

MSBA ELDER LAW SECTION E-NEWSLETTER
September 6, 2011

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NOMINATIONS SOUGHT FOR ELDER LAW SECTION AWARDS

The Awards Committee of the Elder Law Section is seeking nominations for Section awards to be presented at the Minnesota CLE Elder Law Institute on Thursday, October 6, 2011. Nominations are sought for the Mary Alice Gooderl Memorial Award. This Award is presented by the Elder Law Section to acknowledge outstanding contributions to the field of Elder Law by a member of the Elder Law Section, as exemplified by Mary Alice Gooderl, one of the founders of the Elder Law Section. In addition, the Awards Committee considers nominations for special awards to recognize special achievements by section members or special contributions to the Elder Law Section or the field of Elder Law.

Nominations will close at 5 pm on Friday, September 23, 2011. Please submit nominations to Julian J. Zweber at 1360 Energy Park Drive, Suite 310, St. Paul, MN 55108-5252, telephone [651-646-4354](tel:651-646-4354) or [651-646-4539](tel:651-646-4539) (FAX) or to julianzweber@qwestoffice.net.

Submitted by Julian J. Zweber, Chair, Awards Committee

julianzweber@qwestoffice.net.

LINK OF THE WEEK

The Centers for Medicare and Medicaid Services (CMS) issued a proposed rule on the eligibility coverage changes under the Affordable Care Act. The proposed rule sets out the increased Federal Medical Assistance Percentage (FMAP) rates and conditions and requirements for state Medicaid expenditures for newly eligible individuals. Read the proposed rule [here](#). CMS also issued the new prospective payment rates for acute care hospitals and long-term care hospitals. Read the new rule [here](#).

(Clicking on these links will lead to a prompt to open the document as a PDF).

Submitted by Cathryn Reher, Esq.

cathryn@mnellderlaw.com

Click [here](#) to view an article discussing why Human Services Commissioner Lucinda Jesson is seeking changes to keep poor elderly and disabled at home and out of institutions.

Submitted by Jennifer Wright, Esq.

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ELDER LAW NEWS

Dayton administration expands Minn. senior hotline

<http://www.crookstontimes.com/newsnow/x219195907/Dayton-administration-expands-Minn-senior-hotline>

New Senior LinkAge Line® will be one-stop shot for Minnesota seniors

<http://hometownsource.com/2011/09/01/new-senior-linkage-line%C2%AE-will-be-one-stop-shot-for-minnesota-seniors/>

Taking Care of Disabled Heirs

<http://online.wsj.com/article/SB10001424053111904279004576526593704378056.html>

Medicare Bundled Payment Initiative Includes Post-Acute Care

<http://www.agingservicesmn.org/index/notices-app/story.1099/menu./sec./home>

ELDER LAW CASES

There are no Minnesota cases to report this week.

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #11-21-06: Simplified MinnesotaCare Policy for Adding New Household Members. This bulletin provides new policy and instructions for adding new household members to MinnesotaCare cases. The bulletin, dated August 31, 2011, is available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_163642.pdf

The following is part of a notice published in the *State Register* on August 29, 2011 starting on page 196. The entire notice continues through page 210. The *State Register* can be accessed at:

http://www.comm.media.state.mn.us/bookstore/stateregister/36_06.pdf

**Department of Human Services (DHS) Health Care Administration Public Notice
Regarding Changes to Payment Rates and Methodologies, and Services under the Medical
Assistance Program and the MinnesotaCare Program**

NOTICE IS HEREBY GIVEN to recipients, providers of services, and to the public of certain statutory changes made to the Medical Assistance (MA) Program and the MinnesotaCare Program that the 2011 Minnesota Legislature enacted during the regular and special sessions.

This notice is published pursuant to 42 *United States Code* §1396a(a)(13)(A) (§1902(a)(13)(A) of the Social Security Act), which requires the Department to publish final institutional payment rates, the methodologies underlying the establishment of such rates, and the justification for such rates. It is also published pursuant to *Code of Federal Regulations*, title 42, part 447, section 205 (42 CFR §447.205), which requires publication of a notice when there is any significant proposed change in the methods and standards for setting payment rates for Medicaid services.

