

VIRTUAL
25th Annual Elder Law Forum

(FREE FOR ALL TO ATTEND!)

Welcome Back!

PART 3 – June 4 – 8:30-10:30am

Financial Issues in Aging and Disability

Bob Vandy, President, Advisors Insurance Brokers

Frank Melia, Vice Pres., Quontic Bank

Peter Gordon, Daily Money Manager, New York
Financial Organizers

Elder Financial Abuse: Prevention and Cures

Liz Loewy, Co-Founder & COO, EverSafe

Marci Lovel-Esrig, Founder, Silver Bills

Peter Strauss, Senior Partner, Pierro, Connor &
Strauss

Housekeeping

- ›Your mics are muted.
- ›Handouts can be downloaded from your control panel
- ›Or visit **www.pierrolaw.com/resources** to view all of today's PowerPoint presentations and related materials
- ›Ask questions through the “Q&A” space
- ›All: complete feedback survey emailed at conclusion
- ›Social Workers: Fill out evaluations emailed after each webinar. **Include your license number.**
- ›Tweet about this event: #ELF2020

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HOME CARE CHALLENGES



Al Cardillo
Home Care
Association of New
York State



Elizabeth Martin
Consumer Directed
Choices



Nora Baratto
EverHome Care
Advisors



Nadia Arginteanu
NYSARC



Home Care Challenges Panel

Al Cardillo, LMSW
President and CEO

Home Care Association of New York State



Presentation Content

- Brief overview of home care structure in NYS.
- Profile of home care agencies, patients, services and workforce by the numbers.
- Current fiscal state of the home care sector.
- What's ahead
 - 2020-21 planned state reforms
 - Trends

Overview of Home and Community Based Care in NYS



Overview of Home and Community Based Care in NYS

- Certified Home Health Agencies (CHHAs) - 128
- Licensed Home Care Services Agencies (LHCSAs) - 14,000
- Consumer Directed Personal Assistance Program (CDPAP) - In every NYS county
- Managed Long Term Care Program (MLTC) - 25
- Waiver Programs (NHTD, TBI, CAH, OPWDD) - Statewide
- Expanded In-Home Services for the Elderly (EISEP) - In every county



Home Care In New York State: Experienced Partner in Outcome-Based Integrated Care Systems

More than Post-Acute and Long Term Care

HOME CARE: A robust and experienced partner for innovative program design that can leverage its expertise in primary care, post-acute, long term and end of life care to reduce ED visits, readmissions, improve outcomes and reduce costs.



Talk to us about how

- Certified Home Health Agencies
- Long Term Home Health Care Programs
- Licensed Home Care Service Agencies
- Hospices

Work in concert to provide high quality, cost-effective primary, public health, maternal and child health, pre-and post-acute, transitional, long term, palliative and other medical management in coordination with physicians, health plans, hospitals and other partners. Home care operates in a variety of reimbursement arrangements and risk-sharing models such as capitated payments and episodic reimbursement, and other unique payment arrangements that ensure efficiency and appropriate service utilization.

Home care includes a comprehensive range of health, social and environmental services including: care management, nursing, physical therapy, occupational therapy, speech pathology, social work, audiology, respiratory therapy, nutritional counseling, palliative care, home health aide, personal care aide, telehealth, home adaptations, respite care, medical supplies, and other support services.

These are services that can be harnessed by your PPS, ACO, or hospital system to coordinate major health and social support needs, enabling effective care transitions from hospitals and nursing home to home, managing chronic diseases, delivering post-acute care, overseeing medication regimens, and much more for your patients and community members dealing with leading causes of hospitalization and priority area health issues under DSRIP and VBP. Home care is provided patients across the spectrum of clinical needs.

Patients, Services and Coverage

Patients

- Approximately 800,000 patients are served by NYS home care agencies and programs. Most are dual eligible Medicare-Medicaid.
- Home care encompasses patients across the continuum of need, from maternal and infant care, to primary and preventive, to post-acute post-surgical, recovery and rehab care, to medical management of complex conditions, to chronic care, to palliative and end of life care.

