

Starting Soon...

Medicaid Monday: Consumer Directed Personal Assistance Program (CDPAP)

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Welcome

- ▶ Your Lines Are Muted
- ▶ Type Questions in the Q&A Section at the Bottom of Your Screen
- ▶ Presentation is Posted:
Pierrolaw.com/Resources Under Medicaid Planning
- ▶ Fill Out Our Survey with Feedback





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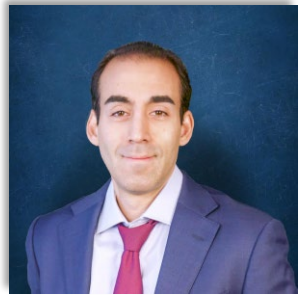
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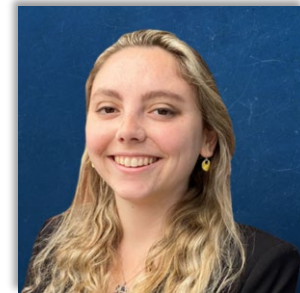
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WATCH ALL MEDICAID MONDAY VIDEOS:

January	2023 Update and the Surprising New Numbers
February	Qualifying and Why It's Become Harder
March	Medicaid Asset Protection Trusts
April	Using a Pooled Trust to Qualify for Medicaid Home Care
May	Nursing Home Medicaid
June	What Happens If You're Denied?
July	Recertification and Post-COVID Protocols
August	Planning for Individuals With a Disability
September	Immediate Needs

<https://www.pierrolaw.com/medicaid-planning-videos/>

AGENDA

- Medicaid Numbers: a Refresher
- Before CDPAP: Qualifying for Medicaid
 - example
- CDPAP: How it Works
- Next steps



INCOME LEVELS ROSE IN 2023

Landmark Medicaid Increases Passed in NYS Budget:
Same income limit will be used for younger people under
Affordable Care Act and for Age 65+, blind & disabled

YEAR	INCOME / MTH		ASSET LIMIT	
	SINGLES	COUPLES	SINGLES	COUPLES
2023	\$1,677 + \$20	\$2,268 + \$20	\$30,182	\$40,821
Difference over 2022	+\$743	+\$901	+\$13,382	+\$16,221

Institutionalized Individual Income Allowance remains the same: \$50

Case Study: Meet Rachel

Rachel Brooks | Age 84 | Widow

Last Week:
Hospitalized After a Fall

This Week:
Rehab ... **Future Unknown**



Background

- Mild memory loss
- Disorientation
- Possible mini strokes
- Still verbal
- Her daughter lives near by and helps when she can



Rachel is a good candidate for Medicaid Home Care (~10 hours a day of personal care)

Rachel's Financial Information

Income

Social Security: \$1,345

Pension: \$1,000

TOTAL: \$2,345/month

Assets

Home: \$150,000

IRA: \$75,000

Savings & Checking: \$25,000

Brokerage: \$250,000

First: Rachel creates and funds the Medicaid Asset Protection Trust with her home and brokerage account [see Medicaid Monday video, March]

Second: Rachel creates a Pooled Trust & sends \$648 of income per month to her pooled trust account [see Medicaid Monday video, April]

Next Steps – Applying For Medicaid & Approval

Rachel applies for Medicaid based on eligibility as of November 1, 2023- What Counts?

- ▶ Assets: \$25,000 (below \$30,182 limit)
- ▶ Income: \$1,697 (at \$1,697 limit)

Rachel is approved for Community Medicaid, completes her Community Health Assessment and has her Clinical Appointment through the New York Independent Assessor (NYIA)



Rachel next enrolls with a Managed Long Term Care Company and is awarded 10 hours a day of a care.

Now that Rachel is financially and medically qualified for Community Medicaid, how can Rachel hire her own caregivers?



Consumer Directed Personal Assistance Program (CDPAP)

FOSTERING INDEPENDENCE AND QUALITY
IN A COMMUNITY ENVIRONMENT

The Basics



What is Consumer Directed Personal Assistance (CDPA)?



What is CDPA

- A Medicaid* program providing personal care for those in need of community-based long-term supports and services.
- CDPAP provides personal care, home health services, and nursing level services for assistance with:
 - **Activities of Daily Living**, such as bathing and dressing;
 - **Indirect Activities of Daily Living**, such as housekeeping and meal preparation; and
 - **health-related tasks**, such as medication administration and wound care.
- CDPAP is based on the concept of “Dignity of Risk.”



CDPA provides control

In CDPA, the consumer controls their own services.

