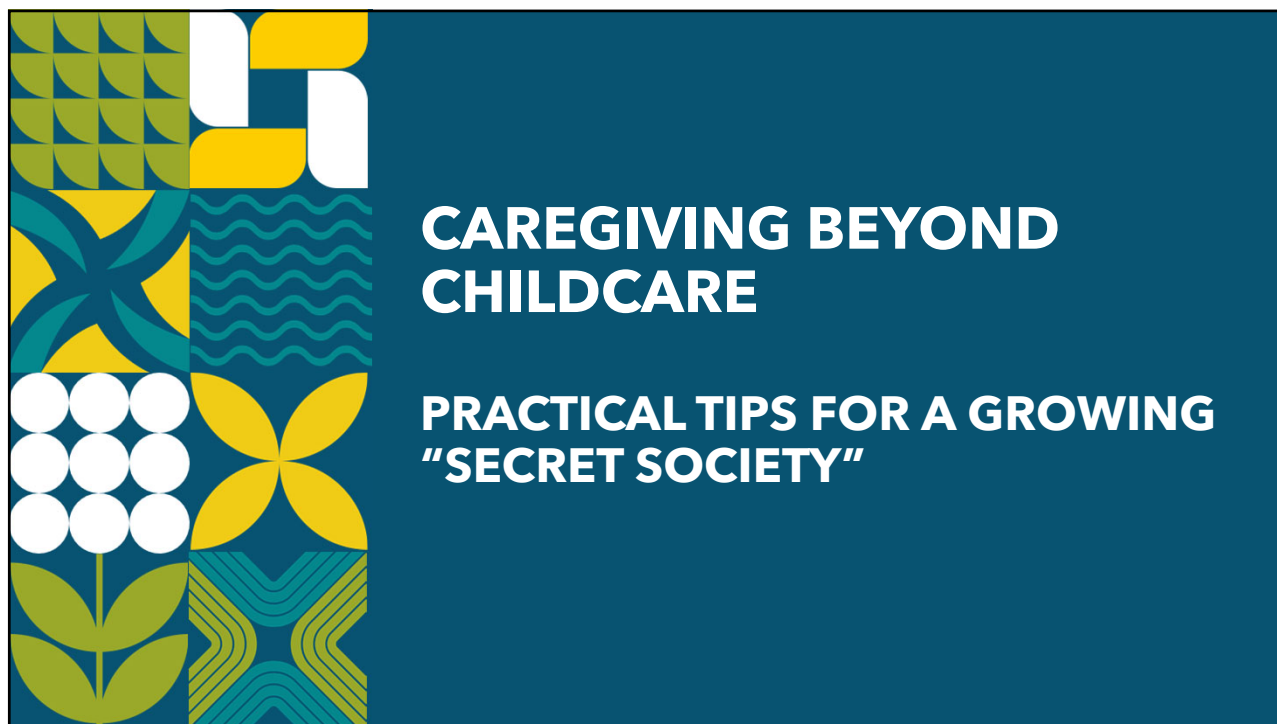
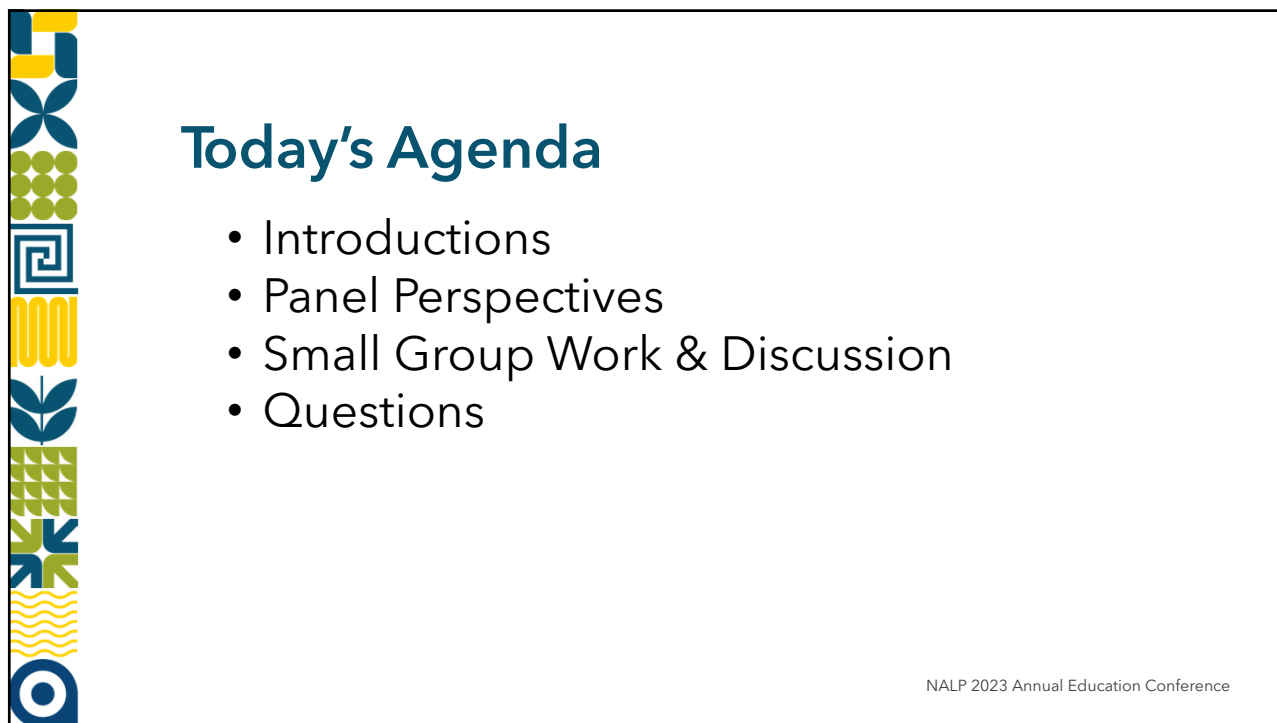