Services

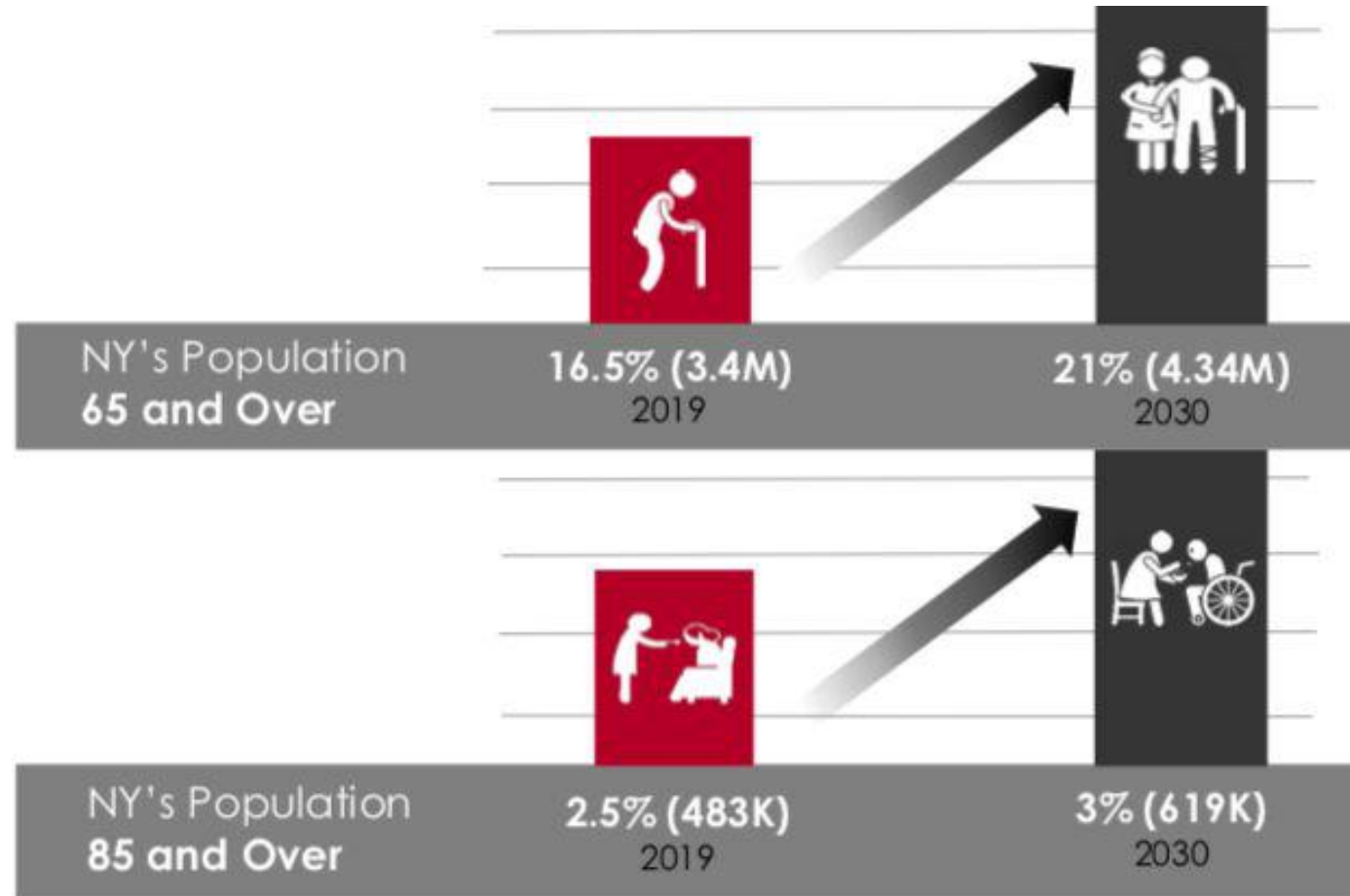
- Nursing, home health aide/personal assistance, physical therapy, Social Work, Occupational Therapy, Respiratory Therapy, Speech Pathology, Telehealth, medical supplies and equipment, and an array of supportive services such as home modifications, home delivered meals, social day care, and other.