The legislative changes are estimated to result in a net decrease of \$375 million in the MA program and a net decrease of \$31 million in the Medicaid portion of MinnesotaCare for state fiscal year 2012 (July 1, 2011 through June 30, 2012), and a net decrease of \$1.218 billion in the MA program and net decrease of \$150 million in the Medicaid portion of MinnesotaCare for state fiscal year 2013 (July 1, 2012 through June 30, 2013).

The actual text of most of the 2011 legislative changes is contained in *Minnesota Laws 2011*, Regular Session, Chapter 86 and First Special Session, Chapter 9. These are available by calling the House of Representatives Public Information Office at [\(651\) 296-2146](tel:6512962146) (voice) or [\(651\) 296-9896](tel:6512969896) (TTY) or [1-800-657-3550](tel:18006573550) (Greater Minnesota) or [1-800-627-3529](tel:18006273529) (TTY); or the Senate Information Office at [\(651\) 296-0504](tel:6512960504) (voice) or [\(651\) 296-0250](tel:6512960250) (TTY); for Greater Minnesota call [1-888-234-1112](tel:18882341112) (voice) or [1-888-234-1216](tel:18882341216) (TTY). These laws are also available on the internet at: <http://www.revisor.leg.state.mn.us>. It is important to note that not all changes made to these programs by the 2011 legislature are mentioned in this notice. Information relating to implementation of these provisions will be sent to local human services agencies through bulletins and manual updates, to recipients and enrollees through written notice, and to health care providers through newsletters and updates to the *Minnesota Health Care Programs Provider Manual* (available at

http://www.dhs.state.mn.us/main/groups/business_partners/documents/pub/DHS_id_000221.hcs
[p](#)

Changes were made to the following program areas:

I. MA and MinnesotaCare Services and Payment Rates

II. MA Institutional Payment Rates

III. MA Home and Community-Based Waivers and Payment Rates

Submitted by Peter M. Hendricks, Esq.
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UPCOMING EVENTS AND CLE PROGRAMS

Ramsey County Bar Association

**Medical Assistance – Dealing with the Five-Year Look-Back Period and the Problems It Can Cause
September 23, 2011**

https://netforum.avectra.com/eweb/DynamicPage.aspx?Site=RCBA&WebCode=EventDetail&evt_key=0c13d08e-2371-468e-9b90-ca1da1e3a849

Minnesota CLE

2011 Elder Law Institute

October 6 and 7, 2011

<http://www.minncle.org/seminardetail.aspx?ID=103441201>

ELDER LAW SECTION ACTIVITIES

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, October 18, 2011. The Medical Assistance Committee is a study group to analyze Elder Law Section member questions and case studies and to discuss administrative policies and procedures in relation to Medical Assistance in Minnesota. Cathryn D. Reher of Long, Reher & Hanson, P.A., is Committee Chair. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A., at [952-929-0622](tel:952-929-0622) *at least 24 hours in advance of the meeting*. Topics for the meeting may be submitted to tfenske@mnelderlaw.com under the subject heading “MA Committee Topic”, or faxed to [952-542-9201](tel:952-542-9201). Please be reminded that the meeting location is: Estate & Elder Law Services (formerly MAO Legal Services), Monroe Village, 1900 Central Avenue NE, Suite 106, Minneapolis, Minnesota 55418. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room.

GOVERNING COUNCIL: The next meeting of the Elder Law Section Governing Council will be 4:00 p.m. on Friday, October 7, 2011. The meeting will be held following the Elder Law Institute at Minnesota CLE in Minneapolis. For further information, please contact Suzy Scheller, Chair, at: suzy@schellerlegalsolutions.com.

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT

RESOURCE. Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Links to Federal

and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE

Click here: <http://www.mnbar.org/sections/elder-law/index.asp>

Please send E-Newsletter contributions by 10 p.m. on Sunday of each week to Allison Burke at allison@twincities-elderlaw.com.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tamara Patton at tpatton@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www2.mnbar.org/sections/elder-law/newsletter.asp>.