



**Jankower Law Firm LLC**  
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*August 2011 Newsletter*

## **SSI is Only One of the Many Ways to Qualify for Medicaid**

Clients often come to our office assuming their loved ones can't qualify for Medicaid because they are too young or otherwise ineligible to receive Supplemental Security Income (SSI) benefits which in Louisiana come with a Medicaid card. These people tend to erroneously assume SSI is the only way they can get much needed Medicaid benefits for their loved ones. In many of these situations, parents are left struggling to meet the often extraordinary costs of care for their child with disabilities out of their own pockets under the assumption their child is not eligible for Medicaid.

These clients are quite surprised when I tell them that SSI is only one of many different ways in which Medicaid benefits can be secured for their loved ones. I use the example of my own daughter who is disabled and who only became eligible for SSI a little over a year ago. On the other hand, she has been receiving Medicaid benefits for over 10 years. She also receives long-term care benefits in the form of personal care attendants (akin to babysitters) who come to our home to help take care of her when we are away. As you might expect, my clients are always very surprised to hear this.

How were we able to secure Medicaid benefits for our child prior to her eighteenth birthday? What programs are available to individuals in need of Medicaid who are unable to qualify for SSI? Where can you find information on the programs and services available to your loved ones? As discussed below, Medicaid waiver programs can provide valuable and needed benefits to children with disabilities under the age of 18 as well as other loved ones with disabilities. There are also agencies in Louisiana ready to assist with waiver eligibility issues.

### **What are Medicaid Waiver Programs?**

Since 1981, states have been permitted to offer Medicaid to particular groups through programs referred to as "community and home-based waivers". Prior to that time, long-term care benefits under Medicaid were primarily limited to services in institutional care facilities such as nursing homes. The 1981 federal legislation provided a vehicle for states to offer additional services not otherwise available to serve people in their own homes and communities, helping to preserve their independence and ties to family and friends.

Why are these programs referred to as "waivers"? The reason is they allow eligible individuals to qualify for Medicaid and long-term care benefits by "waiving" certain requirements. For example, some of the programs waive rules for children under the age of 18 that operate to "deem" or count assets and income of their parents to be assets and income of the children for eligibility purposes. These "deeming" rules exist under SSI and often prevent children under 18 from being eligible for benefits, but they are waived for some of Louisiana's waiver programs.

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### **Upcoming Seminars**

#### **September 16th**

National Business Institute  
Lafayette, LA

"Drafting Effective Wills &  
Trusts"

#### **September 30th**

National Business Institute  
New Orleans, LA

"Drafting Effective Wills &  
Trusts"

#### **December 2nd**

National Business Institute  
New Orleans, LA

"NBI Troubled Probate  
Seminar"

#### **December 9th**

National Business Institute  
Lafayette, LA

"NBI Troubled Probate  
Seminar"

If your group or organization is interested in learning more about Medicaid planning, please contact us. Talks can be tailored to fit your specific needs and time constraints. We use PowerPoint to present information designed to help explain Medicaid

Louisiana administers a number of waiver programs providing services to eligible recipients in community and home based settings. Among the programs administered by the State of Louisiana are the New Opportunities Waiver (NOW), Children's Choice, Elderly and Disabled Adults Waiver, Supports Waiver, Long-Term Personal Care Services, Program for All-Inclusive Care for the Elderly (PACE), Adult Day Health Care Waiver, and other programs.

Planning in an easy to understand format.

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### Playing the Waiting Game with Waiver Programs

These programs provide a vast array of Medicaid benefits to eligible recipients, including long-term care. However, due to the extreme demand for services provided through waiver programs, these programs are "slotted". This means eligible recipients must wait for slots to open before they can receive benefits. The waiting lists for some of these programs are extremely long - in some instances as long as ten years. This does not necessarily mean an individual has to wait for a slot to open up in order to qualify for Medicaid since there are other ways individuals can qualify for benefits while waiting for a waiver slot to open. In certain instances, individuals can qualify for waiver benefits through programs with shorter waiting lists while remaining on waiting lists for broader based waiver programs and benefits.

Don't think that just because your loved one has been placed on a list for waiver benefits, they will be deemed eligible for benefits once a slot opens. Medicaid will re-evaluate eligibility for services when the slot opens, and if the person is deemed ineligible for any reason, the slot may be given to another individual. It is critical to take all necessary steps to protect a loved one's eligibility for waiver benefits, including appealing any adverse decisions or rulings by Medicaid.

### So Where Do You Start?

An excellent place to begin the process of qualifying a loved one for waiver benefits is your local office of the Office for Citizens with Developmental Disabilities. OCDD administers and monitors waiver programs and services for many individuals in need of benefits and is an excellent and helpful resource. For persons who are not eligible for the types of benefits administered by OCDD, they can refer you to other agencies who can help you locate and apply for services and benefits.

It is wise and prudent to monitor your loved one's progress through the waiver waiting list by checking with OCDD and other agencies on a regular basis. Available funding can change quickly, and new programs, services, and benefits are added frequently.

The most important thing is to make sure to seek advice from professionals on all of the different programs and services that may be available to your loved one and to apply for all programs that he or she may have an opportunity to receive. At the same time, it is critical to engage in proper planning to make sure that eligibility requirements for your loved one can be met and maintained for that time when a slot or program opens up.

### You CAN Negotiate the Medicaid Maze

Medicaid policies for eligibility, services, and payment are complex and vary considerably depending upon the state in which a person in need of benefits resides. Qualifying for one of these Medicaid-related programs can be challenging as Medicaid has stringent eligibility requirements, including severe resource and income limitations. For persons seeking eligibility through waiver programs, there are currently limited slots available and long waiting lists. Once slots open up, applicants

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must be re-evaluated to make sure that they continue to meet qualifications. Funding for such programs is always tenable, directly affecting the viability of the programs. Persons deemed ineligible for benefits must prove eligibility by pursuing administrative appeals.

Planning for the care of a family member with disabilities is an extremely important matter. The process can be frustrating and time-consuming. In order to take advantage of any of these state administered Medicaid programs, it is critical to seek the advice and assistance of an individual who understands and keeps up with the ever-changing Medicaid rules and requirements. For advice and assistance on negotiating through the Medicaid maze, please contact us at [Steve@Jankower.com](mailto:Steve@Jankower.com).

This article has been prepared for general informational purposes only. It is not intended to, and does not, constitute legal advice. Use of these materials does not create or constitute an attorney-client relationship.

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