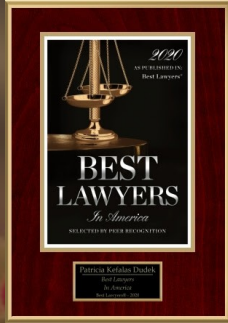


Patricia E. Kefalas Dudek & Associates



Passionate Advice and Advocacy
for all Stages of Life
December 2019

PIRG's 34th annual "Trouble in Toyland" report

Just in time for the holidays: U.S. PIRG's 34th annual "Trouble in Toyland" report

(On Consumer Law & Policy Blog - by Brian Wolfman)

Just in time for the nation's annual gift-buying orgy, U.S. PIRG has issued its 34th annual *Trouble in Toyland* report. It's a guide to help consumers avoid buying toys that contain lead, have small parts on which kids can choke, or are otherwise unsafe. PIRG explains that "[o]ver the past 33 years, our annual reports have led to more than 150 recalls of unsafe toys, inspired legislation like the Consumer Product Safety Improvement Act, and empowered parents to take key actions to ensure toys are safe." More work is needed, but because of consumer protection efforts, toys are safer than ever.

[Click Here to Go to the Blog Post](#)

Medicare Premiums to Increase By Almost \$10 a Month in 2020

After small or no increases the past couple of years, Medicare's Part B premium will rise sharply in 2020. The basic monthly premium will increase \$9.10, from \$135.50 a month to \$144.60.

The Centers for Medicare and Medicaid Services (CMS) announced the premium increase on November 8, 2019. Not everyone will pay the whole increase, however. Due to a "hold harmless" rule around 70 percent of Medicare recipients' premiums will not increase more than Social Security benefits, and Social Security benefits are increasing only 1.6 percent in 2020.

[Click Here to Read More](#)

Implications of the Expiration of Medicaid Long-Term Care Spousal Impoverishment Rules for Community Integration

To financially qualify for Medicaid long-term services and supports (LTSS), an individual must have low income and limited assets. In response to concerns that these rules could leave a spouse without adequate support when a married individual needs LTSS, Congress created the spousal impoverishment rules in 1988. These rules required states to protect a portion of a married couple's income and assets to provide for the "community spouse's" living expenses when determining nursing home financial eligibility, but gave states the option to apply the rules to home and community-based services (HCBS) waivers.

Section 2404 of the Affordable Care Act (ACA), which is set to expire on December 31, 2019, changed the spousal impoverishment rules to treat Medicaid HCBS and institutional care equally. Applying more stringent Medicaid financial eligibility rules to HCBS than to nursing homes could slow or begin to reverse states' progress in expanding access to HCBS, while reauthorizing the rules would provide stability for enrollees and states. This issue brief answers key questions about the spousal impoverishment rules, presents 50-state data from a 2019 Kaiser Family Foundation survey about state policies and future plans, and considers the implications if Congress does not extend Section 2404.

[Click Here to Access the Article](#)

[Click Here for a Link to the Issue Brief on the PEKD Website](#)

IRS Issues Long-Term Care Premium Deductibility Limits for 2020

The Internal Revenue Service (IRS) has announced the amount taxpayers can deduct from their 2020 income as a result of buying long-term care insurance.

Premiums for "qualified" long-term care insurance policies (see explanation below) are tax deductible to the extent that they, along with other unreimbursed medical expenses (including Medicare premiums), exceed 10 percent of the insured's adjusted gross income.

These premiums -- what the policyholder pays the insurance company to keep the policy in force -- are deductible for the taxpayer, his or her spouse and other dependents. (If you are self-employed, the tax-deductibility rules are a little different: You can take the amount of the premium as a deduction as long as you made a net profit; your medical expenses do not have to exceed a certain percentage of your income.) Additionally, these tax deductions allowed by the IRS for long-term care insurance premiums are generally not available with so-called hybrid policies, such as life insurance and annuity policies with a long-term care benefit.

[Click Here to Keep Reading
& to See the Deductibility Limits for Tax Year 2020](#)

New Issue: "No Harm" Deficiencies

Long-Term Care Community Coalition—Elder Justice Newsletter

Below is a link to our latest Elder Justice Newsletter, published jointly with the Center for Medicare Advocacy. Substandard care and insufficient staffing are widespread and serious problems that have been in the news all too often lately.

