

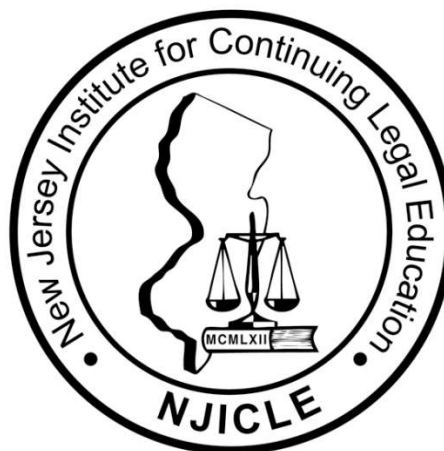
ALL ABOUT MEDICARE

2022 Seminar Material

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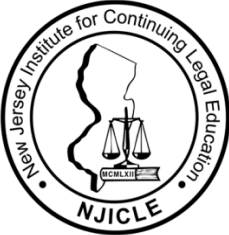


ALL ABOUT MEDICARE

Presented by
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M1237.22



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Medicare Eligibility, Penalties & Medicare Set-aside Medicaid/Medicare Aspects of PI Settlements

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I. **MEDICARE ENROLLMENT**

A. A,B,C,D– What are all those letters?

1. Medicare comes in three flavors– Original Medicare (Parts A and B), Medicare Advantage Plans (Part C) and Medicare Prescription Plans (Part D).
2. Various proposals would add dental and vision benefits possibly to Part A or B or as a new part.
3. Part A covers hospitalization and rehabilitation. Part B funds health care services (possibly in hospital) and equipment. Part C (so called Medicare Advantage) consists of managed care plans (similar to typical large employer managed health care group plans) that combine A & B benefits and sometimes add additional benefits. Part D covers drugs and sometimes is included in Medicare advantage plans.

- B. What does Medicare cost?
1. Medicare Part A carries no premium if enrollee or spouse paid at least 40 quarters of Medicare and SS/Railroad Retirement payroll taxes. 40 quarters of payroll tax payments is the basic requirement for SS retirement benefits.
 2. Medicare Parts B, C, and D have premiums, but Medicaid may pay them for indigent enrollees.
- C. How do I qualify for Medicare?
1. U.S. citizens and persons who have been permanent legal residents of U.S. for at least five years are eligible for Medicare at age 65 if they have sufficient work history on own or through a spouse (typically 40 quarters of earnings subject to Medicare and SS/RR retirement payroll tax).
 2. Persons who receive Social Security Disability Insurance benefits or have ESR (end stage renal disease) or ALS (Lou Gehrig's Disease) can qualify for Medicare before age 65 w/o the age 65 work history requirement.
 3. Although Medicare usually continues for life, where Medicare eligibility is based solely on ESR and you have a kidney transplant, Medicare may be for a limited term.
 4. After receiving Social Security Disability Insurance for 24 months you should automatically receive Medicare Parts A & B and can elect to enroll in Parts C and D.
 5. If you still have a disabling impairment but lose SSDI due to earnings over SGA limits, you may keep Medicare for at least 93 months after the trial work period ends. The trial work period is a complex mechanism that allows an SSDI recipient to earn more than substantial gainful activity thresholds for several months without losing SSDI.

- D. How do I enroll in Medicare?
1. File a Medicare application with SS Administration.
 2. The initial enrollment period for a person eligible at age 65 is from 3 months before to 3 months after the month in which you reach age 65.
 3. If you're covered under a group health plan based on your or your spouse's current employment, you may claim a Medicare Special Enrollment Period (SEP) to sign up for Parts A and B, and if you do so, you also can enroll in Parts C and D.

II. SECONDARY VS. PRIMARY

- A. What is primary vs. secondary health insurance?
1. Primary and secondary insurance relate to coordination of benefits under 2 or more plans such as Medicare and employer, retiree, or COBRA group health insurance.
 2. Insured first pays any deductibles, Once deductible is met, primary health insurance is responsible for the remainder of Medicare allowable charges less co-pays. Secondary insurance covers some or all co-pays.
- B. What are coordination of benefit ordering rules?
1. Federal ordering rules determine whether Medicare is primary or secondary to other health insurance. This ordering applies whenever you are eligible for Medicare and also have other health insurance.
 2. Ordering rules are very technical but are important.
- C. When must I take Medicare?
1. If Medicare would be primary but you don't take Medicare, you have no primary coverage. Other insurance continues

to be only secondary and will pay either nothing or only what it would pay if you also had Medicare leaving you liable for costs Medicare normally would cover.