1



2



Presenters

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- **Moderator Maria Comas**
Thomas R. Kline School of Law of Duquesne University
Director of Career Services

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Background Statistics

- **61%** of caregivers also **work full-time or part-time** (AARP, 2023)
- Approximately **1 in 5 Americans** (21.3%, or 53 million Americans) **were caregivers to an adult or child with special needs** during a 12-month period in 2020 (AARP, 2020)

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Legal Resources for Caregivers

Key Points of Consideration:

- Caregiving Plan
- Legal Title & Documentation
- Understanding of Public Benefits
- Special Needs Trusts
- Transportation, Housing & Accommodations in Employment or Education Settings
- Adult Guardianship

Legal Resources: AARP, State Agencies Aging & Disability, State & Local Bar Associations, Legal Services Organizations, Clinical Law Programs & Specialized Organizations

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Caregiver Syndrome

Caregiving has all the features of a chronic stress experience: It creates physical and psychological strain over extended periods of time, is accompanied by **high levels of unpredictability and uncontrollability**, has the capacity to create secondary stress in multiple life domains such as work and family relationships, and **frequently requires high levels of vigilance**.

Caregiving fits the formula for chronic stress so well that it is used as a model for studying the health effects of chronic stress.²

Schulz, R., & Sherwood, P. R. (2008). "Physical and Mental Health Effects of Family Caregiving. *The American Journal of Nursing*, 108 (9 Suppl), 23-27.

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Reducing the Stigma

- There are many opportunities to “self-identify” as a caregiver, if you are comfortable doing so
- In social situations, exercise your right to talk openly about your adult caregiving responsibilities
- Understand that many people don’t know what it’s like – and are terrified to ask



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How to Deal with Your Employer

- Be direct about how adult caregiving differs from childcare, and what that means for your work-life integration
- Help your employer understand the medical and legal aspects of the situation you are dealing with
- Assume neutral-to-positive intent until proven otherwise (are you *sure* you can’t be open about your situation?)