The nursing home industry has complained for decades that facilities don't get enough money to hire more staff and that basic safety standards are too "burdensome." But why do facilities take in new residents if they can't – or won't – hire sufficient staff? Why do companies buy and operate facilities if they are not committed to at least meeting (if not exceeding) the standards of care which they are paid to provide?

In the Elder Justice Newsletter, we highlight citations, including deficiencies related to abuse, neglect, and substandard care, that have been identified as not causing any resident harm. **The goal of this brief newsletter is to shed light on the issue of so-called "no harm" deficiencies, which typically result in no fine or penalty to the nursing home. Do YOU think these deficiencies caused "no harm"?**

If you believe that nursing homes should be held accountable for substandard care, please take a moment to visit our [Action Alert Center](#) and send a free message to your political leaders - it CAN make a difference! If you would like to join our news alert list, please visit <https://nursinghome411.org/join>. Feel free to email us at info@ltccc.org if you have any questions.

<https://nursinghome411.org/elder-justice-no-harm-newsletter-volume-2-issue-5/>



AARP Urges Congress to Keep Medical Expense Deduction

Millions of Americans with high medical costs will see their income taxes increase if Congress doesn't act this month to allow them to deduct out-of-pocket health spending once they've spent 7.5 percent of their incomes on such expenses.

The 2017 federal tax law maintained the 7.5 percent income threshold — but just for two years. As of Jan. 1, 2019, the income threshold was raised to 10 percent of income. "For the millions of Americans who annually take this deduction, it provides important tax relief which helps offset the costs of acute and chronic medical conditions," says a letter to members of the House of Representatives and Senate from a coalition of advocacy organizations, including AARP. Bipartisan bills have been introduced in the House (HR 2017) and Senate (S 110) that would make permanent the 7.5 percent threshold.

[Click Here to Continue Reading](#)

Social Security Expands Public Hours at Offices Nationwide

Wednesdays to Return to Full Public Service Hours; Agency to Hire 1,100 Direct Service Employees

Starting on January 8, 2020, Social Security offices nationwide will be open to the public on Wednesday afternoons, Andrew Saul, Commissioner of Social Security, announced. This change restores Wednesday public service hours that were last in place in late 2012. “I don’t want someone to come to our office at 2:30 on a Wednesday only to find our doors closed,” Commissioner Saul said.

In another move to improve service to the public, Commissioner Saul announced in his Open Letter to the Public at www.ssa.gov/agency/coss-message.html that the agency is hiring 1,100 front line employees to provide service on the agency’s National 800 Number and in its processing centers. The agency is currently bringing onboard 100 new processing center employees and approximately 500 new teleservice representatives for the 800 Number. An additional 500 hires for the 800 Number will occur later in 2020.

[Click Here for the Full Press Release](#)

MDHHS presents new approach to strengthen behavioral health at joint legislative hearing

Robert Gordon, director of the Michigan Department of Health and Human Services (MDHHS), presented to a bipartisan panel of legislators the department’s vision for a strengthened behavioral health system, serving individuals with severe mental illness, substance use disorders, and developmental disabilities. The new system will integrate physical and behavioral health services to improve outcomes and meet the growing demand for mental health care in Michigan.

[Click Here to Read the Full Press Release](#)

Creating accessibility with “Quick Ramps for Kids”

Mitch Albom shares what’s being done in the Heart of Detroit

The United Cerebral Palsy of Metro Detroit has been helping to distribute portable ramps to make daily tasks easier. The organization program “Quick Ramps for Kids” is working to raise funds to help parents purchase ramps. The ramps help those with disabilities get over stairs and into cars. Ramps cost between \$200 and \$600 which can be a financial challenge for some families. So far, the program has donated more than 200 ramps to families in need. The goal is for every child in Southeast Michigan to have full accessibility in their community. You can help by donating to the “Quick Ramps For Kids” program.

To donate visit the United Cerebral Palsy of Metro Detroit website.

[Click Here to Watch the Interview](#)



Michigan eliminates prior authorization for medications used to treat opioid use disorders

Starting today, the Michigan Department of Health and Human Services (MDHHS) Medical Services Administration has removed prior authorization requirements for medications used to treat opioid use disorder, including buprenorphine.

“The removal of prior authorization for these medications in the Medicaid program will help increase access to treatment for people with opioid use disorders,” said Dr. Joneigh Khaldun, chief medical executive and chief deputy for health for MDHHS. “By eliminating this requirement, medical providers will be empowered to help people begin treatment when they are ready and increase their chances of a successful recovery.”