2. **EXAMPLE-** Because you have great health insurance through work, you don't take Medicare at age 65. At age 66, you have surgery costing \$100,000, which is fully covered by your employer plan. When you retire at age 68, the company's retiree coverage kicks in, but you still don't take Medicare. Your surgeons then charge \$200,000 for a complex follow-up operation for which Medicare would pay 80% if you had Medicare. Assuming the full \$200,000 are allowable charges, you are liable for at least \$160,000 since Medicare is primary to retiree coverage. The secondary retiree coverage may or may not cover the remaining 20%. Even worse, the surgeons may charge uninsured rates, which typically far exceed what Medicare would pay.

D. Where Medicare would be secondary?

1. Where you decline to take other insurance such as employer coverage primary, but you don't enroll in the other insurance, Medicare won't reduce coverage.
2. Medicare still covers you as if you didn't have the option to take the other health insurance.

E. When is Medicare primary or secondary?

1. Medicare generally is primary or sole coverage where there is no group health plan and health care is not remedying a tort. This means that either Medicare is the only health insurance or other insurance only pays costs Medicare doesn't pay.
2. Medicare participant is age 65 or older.
 - a. Medicare is secondary to group health plan covering

- current** employee and spouse where employer has 20 or more employees.
- b. Medicare is primary to group health plan covering current employee and spouse where employer has fewer than 20 employees.
 - c. Medicare is primary to group health plan covering former employee and spouse (such as retiree or COBRA coverage).
3. Medicare participant is under age 65 and SS disabled.
 - a. Generally, Medicare is primary if an employer has fewer than 100 employees.
 - b. Medicare is secondary where an employer has at least 100 employees or at least one employer in a multi-employer plan has 20 employees or more.
 4. Medicare for people with end stage renal disease is governed by complex rules that may differ from above.

III. MEDICARE LATE ENROLLMENT PENALTIES

- A. This section was accurate when written in 2017 but changes may have occurred subsequently. Therefore, check for current rules before advising clients.
- B. Why can deferring Medicaid prove costly?
 1. If you don't take Medicare when first eligible and don't have certain other coverage, you may face higher Medicare premiums later.
 2. Over a lifetime, penalties can dwarf premium savings from deferring Medicare.
 3. Delaying enrollment may leave you uninsured for a time as

shown above.

- C. When do Part B late enrollment penalties apply?
1. Your monthly premium for Part B may go up 10% for each full 12-month period that you could have had Part B, but didn't sign up for it.
 - a. Less than 12- month periods don't trigger the 10% addition.
 - b. Also, you may have to wait until the General Enrollment Period (from January 1 to March 31) to enroll in Part B, but coverage won't start until July 1 of that year.
 2. A Medicare Part B late enrollment penalty should not apply if you are covered by an employer or union group health plan based on your own or a spouse's *current employment*. Since COBRA and retiree health plans aren't coverage based on current employment, a late enrollment penalty applies if you delay enrolling in Medicare Part B because you have COBRA or retiree health coverage but not current active employment coverage.
- D. What is the Medicare Part D late enrollment penalty?
1. You may owe a late enrollment penalty if, for any continuous period of 63 days or more after your initial enrollment period is over, you go without Medicare prescription insurance or other creditable coverage.
 2. Other coverage should be able to tell you if it is creditable. Typical large employer drug plans should be creditable but check with the employer to be sure.
 3. Medicare calculates the prescription late enrollment penalty by multiplying 1% of the "national base beneficiary premium" (\$35.63 in 2017, \$35.02 in 2018) times the number of full, uncovered months you didn't have Part D or

creditable coverage.

- a. The monthly premium is rounded to the nearest \$.10 and added to your monthly Part D premium.
- b. The national base beneficiary premium may increase each year, so your penalty amount may also increase each year.