Patients, Services and Coverage

Payors/Coverage

- Home Health Services (FFS and Managed Care)
 - Medicare – 64%
 - Medicaid – 32%
 - Private / Commercial – 4%
- Home Care Services (FFS and Managed Care)
 - 87% Medicaid
 - 9% Medicare
 - 4% Private or Commercial.

Workforce and Demand



Workforce and Demand

Estimates based on 2017 and 2016 data sources for illustration only
(not for quotation or citation)

- Home Health Aides and Personal Care Aides in CHHAs and LHCSAs – 208,080
- Nurses in CHHAs and LHCSAs (predominately CHHA)
 - RNs – 10,000 (predominately CHHA)
 - LPNS – 4,300 (predominately CHHA)
- Physical Therapists in CHHAs and LHCSAs – 1,498 (predominately CHHA)
- Occupational Therapists in CHHAs and LHCSAs – 466 (predominately CHHA)
- Speech Pathologists in CHHAs and LHCSAs – 402 (predominately CHHA)
- Social Workers – 420 (predominately CHHA)

Workforce and Demand

The number
of Home
Health Aides
will grow
52.4%
by 2026

190,000
new home care
jobs will be
needed in New
York State over
the next 10 years

The number
of Personal
Care Aides
will grow
40.6%
by 2026

Workforce and Demand

Average percentage of unfilled home care positions
Due to staffing shortages

23.10%

Unfilled HHA/PCA jobs

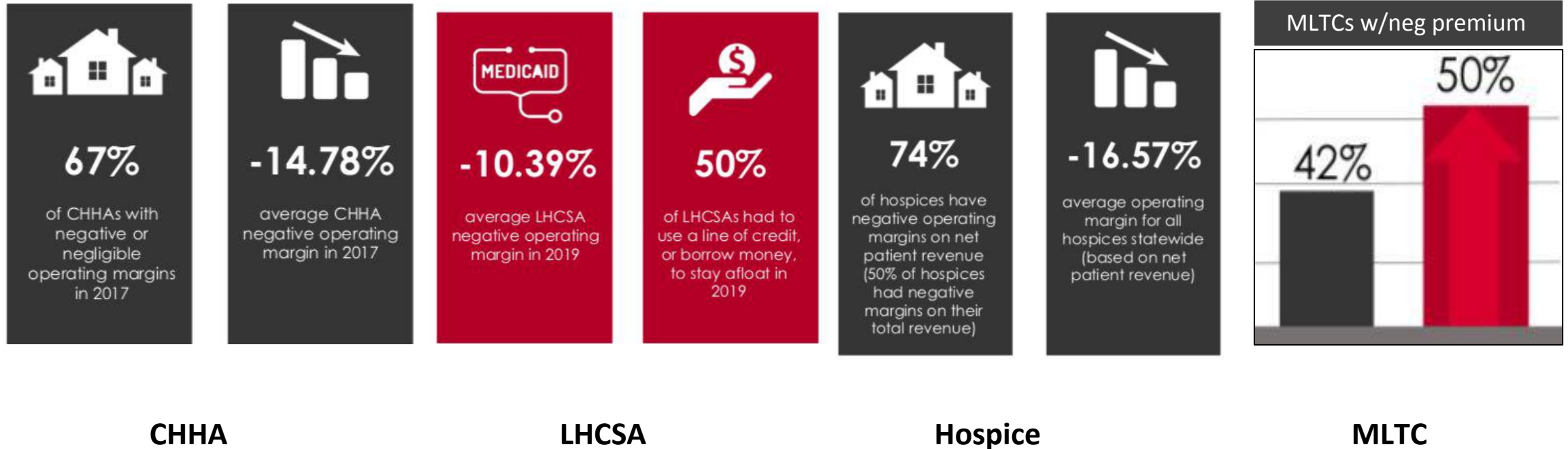
21.03%

Unfilled LPN/RN jobs

13.50%

Unfilled Therapist jobs

Financial State of the Industry



What's Ahead for Home Care in NYS

2020-21 State Budget Actions Major Impact on Home Care

\$2.2 Billion State Share/\$4.4 Billion Gross in Medicaid Actions; nearly \$2B annualized home and community based services by providers, MLTCs and CDPAP

