Starting Soon.....

Medicaid Monday:

When Capacity is Lost: Guardianship and Medicaid Planning

August 10, 2026

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Trusted Counsel

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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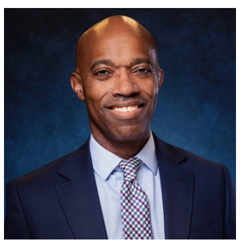
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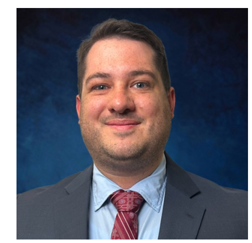
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AGENDA

- Recap of the Medicaid Numbers
- What is Guardianship? When is it required?
- How to obtain legal authority
- Medicaid implications of Guardianship
- Avoiding common (and expensive) mistakes
- Case Study

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2026 MEDICAID ELIGIBILITY NUMBERS

Monthly Income			
	2026	2025	Difference
Individual (at home)	$1,856	$1,820	$36
Couple	$2,509	$2,453	$56
Community Spouse Income Allowance	$4,066.50	$3,948	+$118.50
Institutionalized Spouse Income Allowance	$50		

2026 MEDICAID ELIGIBILITY NUMBERS

Resources			
	2026	**2025**	**Difference**
Individual	$33,038	$32,396	$ 642
Couple	$44,796	$43,781	$1,015
Comm. Spouse Resource Allowance	$74,820[1]		
IS Resource Allowance	$33,038		

1 - $74,820 (or the spousal share of 1/2 combined resources up to a maximum of $162,660 (up $4,740 from 2025)

THE REALITY FAMILIES FACE

When decision-making capacity is lost, two urgent issues collide:

- Who has legal authority?
- How will care be paid for?
- Most families are <u>un</u>prepared for both - at the same time.

WHY THIS MATTERS

Without a plan:

- Financial access is restricted
- Court involvement becomes likely
- Care decisions stall
- Medicaid Planning can be delayed
- Assets may be unnecessarily lost

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A COMMON SCENARIO

A parent declines unexpectedly:

- No Power of Attorney
- No Health Care Proxy
- Increasing or urgent care needs
- Lack of capacity to legally sign documents

WHAT IS GUARDIANSHIP?

Guardianship is a court process, not a planning strategy.

It is a court-supervised process that:

- Appoints someone to make decisions
- Covers personal and/or financial matters
- Is often necessary, but rarely ideal

TYPES OF GUARDIANSHIP (NY FOCUS)

Article 81 - our focus today

- Adult Incapacity
- Scope can be broad or limited
- Court tailors powers to the situation

Article 17-A

- Individuals with intellectual or developmental disabilities
- Typically used when individual turns 18

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GUARDIANSHIP REQUIRED IF

- No valid legal documents exist and capacity lost
- Documents legally insufficient
- Financial institutions refuse to honor authority
- Family conflict or risk of exploitation

OBTAINING LEGAL AUTHORITY

Two paths:

Proactive:

- Execute documents while capacity exists

Reactive:

- Petition the court for guardianship
- The difference is control vs. compliance

WHERE GUARDIANSHIP AND MEDICAID INTERSECT

Having authority to pay bills is not the same as having authority to engage in Medicaid Planning.

Guardianship impacts:

- Who can apply for Medicaid
- Ability to restructure assets
- Timing of eligibility
- Authority directly affects planning options

PLANNING UNDER GUARDIANSHIP

Possible - but more limited:

- Court approval: order granted by judge to allow Medicaid planning
- Reduced flexibility
- Strategic planning becomes procedural

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ASSET PROTECTION OPPORTUNITIES

Even in crisis, planning by a guardian may include:

- Spend-down strategies
- Exempt asset positioning
- Creation of Trusts
- But options narrow quickly without advance planning

WHAT FAMILIES CAN'T MISS

- Waiting too long to act
- Assuming "we can figure it out later"
- Relying on outdated documents
- Making informal decisions without authority

These mistakes are costly and often irreversible.

CASE STUDY: MARK

- Age 81, recently diagnosed with Alzheimer's Disease
- Requires immediate long-term care after wandering outside and breaking a hip
- No valid Power of Attorney or healthcare proxy
- Two sons unable to access finances or make care decisions

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THE FINANCIAL CONSEQUENCES

Mark's sons are shocked to learn: nursing home private pay costs exceed $18,000/month.

They fear:

- Accelerated depletion of their own savings
- Applying for Medicaid = delay of months = six figures
- Loss of planning opportunities without a POA

THE CHALLENGES FOR MARK'S FAMILY

- Medicaid application stalled without a legal decision-maker
- Family disagreement on next steps
- Risk of delayed nursing home placement and mounting facility costs

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THE LEGAL SOLUTION FOR MARK

Attorneys:

- Guide family through guardianship from start to finish
- Prepare and file petition and supporting documents
- Secure court-appointed guardianship for one of Mark's sons

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OUTCOME & IMPACT FOR MARK

- Guardian gained immediate legal authority
- Mark's property and investments were protected through trust planning
- Medicaid eligibility obtained
- Medicaid application approved without further delay
- Mark obtains appropriate care, avoiding further financial and care gaps

KEY TAKEAWAYS

The absence of planning creates legal problems.
The presence of planning creates options.

- Advance Directives (POA, HCP, Will) are critical
- Legal authority is the gateway to all planning
- Guardianship is a fallback - not a strategy
- Medicaid planning and authority must align
- Early action preserves options and assets

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WHEN GUARDIANSHIP CAN BE AVOIDED

The best time to establish authority is before it is needed.

With proper planning:

- Durable Power of Attorney
- Health Care Proxy
- Revocable or Irrevocable Trust
- Planning done early preserves flexibility later

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QUESTIONS AND NEXT STEPS

Attorneys are needed in a Guardianship proceeding. We're here to help you or your clients.

- Evaluate your current plan
- Navigate urgent situations
- Petition the courts for Guardianship
- Protect assets while securing care
- Apply for and obtain Medicaid

NEXT
MEDICAID MONDAY

"Why Families Get Stuck in the Medicaid Process"

September 14, 2026
12:00- 12:30PM

REGISTER:
https://www.pierrolaw.com/events/
(518)459-2100

PRESENTED BY

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Thank You!
QUESTIONS?

Please fill out the Survey

Schedule a Consultation:

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