IV. MEDICARE SET-ASIDE (MSA)

- A. A personal injury or work accident victim can qualify for Medicaid despite a large settlement where the settlement is paid into a qualifying special needs trust. To protect against windfalls to the Medicaid recipient's family, federal law requires any trust balance when the Medicaid recipient dies to repay Medicaid.
- B. To prevent windfalls, a Medicare recipient must protect Medicare's interests by using damages that compensate for medicals (rather than Medicare) to pay for medical care related to the injury.
 1. Medicare can refuse to fund future accident related care if Medicare determines plaintiff has not met his obligations.
 2. If the plaintiff has already spent the settlement/award money, plaintiff may be unable to afford needed accident related care but Medicare may refuse to pay.
- C. CMS (the federal Medicare agency) guidelines state that MSA is the preferred way to protect Medicare's interests in worker compensation settlements. CMS has provided only minimal informal guidance for personal injury MSAs. CMS issued an Advance Notice of Proposed Rule Making in 2012 but later withdrew the proposed rule, so current status is murky at best.
- D. An MSA is a trust or other arrangement that dedicates tort or worker compensation recovery to pay only for post-settlement care of a kind Medicare normally would fund if the care need

weren't occasioned by a tort or work injury.

- E. MSA should be based on projected care costs over the Medicare participant's life expectancy based on medical and pharmaceutical records.
- F. Medicare set-aside arrangements benefit lawyers as well as clients. While an MSA takes away from the discretionary amounts available to the plaintiff, it should avoid issues with Medicare if properly designed and administered.
- G. Example– \$3,000,000 settlement compensates plaintiff for catastrophic fall at work.
 - 1. While \$3,000,000 may be more than enough to cover any future medicals with ease, the plaintiff may lack funds to pay medical costs if worker compensation counsel doesn't provide for a Medicare Set-aside Arrangement.
 - 2. If legal fees and spouse's per quod claim cover \$1,200,000, that leaves \$1.8 million for the injured worker, but if \$1 million is structured, plaintiff only has \$800,000 liquid.
 - 3. Plaintiff easily could spend several hundred thousand dollars to pay off loans and buy a house– especially if counsel doesn't warn plaintiff about his obligation to apply accident related medical damages to accident related care.
 - 4. When Medicare later refuses to pay for the first \$500,000 of costs for post-settlement rehabilitation, back surgery, and traumatic brain injury treatments because Medicare determines that damages for future medicals total \$500,000, how will plaintiff fund them?
 - 5. To ensure plaintiff has funds for future treatment, FriedmanLaw www.SpecialNeedsNJ.com in conjunction with a nurse would determine a Medicare set-aside amount

based on Medicare guidelines and advise plaintiff of options.

- a. We probably would recommend establishing a professionally administered MSA to seamlessly coordinate Medicare and MSA.
 - b. If plaintiff also receives Medicaid, the MSA would be designed in concert with a Medicaid qualifying special needs trust to avoid Medicaid inclusion of the set-aside.
- H. Nurse analysis typically is essential to determine a baseline Medicare set-aside amount, but a special needs attorney may have insight to bases to reduce the baseline MSA. Therefore, legal counsel as well as MSA nurses should be involved in designing an MSA.

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MEDICARE MAKEOVER

Changing Times Requires a Change In Plans for Your Family



**Rich
Gustafson**
Financial Advisor

With a focus in Retirement Income
Planning & Medicare Strategies

FINRA Registrations 7, 63 and 65

Life, Health and Disability
Insurance Licenses

CA Ins License #0H29211







Parts of Medicare



Part A: Hospital Insurance

- Inpatient care in hospitals
- Skilled nursing facility, hospice, and home health care

Usually, no
premiums



Part B: Medical Insurance

- Doctors, hospital outpatient care, durable medical equipment and home health care
- Preventive services

Usually,
\$170.10/month*
*Income adjusted



Part C: Medicare Advantage

- Another way to get benefits covered under Part A & B
- Most offer prescription drug coverage (Part D)
- Run by private insurance companies

Varies by plan



Part D: Prescription Drug Coverage

- Helps cover prescription drug costs
- Run by private insurance companies

Usually, plan
premium
*Income adjusted

Medicare Part B: Monthly Premiums

2022 INCOME TIERS & PREMIUMS			
Tier	File Ind. Tax Return	File Joint Tax Return	Prem. in 2022
1	<=\$91k	<=\$182k	\$170.10
2	\$91,000-\$114,000	\$182,000-\$228,000	\$238.10
3	\$114,001-\$142,000	\$228,000-\$284,000	\$340.20
4	\$142,000-\$170,000	\$284,000-\$340,000	\$442.30
5	\$170,000 - \$500,000	\$340,000- \$750,000	\$544.30
6	>\$500,000	>\$750,000	\$578.30

Legend: 2022 changes in green

¹ Income is based on prior full year tax return (e.g. 2020 MAGI for 2022 premiums)