Prior authorization is a requirement that physicians must obtain approval from a patient’s health care insurer before prescribing a specific medication or to perform a particular operation.

After an in-depth analysis of the prior authorization program, existing literature and lessons learned in other states, MDHHS believes that prior authorization creates substantially more barriers to accessing care for opioid use disorders than protections from misuse of substances.

Medication-assisted treatment, combined with counseling or behavioral therapy, is the gold standard for treating individuals with opioid use disorder, leading to significantly better outcomes. Prior authorization has been removed in 21 states with no data indicating an increased rate of drug diversion.

MDHHS will conduct an evaluation and complete quarterly monitoring of drug utilization claims to assess changes in how the medications are used to treat patients and ensure that the change does not result in any negative impacts.

[Click Here to Access the Full Press Release](#)

Report: People with Disabilities Discriminated Against in Organ Transplant Decisions

“Organ transplants save lives. But for far too long, people with disabilities have been denied organ transplants as a result of unfounded assumptions about their quality of life and misconceptions about their ability to comply with post-operative care,” the National Council on Disability (NCD) asserts in a new report. “Although the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibit discrimination on the basis of disability, organ transplant centers and medical professionals are often unaware that this prohibition applies to the organ transplant process.”

The report, titled “Organ Transplant Discrimination Against People with Disabilities,” documents disability discrimination at all stages of the organ transplant process.

[Click Here to Continue Reading](#)

America's \$103 billion home health-care system is in crisis as worker shortage worsens

We keep hearing the foreboding statistics: 10,000 baby boomers in the United States turn 65 every day; our aging population is expected to double in the next 20 years and swell to 88 million by 2050; 75 percent of Americans over 65 live with multiple chronic health conditions, ranging from diabetes to dementia.

It is no secret, either, that the nation's already-strained health-care system is trying to keep sick and longer-living seniors out of hospitals, assisted-living facilities and nursing homes and instead in their own homes, which is where they want to live out their golden years. But that has shifted the caregiving burden onto family members, who are increasingly stressed and often supplemented by personal-care aides (also referred to as certified nurse assistants, personal-care assistants or home health aides) employed by thousands of home-care agencies across the country. Nurses and other skilled practitioners manage in-home medical needs, such as administering medications and wound care, while the personal-care aides cook, shop, clean, bathe, dress and generally offer companionship.

[Click Here to Read the Full Article](#)

Medicaid's Treatment of the Home

Nursing home residents do not automatically have to sell their homes in order to qualify for Medicaid, but that doesn't mean the house is completely protected. The state will likely put a lien on the house while the resident is living and attempt to recover the property after the resident has passed away.

Medicaid will not count a nursing home resident's home as an asset when determining eligibility for Medicaid as long as the resident intends to return home (in some states, the nursing home resident must prove a likelihood of returning home). In addition, the resident's equity interest in the home must be less than \$585,000, with the states having the option of raising this limit to \$878,000 (figures are adjusted annually for inflation; these are for 2019).

[Click Here to Continue Reading](#)



Supreme Court Lets Stand Ruling That Domino's Website and App Must Be Accessible

To the relief of disability rights advocates nationwide, the [U.S. Supreme Court](#) [has declined](#), without comment, to hear an appeal of a landmark ruling that pizza giant Domino's must make its website and app accessible to people with disabilities. The High Court's October 7, 2019, decision means that a ruling by the U.S. Court of Appeals for the Ninth Circuit in favor of a blind Domino's customer will stand.

[Click Here to Continue Reading](#)

MDHHS one of only five agencies nationally to receive federal grant to prevent child abuse/neglect deaths, injuries

The Michigan Department of Health and Human Services (MDHHS) is one of five agencies nationwide that has been awarded a federal grant to reduce and prevent child abuse or neglect deaths and injuries.

The U.S. Department of Justice Office for Victims of Crime is providing \$750,000 over 3 years and assistance from experts in addressing child maltreatment injuries and fatalities.

Through the project MDHHS will identify children who are most at risk of abuse and neglect and act to prevent deaths and injuries. MDHHS will collect and analyze data and work with community partners to develop prevention plans. Progress will be shared nationally and regionally. The project is known as Reducing Fatalities and Recurring Child Injuries and Crimes Caused by Crime Victimization.