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Eldercare: What You'll Need

Medical

- Medical Power of Attorney
 - POLST
 - Advance Directive
- Photos of Important Wallet Cards
 - Medicare / Secondary Insurance
 - Driver's License
 - Medical Business Cards

Financial

- Power of Attorney
- Full Agent Authorization (IRAs)
- Joint Primary Checking/Savings
 - *not* secondary
- Access to Financial "Stuff"
 - SD Boxes
 - Statements

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Family Medical Leave Options

FMLA

- Unpaid leave for up to 12 weeks
- Private employer > 50 employees; gov't employer
- Employed at least 12 months x 1250 hours
- Care for child, parent or spouse (or self) w/ serious health condition

State-level Paid FML

- 7 states + DC w/ paid FML enacted currently in effect
- definitions of certain material criteria vary by state
- Portion of funding is paid through taxes collected from the employee, employer, or both – but typically collected and remitted to the state by the employer

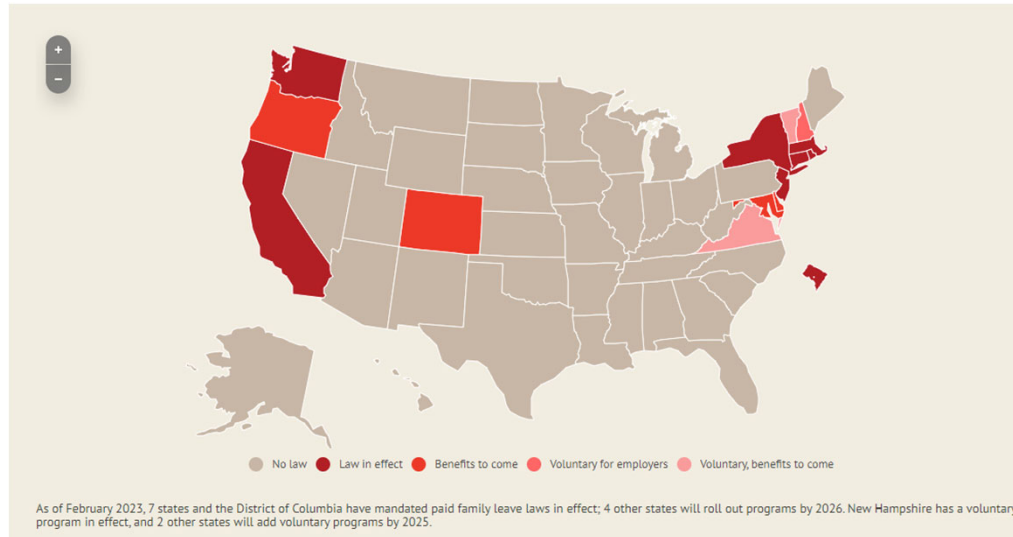
FAMILY Act

- proposed to Congress in 2021?
- Paid leave for up to 12 weeks at a national level
- Covers workers at employers of all sizes; covers up to 66% of monthly pay (capped)
- Small employer and employee payroll contributions to fund

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States with PFL workplace caregiving laws *Source: AARP, Feb. 2023*



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How employers can proactively support employee caregivers

- Update company HR and EEO policies to reflect expanded definition of a modern-day "caregiver" and what event qualifies for PTO
- Offer flex and/remote schedules (including tech/equipment support)
- Create internal anti-discrimination policies that protect and support employee caregivers
- **Protecting Family Caregivers from Discrimination Act of 2020 (S.3878- 116th Congress (2019-2020))**
- Train managers on how to have supportive discussions with employees who approach about caregiver concerns without projecting bias or pressure
- Implement and frequently advertise Employee Assistance Program (EAP), Employee Resource Group(s) (ERGs) and other support resources
- Meet employees where they are- bring experts to host information sessions/presentations about how to navigate healthcare choices, government benefits, etc.
- Offer employer-subsidized caregiver assistance and/or PSA for caregiving-related expenses

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C.A.R.E. P.A.C.K.



- **C**ommunicate what is going on and what is needed
- **A**sk questions and push back when necessary
- **R**esearch your loved one's rights, relevant rules/guidelines, and available resources
- **E**xpect the unexpected throughout the journey because this is not a linear road

- **P**reparation and Prepare to Pivot
- **A**dvocate for your loved one and yourself
- **C**are for yourself
 - ☐ physical and mental wellness support (online and offline resources)
 - ☐ set realistic boundaries w/ work schedule, extracurricular commitments and at-home responsibilities
 - ☐ small/solo office succession (backup plan) options
 - ☐ set boundaries with your charge, other family members, and friends through conversations of understanding
- **K**now you are not alone

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Setting Priorities, Respecting Boundaries

- Know what is non-negotiable for you and be as flexible as possible with everything else.
- Your most important priority and what takes precedence in a given situation won't always be the same; it is not a failure if they don't always align.
- Caregiving may change your relationship with your loved one and with other people in your life. If possible, work with your loved one to decide what's up for discussion and what isn't. If that's not possible, decide it for yourself, then practice scripts to make it easier to maintain boundaries.

