR TRANSFERS

- Period of Medicaid ineligibility based upon value of uncompensated transfer
- Penalty divisor - \$332.50/day (2017)
 - Max
- Penalty does not start to run until apply and otherwise eligible

PENALTY BEGINNING DATE

- Date of Transfer
- Receiving Institutional Care
- No Other Period of Ineligibility
- Assets Reduced to Eligibility Limits



EXCEPTIONS TO TRANSFER RULES

- To spouse
- To child under 21 of institutionalized individual or blind/disabled child of any age
- Sibling who already has equity interest in home and was residing in it for 1 year
- 2 year caregiver child
- Sole benefit trust for disabled individual under 65
- Exclusively for purpose other than to qualify for Medicaid
- Transferred assets returned

APPLICATION PROCESS

- NJ FamilyCare Aged, Blind, Disabled Programs Application
 - http://www.state.nj.us/humanservices/dmahs/clients/medicaid/abd/ABD_Application_Booklet.pdf
- County Board of Social Services in county where care will be provided

APPLICATION PROCESS

- Supporting documentation:
 - Clinical eligibility
 - Identifying information
 - Documentation of existing insurance
 - Proof of income
 - Proof of resources -
 - 60 months bank statements for every account
 - Proof of prepaid funeral
 - Tax returns

ESTATE RECOVERY

- N.J.A.C. § 10:49-14.1
 - Payback to State of NJ out of deceased Medicaid beneficiary's estate for benefits provided under Medicaid program
- Cannot lien:
 - Where benefits paid to before age 55
 - During lifetime of surviving spouse
 - During lifetime of surviving child under age 21 or permanently disabled child
 - Amount recoverable less than \$500
 - Gross estate under \$3,000

ESTATE RECOVERY

- “Estate” does not include:
 - Life estate
 - Third party SNT (testamentary or inter vivos)

Practical Medicaid Planning



Thank you

- + Thanks to our speakers for presenting today's program.
- + Please remember to sign your affirmation form and either fax or e-mail it to ICLE:
- + Fax: 732-249-1428
- + E-Mail: smilek@njsba.com



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About Dana Bookbinder

DANA E. BOOKBINDER has been advising thousands of families throughout New Jersey's Camden, Gloucester, Burlington, and Mercer Counties and surrounding areas as well as in Philadelphia in the areas of Elder Law, Estate Planning, and Special Needs Planning for nearly two decades. When she founded BOOKBINDER LAW, LLC, she was determined to provide a new level of personal attention to her clients, focusing on helping them protect their families and their finances. Dana is certified as an Elder Law Attorney by the ABA-accredited National Elder Law Foundation and is an accredited attorney with the Department of Veterans Affairs.

Dana is a past Chair of the New Jersey Bar Association Elder and Disability Law Section and past chair of the Burlington County Real Estate and Probate Committee. She has authored articles on legal devices for asset, estate and tax planning as well as veterans benefit planning in publications including the *New Jersey Law Journal*. She regularly instructs other attorneys on her practice areas for the New Jersey Institute of Continuing Education and the National Business Institute. She also often lectures to civic and retirement groups as well as financial and legal professionals and has appeared on both radio and television to discuss legal planning.

Dana is also a member of the National Academy of Elder law Attorneys and a life member of *The National Registry of Who's Who*. Since 2010, she has also been chosen for inclusion in the New Jersey Super Lawyers registry and in prior years to the Rising Stars list.

Ms. Bookbinder is a member of the New Jersey State and Pennsylvania bar associations and the Camden and Burlington County bar associations. She received her B.A. degree with distinction in all subjects from Cornell University in 1992 and her J.D. degree from The George Washington University Law School in 1995.

Dana is a native of South Jersey. Outside the office, she enjoys spending time with her family, playing the piano, competitive ping pong matches against her husband, and teaching her two daughters to play tennis.

Attorney Recognition

Since 2010, Attorney Dana E. Bookbinder has been selected for inclusion in the list of New Jersey Super Lawyers published by Thomson Reuters and New Jersey Monthly for estate planning and elder law. The registry names 5% of attorneys from each region or state. From 2006 -2009, she was included in the list of "Rising Stars." The selection process includes a patented process of nominations, independent research, and peer evaluations comprehensively described at http://www.superlawyers.com/about/selection_process.html. As the Super Lawyers list is comparative in nature, no aspect of this advertisement has been approved by the Supreme Court of New Jersey.

