

BERWITZ & DiTATA LLP

Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

Medicaid Update – Spring 2012

Great News for New Yorkers!! Governor Cuomo and the New York State Legislature have agreed on the final Health Budget Bill, rejecting the proposal to eliminate spousal refusal and the attempt to expand “estate recovery,” Medicaid’s right to recover assets of a Medicaid recipient after death.

The potential for financial disaster for New Yorkers receiving Medicaid benefits or seeking them could have been enormous. Here’s why: the initial 2012 Health Budget Bill contained a provision to eliminate spousal refusal. If a spouse required nursing home care, the couple would have had to exhaust almost all of their assets, excluding their personal residence, and in excess of \$2,841 in monthly income, including IRAS and other retirement accounts before Medicaid benefits would have been available. Under the proposal, if a spouse had been on Medicaid, the couple who owned a house would only have been able to retain annual income of about \$34,000. Imagine having to pay normal living expenses such as real estate taxes, insurance, maintenance, transportation, food, utilities, and clothing in the New York metropolitan area on that budget.

Also, under the proposal, NYS wanted oversized recovery powers following the death of a Medicaid recipient. This would have included the power to recover assets from a life estate retained by the recipient, joint bank or securities accounts, IRA accounts, and trusts that were designed to distribute income or principal to the recipient or were established using assets that were transferred by the recipient.

Our readers know that we have devoted column space in each of our past 4 issues to the proposed changes. We can breathe a collective sigh of relief. With all of this good news, we think it would be a good idea to talk with us about whether this is an appropriate time to engage in Medicaid planning.