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Long-Distance Caregiving & Work

- Document, document, document: keep a list of all regular and sporadic duties, including relevant passwords, accounts, stakeholders, and update those process documents as you can in order to minimize the learning curve if you are out of the office for an extended period of time.
- To the extent possible, pre-plan visits and share those dates with your colleagues in advance. When plans change, include them on the list of people to update.
- To the extent possible, throw some money at the problem! What are some of the biggest challenges for you and your loved one? Is there someone you could pay to help you with that, or free resources you can leverage for assistance?

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Grieving After Caregiving

- You may feel sadness, anger, confusion, fatigue, and profound relief – sometimes all at once. It's okay to feel your feelings, and it's also okay to distract yourself some of the time.
- Be prepared for the "firsts" – the first time someone asks how your loved one is doing, the first birthday or holiday without them, etc. – and think intentionally about how you want to respond to them, including potentially notifying employers/coworkers of difficult dates.
- Your routines may change significantly once your caregiving responsibilities lessen or cease. It can take time to build different habits; don't push yourself beyond what feels sustainable.



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Office Continuity Planning Checklist

- Continuity of Operations – People
- Continuity of Operations – Documents
- Continuity of Operations – Communications

See handout for detailed suggestions.

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Group Discussion: “The Conversation”

At your table, discuss and share tips and advice on the handout’s prompts about asking parents and/or loved ones about their wishes for long-term and end-of-life care. (Additional details for getting started are on the handout.)

1. How would you approach the conversation? What might be the best way to begin it?
2. Which of the included questions would be the toughest? The easiest?
3. Is there a particular “order” of questions that would work best? Would you split the conversation up? If so, how?
4. How would you handle pushback? What techniques would you use to get past it?
5. If you could not get past the pushback, what steps could you take on your own?

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Where do we go from here?

- Ask your employer to create Employer Resource Groups that address the needs of all caregivers.
- Push your employer to adopt a family care leave policy.
- Encourage the NALP Well-Being Interest Group to provide discussion forums and programs for caregivers.
- Be a voice of change when you can.

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- | | |
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Caregiving Beyond Childcare: Practical Advice for a Growing “Secret Society” Resource List

ARTICLES

A Caregiver's Bill of Rights

ABA News: [10 must-dos when serving as a caregiver for family, friends](#)

[15 Lessons Learned as a Caregiver Lawyer During the Pandemic | ACC Docket](#)

[The Elm | Age-Friendly University: Baby Boomers Discuss Their Experiences as Employees at UMB](#)

[What Is a Geriatric Care Manager? | National Institute on Aging](#)

[Respecting Diverse Approaches to Caregiving - AgingCare.com](#)

CAREGIVER SUPPORT

Mental Health Resources for Caregivers

US Dep't of Health and Human Services: [Get Support If You're a Caregiver - MyHealthfinder | health.gov](#)

([Integrity Senior Services](#) (mental health counseling for seniors, the differently-abled and caregivers))

[Working Daughter](#)

[Caregiving | National Institute on Aging](#)

[In-Home Care: Your Complete Guide | A Place for Mom](#)

[CircleOf](#) (caregiver app)

[It's Not A Burden](#): The Humor and Heartache of Raising Elderly Parents (Film, 2022)

KC Medical Center Bulletin: [Text-messaging program provides free support for caregivers of people with dementia](#)

[Family Members and Caregivers | NAMI: National Alliance on Mental Illness](#)
[AARP: Caregiving in the US](#)



CAREGIVING x DIVERSITY

Cultural Diversity and Caregiving

Diverse Elders Coalition: [Caring for Those Who Care](#)

[Diverse Family Caregivers Need More Inclusive Support](#)

■ NAC- Caregiving in a Diverse America-Beginning to Understand the Systemic Challenges ...