Medicare Part D: Monthly Premiums

2022 INCOME TIERS & PREMIUMS			
Tier	File Ind. Tax Return	File Joint Tax Return	Prem. in 2022
1	<=\$91k	<=\$182k	Your plan premium
2	\$91,000-\$114,000	\$182,000-\$228,000	\$12.40 + your plan premium
3	\$114,000-\$142,000	\$228,000-\$284,000	\$32.10 + your plan premium
4	\$142,000-\$170,000	\$284,000-\$340,000	\$51.70 + your plan premium
5	\$170,000-\$500,000	\$340,000-\$750,000	\$71.30 + your plan premium
6	>\$500,000	>\$750,000	\$77.90 + your plan premium

Legend: 2022 changes in green

¹ Income is based on prior full year tax return (e.g. 2020 MAGI for 2022 premiums)

Original Medicare



COVERAGE AVAILABLE

Part A : hospital insurance

Part B : medical insurance



Gaps Exist in Coverage

Medicare Supplement Plans are
A, B, C, D, F, F*, G, K, L, M & N

Case Example

Vinny: 78 years old

Prior to the meeting:

- \$432.00 Monthly Premium - Medicare Supplement Plan J
(plan ceased existence in 2010)
- \$99.00 Monthly Premium – Part D Prescription Drug Plan
(not updated since 1997)

Total Monthly Premiums:

\$531.00

After the meeting:

- \$184.00 Monthly Premium - Medicare Supplement Plan G
- \$11.90 Monthly Premium – Part D Prescription Drug Plan

Total Monthly Premiums:

\$195.90

Monthly Savings:

- \$335.10/month
- \$4,021.20/year

Part B Enrollment Scenarios



**Turning 65
Enrolled in SS**

**Auto-enrolled in
A & B**



**Turning 65
Not enrolled in SS**

**Enroll online at
<http://secure.ssa.gov/iclaim/rib>**



**Enrolling after
age 65**

See next slide

Enrolling After Age 65

Two forms required to drop at Social Security

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

Form Approved
OMB No. 0938-1230

APPLICATION FOR ENROLLMENT IN MEDICARE PART B (MEDICAL INSURANCE)

1. Your Social Security Claim Number Beneficiary Identification Code (BIC)

□□□□ - □□□□ - □□□□ □□□□

2. Do you wish to sign up for Medicare Part B (Medical Insurance)? YES

3. Your Name (Last Name, First Name, Middle Name)

4. Mailing Address (Number and Street, P.O. Box, or Route)

5. City State Zip Code

□□□□ □□ □□□□□□

6. Phone Number (including area code)

(□□□□) □□□□ - □□□□

7. Written Signature (DO NOT PRINT)

SIGN HERE

8. Date Signed

□□/□□/□□□□

IF THIS APPLICATION HAS BEEN SIGNED BY MARK (X), A WITNESS WHO KNOWS THE APPLICANT MUST SUPPLY THE INFORMATION REQUESTED BELOW.

9. Signature of Witness

10. Date Signed

□□/□□/□□□□

11. Address of Witness

12. Remarks

Enroll in Part B Form
<https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS40B-E.pdf>

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

Form Approved
OMB No. 0938-0187

REQUEST FOR EMPLOYMENT INFORMATION

SECTION A: To be completed by individual signing up for Medicare Part B (Medical Insurance)

1. Employer's Name 2. Date

□□□□□□□□ □□/□□/□□□□

3. Employer's Address

City State Zip Code

□□□□□□ □□ □□□□□□

4. Applicant's Name 5. Applicant's Social Security Number

□□□□□□□□ □□□□□□ - □□ - □□□□

6. Employer's Name 7. Employer's Social Security Number

□□□□□□□□ □□□□□□ - □□ - □□□□

SECTION B: To be completed by Employers

For Employer Group Health Plans ONLY:

1. Is (or was) the applicant covered under an employer group health plan? Yes No

2. If yes, give the date the applicant's coverage began. (mm/yyyy)

□□/□□/□□□□

3. Has the coverage ended? Yes No

4. If yes, give the date the coverage ended. (mm/yyyy)

□□/□□/□□□□

5. When did the employee work for your company?

From: (mm/yyyy) To: (mm/yyyy) Still Employed: (mm/yyyy)

□□/□□/□□□□ □□/□□/□□□□ □□/□□/□□□□

6. If you're a large group health plan and the applicant is disabled, please list the timeframe (all months) that your group health plan was primary payer.