- Across the Board Rate Cuts – 1.5%
- 3% Withholds on MLTC Payments
- Thresholds on future eligibility
(assistance in 2+ activities of daily living)
- Consolidation of MLTCs plans and LHCSAs
- Movement to fully integrated plans

What's Ahead for Home Care in NYS



- Significant, Growing Need/Demand
- Finance – Adequacy/Viability, and Finance Models
- Coverage - Mainstream Options for Coverage (beyond Medicaid-Medicare)
- Workforce Development, Support and Need
- Technology and Innovation
- Evolving Roles in Continuum; Collaborative Care
- Quality, Innovation, Research
- Customer/Patient-Centered
- Regulatory Reform

HOME CARE CHALLENGES:

Virtual Elder Law Forum



MAY 21, 2020

PRESENTED BY: NORA BARATTO, LCSW-R,
ACM-SW, AGING LIFE PROFESSIONAL
DIRECTOR OF CLIENT SERVICES

CAREGIVING 2020 SNAPSHOT



of Americans providing unpaid care has increased over the last 5 years



More Americans are caring for more than one person



More Family Caregivers have difficulty coordinating care



More Americans caring for someone with Alzheimer's disease or dementia



23% of Americans say Caregiving has made their health worse.

AARP NAC trademark

IMPACT COVID -19 PANDEMIC



- Families thrown into immediate crisis, losing care aides or afraid to let care aides in
- Services harder to access due to PAUSE order, Adult day programs shut down, home care access and inconsistencies
- PPE shortages
- Caregivers even more stressed without supports, increased mental health, alcohol use and life cycle violence
- Technology becomes critical to keep connected

Duration of Pandemic uncertain..... More families wanting to take loved ones out of nursing homes out of fear.

NYS PROPOSED BUDGET CHANGES OCTOBER 1, 2020 – 30 MONTH LOOK BACK !



- Applies to **Community Care Medicaid**
- All transfers of non-exempt assets within last 30 months. Examples money gifted, vehicle sold to family member for half the value



PROPOSED HOME CARE BUDGET CUTS

PROGRAMS IMPACTED BY CHANGES



1. Managed Long-Term Care (MLTC)
 - Personal Care Services Program (PCSP)
 - Consumer Directed Personal Assistance Program (CDPAP)
 - Private Duty Nursing Services
2. Nursing Home Transition and Diversion Medicaid Waiver Program (NHTD)
3. Assisted Living Program Services

WHAT IS COVERED: HOME CARE AIDES



Three types of aides for different levels of care and examples of job duties

Personal Care Aide

Bathing, shopping, homemaking and running errands

Home Health Aide

Bathing, dressing, and toileting; simple wound dressings; checking of vital signs, etc..

Nurse

Measuring vital signs, making beds, setting up medical equipment, observing changes in the condition of the patient, etc.

CHANGES TO MEDICAL ELIGIBILITY



Effective 10/1/20

- Personal care and CDPAP services will require the need for assistance with **THREE Activities of Daily Living (ADLs)** or **dementia**.
- They must be prescribed by an **independent physician under contract with DOH**, and approved by an **independent assessor also under contract with DOH** – instead of the local district Medicaid agency and MLTC plan.

INCREASED ELIGIBILITY REQUIREMENTS



Effective 10/1/20

- For enrollment into MLTC plans, new applicants after Oct. 1, 2020, must need “**physical** maneuvering **with more than two**” **ADL’s**
- For persons with dementia or Alzheimer’s diagnosis, they must need “**at least supervision with more than one ADL.**”
- This **ELIMINATES** Housekeeping “Level I” services now authorized by local districts up to 8 hours/week

YOUR TREATING PHYSICIAN CAN'T HELP



- Personal care and CDPAP services must be prescribed by a qualified **independent physician** selected or approved by DOH.
- Physicians familiar with patients and specialized to treat them are **ineligible**.
- This requirement will add even more delays to applying for services as the consumer will need to arrange an assessment by this independent physician (with no medical history) in order to apply.