Chicago Health: [Diverse Caregivers](#)

EMPLOYER-RELATED ARTICLES OF INTEREST

Harvard Business School: [The Caring Company](#) How Employers can Help Employees Manage Their Caregiving Responsibilities

Rosalynn Carter Institute for Caregivers: [Invisible Overtime: What employers need to know about caregivers](#)

[SHRM: Supporting Employees with Caregiving Responsibilities](#)

LEGAL/FMLA INFORMATION

US Dep't of Labor, Wage and Hour Division Fact Sheet:

[Fact Sheet #28: The Family and Medical Leave Act | U.S. Department of Labor](#)

[Fact Sheet #28A: Employee Protections under the Family and Medical Leave Act | U.S. Department of Labor](#)

[Fact Sheet #28C: Using FMLA Leave to Care for Someone Who Was in the Role of a Parent to You When You were a Child](#)

[Fact Sheet #28E: Employee Notice Requirements under the Family and Medical Leave Act | U.S. Department of Labor](#)

[Fact Sheet #28F: Reasons that Workers May Take Leave under the Family and Medical Leave Act | U.S. Department of Labor](#)

[Fact Sheet #28K: Using FMLA Leave to Care for an Adult Child with a Disability](#)



[Fact Sheet #28M\(a\): Military Caregiver Leave for a Current Servicemember under the Family and Medical Leave Act | U.S. Department of Labor](#)

[Fact Sheet #28M\(b\): Military Caregiver Leave for a Veteran under the Family and Medical Leave Act | U.S. Department of Labor](#)

[FMLA: How to Verify That Employees Are Truly 'Caring For' Family Members - HR Daily Advisor](#)

[Features of State Paid Family Leave Programs](#) (state by state survey)

[Philadelphia Bar Assoc. Model Policy 3 - Family Care Leave](#)

STATE AGENCY RESOURCES

Department for Aging links State by State: [Resources Near You | HHS.gov](#)

US Administration on Aging: [Eldercare Locator](#)

Public Health Agency of Canada: Division of Aging & Seniors

English: www.publichealth.gc.ca/seniors

French: www.santepublique.gc.ca/aines

ADDITIONAL RESOURCES OF INTEREST

[The Conversation Project](#): An initiative of the Institute for Healthcare Improvement (IHI), its mission is to help people share their wishes for care through the end of life.



Legal Considerations and Resources for Caregivers

It is becoming increasingly common for people to provide long-term or intermittent care to adult loved ones. Upon becoming a caregiver, one should consider the following issues which may arise unexpectedly. Caregivers can also rely on the following legal resources to get help with different aspects of adult care.

Considerations

Caregivers are encouraged to be proactive by being prepared for any emergency that may arise while caring for an adult loved one. Caregivers should also be aware that an adult loved one may need legal assistance with housing, utility, income maintenance, and health care problems.¹

Caregiving Plan

A caregiving plan explains the level of care that an adult loved one needs daily, and this plan should also account for emergency situations.² When creating a caregiving plan, a caregiver should communicate with the adult loved one to determine, among other things, what kind of care is required, who will provide the care, and the costs associated with that care.³

Understand Public Benefit Programs

A public benefit program provides financial or other assistance to applicable persons. Caregivers should see whether an adult loved one qualifies for enrollment in public benefit programs like Social Security Disability Insurance, Medicare, Medicaid, and Veterans benefits.⁴ Caregivers should also check whether an adult loved one may claim a federal tax reduction for health care costs or has a life insurance policy which allow for accelerated death payment to cover prolonged care expenses.⁵

Legal Title and Documentation

¹ <https://aging.maryland.gov/Pages/senior-legal-assistance.aspx>

² <https://www.nytimes.com/2023/01/19/well/family/caregiver-plan-aging-illness.html>

³ *Id.*

⁴ <https://www.aarp.org/caregiving/financial-legal/info-2020/caregivers-legal-checklist.html?intcmp=AE-CAR-LEG-R3-C3>

⁵ *Id.*



It is important for caregivers to gather and safeguard an adult loved one's legal documents in the event of an emergency or death. Pertinent documents include: wills and estate papers; advanced medical directives; insurance policies; pension benefits; birth, death, and marriage certificates; divorce decrees; citizen papers; military discharge paper; and deeds to property or cemetery plots.⁶

Providing care for an adult loved one with a disability or diminished capacity requires additional considerations, such as the following:

Adult Guardianship

Adult guardianship is a formal court process used to appoint a person to oversee the care or property of a person with disabilities.⁷ A caregiver can go through this process to become formally and legally recognized as the guardian of an adult loved one, eliminating the risk of the court appointing another being to make decisions on the loved one's behalf.