From: (mm/yyyy) To: (mm/yyyy)

□□/□□/□□□□ □□/□□/□□□□

For Hours Bank Arrangements ONLY:

1. Is (or was) the applicant covered under an Hours Bank Arrangement? Yes No

Title of Company Official Phone Number

□□□□□□□□ (□□□□) □□□□ - □□□□

Proof of Coverage Form
<https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS-L564E.pdf>

Part B Enrollment Scenarios

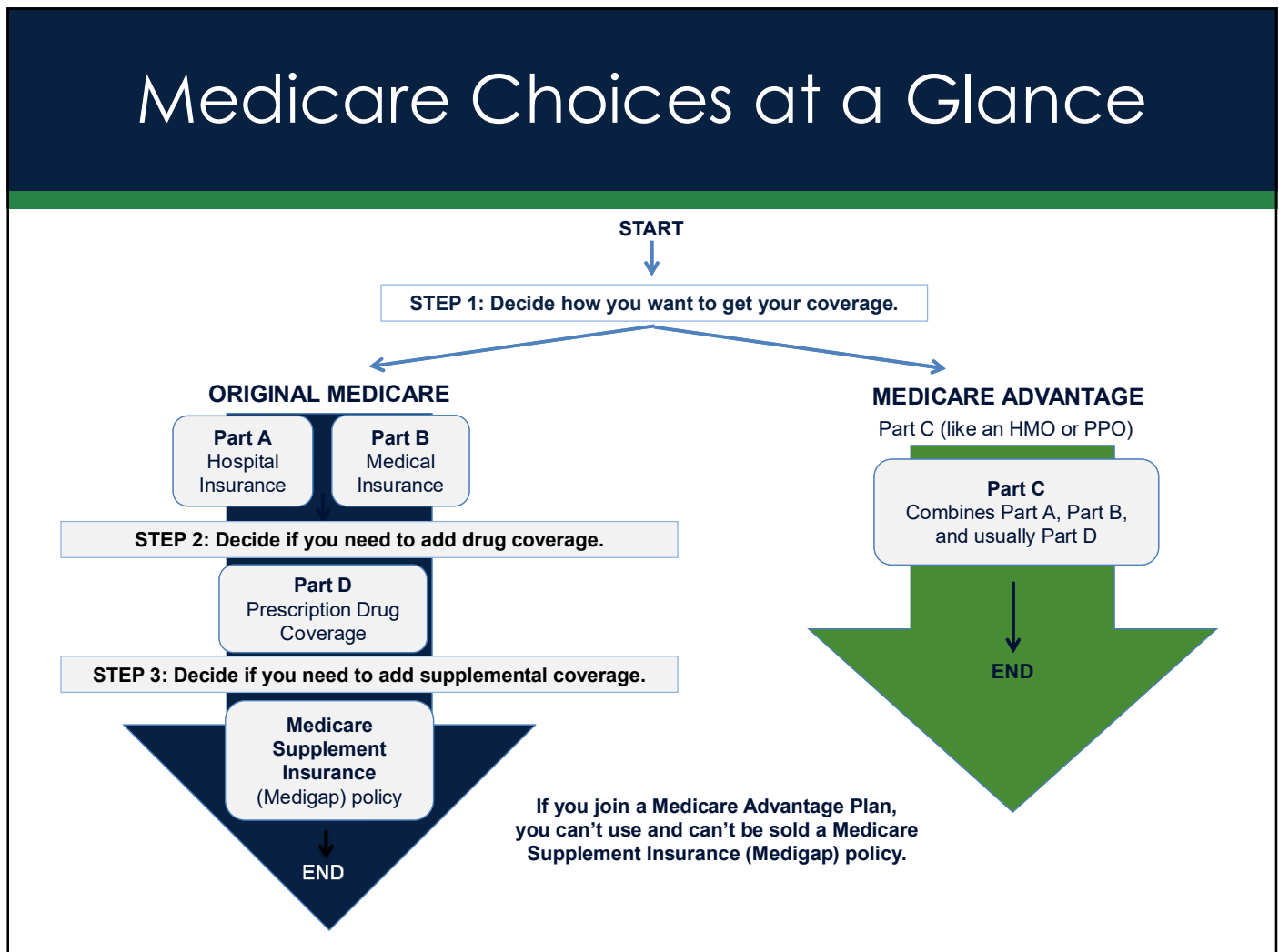
7-Month Initial Enrollment Period (IEP)