NEW ASSESSMENT TOOL



- A new evidence-based assessment tool will be developed to help make appropriate and individualized determinations for the number of personal care services and CDPAP hours of care each day. (due 4/1/21)
- DOH will replace the function now performed by local districts, MLTC plans and mainstream Medicaid managed care plans with a new “Independent assessor,” likely Maximus, charged with determining how much Personal Care and CDPAP to be authorized.

POTENTIAL IMPACT OF HOME CARE CHANGES



- The demand for home care is growing while key program components are being scaled back that are vital to clients.
- Continued workforce shortages. Increasing use of technology
- Access to Home Care Programs is going to be even longer than current 4-6 months .
- 30 Month Lookback is going to overwhelm families from both care and cost perspective. Complexity of both is overwhelming to consumers
- How will the new transfer penalties and lookback affect the Immediate Needs application. Supposed to turnaround application within 7days
- Caregiver frustration will result in inappropriate, hospitalizations, readmissions and nursing home increasing Medicaid costs

COMPREHENSIVE ASSESSMENT, ADVOCACY AND LONGITUDINAL CARE COORDINATION



We are here to guide clients and help navigate complex and confusing care delivery systems

1.) Legal and Financial Assessment with one of our experienced attorneys

- Advance Planning
- Medicaid Applications

2.) Care Assessment with Nora Baratto or Susan Vail to determine eligibility for services.

- Assess current needs
- Advocate for care and Medicaid Hours
- Incorporate use of right technology in care progression





VivaLynx

Empowered Aging through Technology



Wellness by Alarm.com



Emergency
Doctors



EHR History
Monitor care ,
collect data



Financial Protection
Alerts & Alarms



Care Coordination
Legal and Financial
Planning



25th Annual *Virtual* Elder Law Forum

Home Care Challenges Workshop: Consumer Directed Personal Assistance And Other Self-Directed Home Care Programs

Elizabeth Martin, CEO
Consumer Directed Choices, Inc.
Elizabeth@cdchoices.org



Who is Consumer Directed Choices, Inc.?

Our Vision

Creating an inclusive community where people with disabilities (and seniors) have the resources and control to live independently in the environment of their choosing.

Our Mission

As a provider of consumer directed personal assistance (and other self-direction programs), we empower independence and advocate for people with disabilities, seniors and their families.

Our Self-Direction Programs

- Consumer Directed Personal Assistance (Medicaid)
- Consumer Directed Expanded In-Home Services for the Elderly Program (EISEP – Office for Aging funds)
- Self-Directed Alzheimer's Disease Respite (NYS Alzheimer's Disease Caregiver Support Initiative)

- Program User (either Consumer or Designated Representative) controls their home care
- Consumer/Designated Representative (DR) serve as employer to their home care staff
 - Recruit/Hire
 - Train
 - Schedule/Supervise
 - Terminate
- Fiscal intermediaries (CDChoices) support Consumers/DRs
 - Payroll/benefits administration
 - Handles funding
 - Employer Supports & Compliance monitoring

The basics of CDPA and other self-directed home care programs

Benefits of CDPA and self-directed home care

- Consumers/DRs can hire people they know and trust
 - 49% of Consumers/DRs employ at least 1 family member
 - 75% of Consumers/DRs employ at least 1 non-family member (friends, “off-the-street”)
- For some: may improve access to needed home care services
- Consumers/DRs control when, where and how care is delivered
- Dignity that comes with freedom and control
- Matching culture
- Unsure, but possible: improved protection from contagions?

- ❑ Inadequate funding from state and managed care plans
- ❑ Low worker wages and worker shortages
- ❑ Not a program for everyone (must be self-directing; Designated Representatives cannot be the workers; workers cannot act as Designated Representatives)
- ❑ Lack of full understanding of the program and concept of self-direction
- ❑ Misperceptions & negative attitudes about the program
- ❑ State budget constraints and concerns

Challenges with CDDPA and other self-direction programs



Self-Direction in the midst of COVID-19

- PPE supply shortages & price increases – affects Consumers/DRs
- Enhancing/reinforcing infection control practices
- Implementing strict symptoms/sick policies
- Reducing # of staff being scheduled/increased overtime use
 - 1/3 of Consumers/DRs say they have “paused” worker recruitment until pandemic passes
- Increased service need due to day programs & similar programs suspended
- COVID-19 infection rates among self-directed home care population unknown
 - But could self-direction model structure result in lower infection rates?