- **Recruit & Hire** - you find, interview, and hire your staff based on what is important to you.
- **Train** - tasks done how you want them
- **Supervise & Schedule** - Services provided when you want them
- **Terminate**

In a traditional home care model, an agency controls the individual's services.

- **Provide staff** - the agency provides all staff to you.
- **Staff tasks** are limited on job title
- **Schedule staff** - the agency schedules staff based on availability and efficiency.
- **Control of staff** - staff responds to agency, if you do not like aides, you may or may not get different ones.



Who is eligible?

- Eligible for Medicaid*
- In need of home care services or private duty nursing
- Willing and able to, or has a designated person willing and able to, self-direct his or her own care
- In need of assistance with 3 or more ADLs (2 or more if dementia or Alzheimer's) [Eff. 4/1/2024, unless advocacy succeeds at repealing]



Who is “able to self-direct”?

“a consumer who is capable of making choices regarding the consumer’s activities of daily living and the type, quality and management of his or her consumer directed personal assistance; understands the impact of these choices; and assumes responsibility for the results of these choices.”

(10 NYCRR 505.28(b)(9))



What isn't self-direction

- The consumer does not have to make decisions that are “right” based on the assessor’s perspective
- The consumer does not have to schedule personal assistants based on the perspective of the assessor
- The consumer does not have to have services performed in a particular manner determined “best” or “correct” by the assessor



Who can be a personal assistant

- Personal assistants may NOT be a(n):
 - Legally-liable parent*
 - Designated representative or FI staff
 - Spouse
 - Individual under the age of 18
 - Individual otherwise unable to work in the U.S.
- Anyone else MAY BE a personal assistant.

Requirements of PAs

What PAs need to work:

- Health assessment (may or may not be a physical)
- Free of “habituation or addiction to depressants, stimulants, narcotics, alcohol, or other drugs or substances”
 - Does not mandate a drug test, some Fis use self-attestation
 - DOH has clarified that, if a drug test is given, testing positive for cannabis does not disqualify a PA
- Certificate of vaccination for measles, mumps and rubella (MMR vaccine)
- Tuberculosis test (generally called PPD test)

Requirements of PAs (cont'd)

What PAs **DO NOT** need to work:

- Criminal background check
- Training as PCA, HHA, nurse
- ANYTHING not mentioned on the previous slide.



Consumer's Role

- Solely responsible for recruiting, hiring, training, scheduling, dismissing
- Notifying the Fiscal Intermediaries of changes in the employment status of assistant
- Notifying the health plan or county of changes in health status or social circumstances
- Attesting to the accuracy of time sheets (less with electronic systems)
- Arrange for back-up coverage

A Note on Hiring

- The nation is experiencing a home care worker crisis and NY is the epicenter.
- CDANY (our sister organization) is fighting for Fair Pay for Home Care, which would pay 150% of the minimum wage. We've won partial victories that will eventually get to \$3/hr over the minimum wage, but it does not compete with the gray market. More at www.cdactionny.org
- According to Care.com, is \$22.71/hr in NYC and \$20.41/hr in Albany. This counts Medicaid wages, meaning reported private pay is often \$25/hr or more.

Dates	NYC/LI/ Westchester wages	“Upstate” wages
10/1/2022	\$17.00/hr	\$15.20/hr
1/1/2023	\$17.00/hr	\$16.20/hr
1/1/2024	\$18.55/hr	\$17.55
1/1/2025	\$19.10/hr	\$18.10/hr
1/1/2026	\$19.66/hr	\$18.65/hr



How does my PA get paid?

- Once approved for CDPA, a consumer will choose a fiscal intermediary, or FI. The FI:
 - pays your PA;
 - handles onboarding paperwork;
 - provides benefits, if any;
 - provides worker's compensation, unemployment, and other required benefits;
 - provides support