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pamela@riceelderlaw.com

Pamela A. Quattrone, Esq., MBA is an Associate attorney at the Law Offices of Nancy M. Rice. Pamela dedicates her practice to estate, tax and long-term care planning, estate administration, guardianship, and litigation related to each of these areas. She works with individuals and their families to address asset-preservation issues and long-term care concerns that we all face at some time, whether for ourselves or those we love.

Pamela has experience drafting various estate planning instruments, including wills, various trusts, durable powers of attorney and advance directives for health care. She also represents executors, administrators and trustees with respect to the administration of estates and trusts, as well as fiduciaries, beneficiaries and interested parties with respect to accounting actions and other probate litigation matters. The following are examples of some of Pamela's representative matters:

- Brought an action before the Burlington County Chancery Court to challenge disbursements made by a corporate trustee from a Special Needs Trust and obtained a favorable settlement for the trust.
- Represented the named beneficiary of a life insurance policy before the Federal District Court for the District of New Jersey in an interpleader action filed by the life insurance company as a result of an incorrectly submitted change of beneficiary form and obtained a favorable settlement for client.

- Brought an action for partition of estate assets in Atlantic County Chancery Court on behalf of the executor/beneficiary of an estate and negotiated a favorable settlement.
- Brought an action on behalf of an heir to an estate before the Cumberland County Chancery Court to challenge a transfer made by an alleged power of attorney before the death of the decedent, thereby improperly removing the asset from the decedent's estate and making it unavailable for distribution to the decedent's heirs; obtained favorable settlement for client.
- Represented beneficiaries, parents and legal guardians in actions before several Chancery Courts in New Jersey to remove trustees of various trusts, both with and without cause, and to modify specific terms of irrevocable trusts.

Pamela graduated with honors from Rowan University in 2004 with a Bachelors of Science degree in Finance and earned both her Juris Doctorate and Masters of Business Administration degrees from the University of Denver in 2007. During law school, Pamela was an editor for the Transportation Law Journal and an Honors Law Intern for the United States Securities and Exchange Commission's Central Regional Office in Denver, Colorado. Pamela is currently pursuing an Estate Planning Certificate and an LLM in Taxation at Temple University.

Prior to joining the Law Office of Nancy M. Rice, Pamela was an associate attorney at a large Philadelphia-based law firm.

Presentations

- "Essentials for Seniors & Those Who Love Them: Asset Protection & Medicaid," April 2, 2014 6:00-7:30pm, Cherry Hill Senior Living, Cherry Hill, NJ

Speaking Engagements

- 2014. Straight Talk with Estate and Elder Law Attorneys. "Are There Pitfalls to Opening Joint Bank Accounts?- If So, What is Ideal?"

Areas of Practice

- Estate Planning
- Probate & Estate Administration
- Probate, Estate and Trust Litigation
- Guardianship

- Special Needs Trusts
- Tax Planning
- Medicaid

Bar Admissions

- New Jersey, 2008
- Pennsylvania, 2008
- U.S. District Court District of New Jersey, 2008

Education

- **Temple University Beasley School of Law, Philadelphia, Pennsylvania**
 - LL.M. Candidate
- **University of Denver College of Law, Denver, Colorado**
 - J.D. - 2007
 - Law Journal: Transportation Law Journal, Technical Editor and Staff Editor
- **University of Denver Daniels College of Business**
 - M.B.A - 2007
- **Rowan University**
 - B.S. - 2004
 - Major: Finance

Published Works

- ["The Potential Pitfalls of Giving Away Your Assets"](#)
- ["Time Share Headaches: What Happens to My Time Share When I Die?"](#)

Professional Associations and Memberships

- New Jersey State Bar Association
- Camden County Bar Association
- Pennsylvania Bar Administration
- Gloucester County Bar Association

The Law Offices of Nancy M. Rice is based in Cherry Hill and Ocean City, New Jersey. Attorneys