- ❑ Reduction in the number of fiscal intermediaries through a request for offers procurement process
- ❑ Eligibility changes for CDPA
- ❑ Additional assessments for high hour/high need folks
- ❑ Unsustainable funding cuts with a reimbursement rate restructure (plus other cuts already implemented)
- ❑ Devaluation of home care workers
 - ❑ CDPA workers (personal assistants) used to earn on average 130% of minimum wage
 - ❑ Rising NYS minimum wage; stagnant/reductions in funding – most are becoming minimum wage jobs
 - ❑ Aggravates home care worker shortage

NYS Policy Challenges & Threats to CDPA





Using a Pooled Trust for Medicaid Eligibility

Presented By: NYSARC Trust Services
Nadia Arginteanu, Esq. | Trust Counsel

What is a Pooled Supplemental Needs Trust (SNT)?

- A **pooled supplemental needs trust** is a special type of trust in which a not-for-profit trustee, like NYSARC, agrees to hold assets for the benefit of a person with disabilities to **preserve that person's eligibility for government benefits** and protect excess funds to **improve their quality of life**.
- Federal and New York State law both permit the use of a pooled SNT by persons with disabilities for the purpose of determining Medicaid eligibility by permitting the sheltering of excess income and/or resources.
- **Funds in a trust can be used to provide for quality of life purchases that a person's benefits do not provide.**



Using a Pooled Trust for Income Spend-down

“Income received by an individual and placed into a pooled SNT in the same month will be disregarded for Medicaid eligibility purposes.”

- 2020 NY Medicaid Income Limits
 - Individual - **\$875/month (+\$20)**
 - Couple - **\$1,284/month (+\$20)**
- 2019 NY Medicaid Resource Limits
 - Individual - **\$15,750**
 - Couple - **\$23,100**
 - Examples of Monthly Income:
 - Social Security
 - Pension



Benefits of a Pooled Trust

- Qualify and maintain eligibility for Community Medicaid to get health care benefits and long-term care services, like home care
- Maintain comfort and independence in the community - get needed care at home and avoid a nursing home
- Utilize excess funds for living expenses and to enhance quality of life
- Helps people transition home following short-term rehabilitation
- Benefits can provide helpful relief for family caregivers



Trust Creation and Administration

- Trust is created by executing a Joinder Agreement
- All disbursements must be for sole benefit of the trust Beneficiary
- Disbursements can only be paid directly to third parties
- Account terminates upon passing of the trust Beneficiary and no disbursements can be made after death in accordance with Federal SSA POMS policy



What Can a Pooled SNT Pay For?

For a person receiving Community Medicaid, the trust typically pays for living expenses, such as:

- Rent or mortgage, property maintenance, and taxes
- Utility bills, cable, phone, etc.
- Transportation/Vehicle expenses/Insurance (owned by Beneficiary)
- Groceries, clothing, and other personal needs
- Uncovered Medical Expenses/OTC items
- Additional hours for home health aids not covered by Medicaid
- Irrevocable pre-need funeral arrangement
- Entertainment/Recreation



Types of Disbursement Requests

Submit a bill/receipt to pay a third party directly

- Rent/Mortgage, Utility Bill, Loan Payment, Insurance Premium, Newspaper/Magazine subscription, etc.

Submit a receipt to reimburse an individual

- Groceries, clothing, or other store purchases

Make purchases using a credit card

- Submit Credit Card bill and itemized receipts for purchases the trust will pay

Quote/Invoice for service or purchase

- Assistive technologies, furniture, computer, home repairs, etc.



Questions for our Panel?

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- **Fill out the survey immediately following the program**
- **Social Workers: submit evaluations for credit**
- **Thank you for joining us!**

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May 29 & June 4, 2020