Eligible 1st of the month turn 65	Critical to enroll during the 7-month IEP	Can enroll later with penalties (10% per year)
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*If your birthday is 1st of the month, you are eligible the previous month



Medicare Choices at a Glance



Original Medicare Compared to Advantage

Characteristic	Medicare Advantage (Part C)	Original Medicare + Medicare Supplement
Relationship to Medicare Parts A & B	Replaces	Supplements
Private Network Required	Yes	No
Referrals Required	Most plans	No
Part D Included	Most plans	No
Monthly Premiums	Vary, but generally lower	Vary, but generally higher
Annual Out-of-Pocket Costs	Up to \$6,700	Minimal
Guaranteed Renewable for Life	No	Yes

Medicare & Charitable Giving



Medicare benefits used
to make annual
charitable contributions



Leverage the value of
Medicare using life
insurance to leave a
substantial legacy gift







Your Personal Roadmap

Everyone's personal road map varies greatly.

The goal at OneTeam Financial is to help build customized strategies based on your personal circumstances.

Medicare planning is just one piece of your roadmap. Contact one of our professionals at OneTeam to explore the services available to help complete your journey.





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**Let OneTeam help you keep together what
has taken you a lifetime to put together**

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About the Panelists...

Lawrence A. Friedman, Certified as an Elder Law Attorney by the ABA-accredited National Elder Law Foundation, is in private practice in Bridgewater, New Jersey. He concentrates his practice in elder and special needs law; government aid; Wills, trusts, estates and tax law, including the preparation of estate and tax planning documents such as Wills, trusts, powers of attorney and health care directives; nursing home and long-term care planning; guardianships; Medicaid, Medicare and other government programs; special needs trusts to protect disability aid in gift and estate planning; personal injury; divorce settlements; Medicare set-aside arrangements; Division of Developmental Disabilities concerns and other legal matters.

Mr. Friedman is admitted to practice in New Jersey and New York, and before the United States Tax Court. Past Chair of the New Jersey State Bar Association's Elder and Disability Law Section and a member of the Association's Real Property, Trusts & Estates Law Section, he has served as a Director of Somerset ARC (formerly the Association for Retarded Citizens) and has been a member of the New Jersey Chapter of the National Academy of Elder Law Attorneys (NAELA), the Planned Lifetime Assistance Network of New Jersey and the Malaria Foundation.

The author of scores of articles in his areas of expertise, Mr. Friedman is a frequent lecturer for ICLE, the New Jersey State Bar Association and Foundation, NAELA, several elder and disability groups, and other public and private sponsors. He is a recipient of ICLE's Distinguished Service Award, the NJSBA's Distinguished Legislative Service Award for drafting legislation that facilitates the use of special needs trusts and the PLAN/NJ Life Planning Partner Award. Mr. Friedman founded the NJSBA's annual Elder Law Retreat, a two-day educational symposium for elder law attorneys, and has moderated the ICLE's Sophisticated Elder Law program for 25 years. Copies of his many legal articles and further information on his credentials appear at SpecialNeedsNJ.com, and he also administers the website's frequently-updated blog.

Mr. Friedman received his B.A. from the State University of New York-Binghamton (Harpur College), where he was elected to *Phi Beta Kappa* and served on the University Assembly. He received his J.D. and LL.M. in Taxation from New York University School of Law, where he was Editor of the *N.Y.U. Journal of International Law & Politics* and a Student Fellow of the Center for International Studies. He also received awards from the Association of Trial Lawyers of America Environmental Law Essay Contest and the American Society of International Law Essay Contest.

Rich Gustafson is a financial professional at OneTeam Financial, LLC in Red Bank and Cranford, New Jersey, where he focuses in retirement and Medicare planning. He plays an integral part of the holistic planning process and helps clients prepare and navigate Medicare, long-term care, Social Security claiming and retirement income planning. He works closely with clients to custom-design comprehensive and flexible financial plans with the goal of enhancing wealth and reducing risk.

Mr. Gustafson is a member of the Red Bank chapter of the American Financial Education Alliance (AFEA), a 501(c)(3) non-profit organization that provides financial education programs to residents of communities in New Jersey. He began his career in the financial services industry in 2009 at Ameritas and quickly connected with his passion for helping others prepare

for their retirement dreams. Along with his experience in retirement planning, he holds licenses in life, disability and health insurance.

Mr. Gustafson received his B.A. from Rutgers University.