[Click Here for the Full Press Release](#)

CA Fire-Prevention Outages Pose Threats to People with Disabilities

For many people with disabilities, losing access to a regular source of electricity can be a matter of life and death. Certain medications, like insulin, need to be refrigerated. Some people are reliant on oxygen equipment that requires power. Others use motorized wheelchairs and similar equipment for mobility. In nursing homes, continually operating breathing machines are life-sustaining devices.

In California, the site of numerous high-profile wildfires in recent years, the nation's largest utility company is taking unprecedented measures that mean people with disabilities may no longer be able to rely on continuous access to electricity. Pacific Gas & Electric (PG&E) argues that pre-emptive blackouts are necessary to reduce the risk of catastrophic wildfires, and thus save lives.

On October 9, 2019, PG&E took the extraordinary step of shutting down electricity in portions of 34 of the state's 58 counties, affecting more than 700,000 households, or an estimated 2 million-plus people. On October 27, PG&E announced it was temporarily cutting off power to 1.3 million households, the largest outage in the company's history.

PG&E has a special assistance program for roughly 180,000 people particularly vulnerable to electricity shutoffs, but the program mostly revolves around providing additional notice of upcoming blackouts. The company is not reimbursing customers who are forced to purchase generators or make other accommodations.

Despite this program, media outlets reported numerous stories of people who were frightened and overwhelmed by the blackouts, who didn't receive the notices and who experienced medical emergencies as a result of the outages.

[Click Here to Continue Reading](#)

Don't accidentally leave your estate to the wrong person

(From The News-Enterprise)

Do you want to disinherit your loved ones? Then simply name the wrong person on your beneficiary forms. That sounds too simple, yes, but everyday individuals die leaving their financial assets to the wrong person.

When the account owner dies, the assets go directly to the beneficiaries named on the account, bypassing and overriding the will or trust. This means you need to be careful coordinating your overall estate plan. Stories are told daily of how the wrong person ended up with the financial benefits.

[Click Here to Read the Full Article](#)



The \$11 Million Dollar Medicare Tool That Gives Seniors the Wrong Insurance Information

The federal government recently redesigned a digital tool that helps seniors navigate complicated Medicare choices, but consumer advocates say it's malfunctioning with alarming frequency, offering inaccurate cost estimates and creating chaos in some states during the open enrollment period.

Diane Omdahl, a Medicare consultant in Wisconsin, said she used the tool Friday to research three prescription drug plans for a client. The comparison page, which summarizes total costs, showed all but one of her client's medications would be covered. When Omdahl clicked on "plan details" to find out which medicine was left out, the plan finder then said all of them were covered.

So she started checking the plans' websites, and it turns out there are two versions of the same high blood pressure medication. One is covered. The other is not. The difference in price: \$2,700 a month.

[Click Here to Read the Full Article](#)

Home Care Costs Rise Sharply in Annual Long-Term Care Cost Survey

When it comes to long-term care costs, the charges for home care are now rising faster than those for nursing home care, according to [Genworth's 2019 Cost of Care survey](#). In the past year, the median annual cost for home health aides rose 4.55 percent to \$52,624, while the median cost of a private nursing home room rose only 1.82 percent to \$102,200.

[Click Here to Continue Reading](#)

Should 529 Funds Be Transferred to an ABLE Account?

Thanks to recent changes in the tax law, families can now make limited transfers from existing 529 accounts to ABLE accounts with no tax consequences. Families with special needs children may be thinking about rolling existing 529 funds into ABLE accounts.

Perhaps on the birth of your child, you started a 529 account to save up for college. If your child has special needs, you may be thinking about using that money to fund an ABLE account instead, especially now that the tax code makes direct rollovers possible. But before you do, make sure you understand how these two accounts work and how they differ.

[Click Here to Read Further](#)



For more news and information about Patricia and Patricia E. Kefalas Dudek & Associates please visit us online.

www.pekdadvocacy.com

www.pattidudek.typepad.com/



Patricia E. Kefalas Dudek & Associates

30445 Northwestern Highway, Suite 310 Farmington Hills, MI 48334

Tel: [248-254-3462](tel:248-254-3462) Fax: [248-928-9233](tel:248-928-9233)

pdudek@pekdadvocacy.com

If you would like to add anyone to or be removed from the e-mail list please notify the editor. dwelsh@pekdadvocacy.com

This e-newsletter is a publication of Patricia E. Dudek & Associates. The legal information presented in this e-newsletter is intended for information purposes only and is not a substitute for consultation with a legal professional.