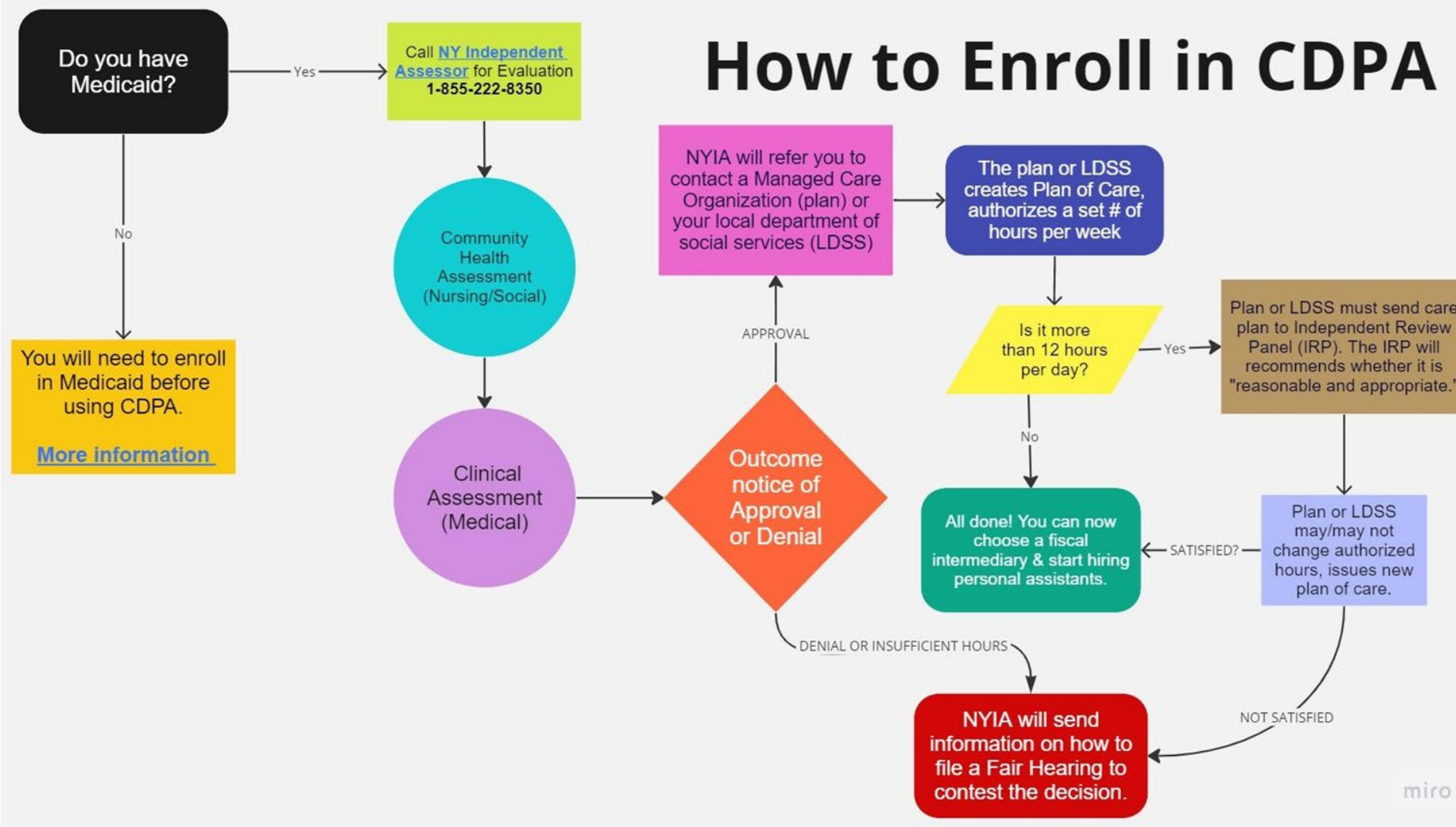
Choosing an FI

- Your FI will have to work with the managed care plan or county you sign up with.
- All FIs are not the same. Find out what's important to you and ask (a sample):
 - pay rate;
 - can my PAs work overtime;
 - will my PAs get benefits;
 - do you offer resources to help me find a PA;
 - do you offer peer mentoring to help me navigate the program;
 - What does your EVV system look like?



So how do I apply?

How to Enroll in CDPA





Resources

CDPAANY offers a one-stop shop to help you learn about every aspect of CDPA. Our **Consumer Resource Center** provides:

- [basic information](#) about CDPA
- the essentials on [how to apply and get started](#)
- more information on [your responsibilities](#)
- an [understanding of your rights](#) and when to call a lawyer.
- [tips on hiring and managing your PAs](#), including [possible interview questions](#).

We also can help you [find a FI](#) to work with, and know what [questions to ask](#) to see if that FI is a fit for you.

QUESTIONS?



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NEXT MEDICAID MONDAY

12-12:30pm, November 13, 2023

Creative Alternatives to Long-
Term Care with or without
Medicaid

REGISTER:

<https://www.pierrolaw.com/events/>
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PRESENTED BY



**Frank Hemming
& Louis Pierro**



Thank You!
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