Transportation, Housing, and Employment Accommodations

A caregiver must make sure that an adult loved one receives proper accommodations in the home and the workplace for preexisting or new disabilities. The caregiver should also maintain a record of disability care and accommodation documentation if that information should be needed to enroll the adult loved one in a public benefits program.

Special Needs Trusts

A caregiver may need to create a special needs trust on behalf of the adult loved one. The purpose of this trust is to ensure that a beneficiary of the adult loved one, typically a child with disabilities or diminished capacity, will receive assistance from a public benefits program after the passing of the adult loved one.⁸

Legal Resources

⁶ <https://www.aarp.org/caregiving/financial-legal/info-2020/caregivers-legal-checklist.html?intcmp=AE-CAR-LEG-R3-C3>

⁷ <https://www.peoples-law.org/adult-guardianship>

⁸ <https://www.actec.org/estate-planning/types-of-special-needs-trusts/>



Many resources are available to a caregiver if he or she needs legal assistance to properly provide care to an adult loved one. While some of the following resources are specific to Maryland, caregivers are encouraged to turn to similar state agencies, nonprofit organizations, and business entities.

AARP

The AARP website offers a search tool to identify legal services available to a caregiver in a specific geographic location. The AARP website offers tips for financial planning and free access to various legal forms that a caregiver may need to complete on behalf of the adult loved one.⁹

State and Local Agencies on Aging and Disability

State and local agencies exist to help older and disabled residents.¹⁰ For example, the Maryland Department of Aging offers general programs designed to provide assisted living subsidies, meal services, state health insurance, and a family caregiver support center.¹¹ The Maryland Department of Aging also has a Senior Legal Assistance Program which offers counsel and representation, and priority is given to issues arising from age discrimination, public benefits, and other matters.¹²

State and Local Bar Associations

Most bar associations offer pro bono services for issues relating to elder law. The Bar Association of Baltimore City's Senior Legal Services help clients with estate planning, housing, consumer protection, and elder justice matters.¹³

Legal Services Organizations

Legal services organizations are nonprofit organizations which offer free or discounted legal services on various matters, many of which may be relevant to a caregiver of an adult loved one. Maryland Legal Aid offers employment, health,

⁹ <https://www.aarp.org/caregiving/financial-legal/?intcmp=AE-CAR-SUBNAV-LEG>

¹⁰ https://eldercare.acl.gov/Public/About/Aging_Network/SUA.aspx

¹¹ <https://aging.maryland.gov/pages/programsandservices.aspx>

¹² <https://aging.maryland.gov/Pages/senior-legal-assistance.aspx>

¹³ <https://baltimoresejiorlegalservices.org/>. See also <https://www.baltimorebar.org/for-the-public/senior-legal-services/>



housing, and income maintenance,¹⁴ and the organization may also direct caregivers to other resources pertinent to an adult loved one's needs.¹⁵

Some legal services organizations specialize in a particular area of law, providing counsel and representation on issues tailored to an adult loved one's needs and situation. Disability Rights Maryland offers pro bono legal services to disabled state residents to, among other goals, increase access to transportation, health care, and housing.¹⁶

Clinical Law Programs

Many law schools offer a clinical law program which provides pro bono legal services to their community. Students practice under the license of an attorney to work with clients on various legal matters, many of which may be relevant or needed for a caregiver to care for an adult loved one. The University of Maryland Francis King Carey School of Law offers the following clinical programs for a caregiver to turn to: Civil Rights of Persons with Disabilities; Fair Housing; Low-Income Taxpayer; Consumer Protection; and Medical-Legal Partnership.¹⁷

Other Resources

Many services are available to caregivers to ease the burden of caring for an adult loved one. If a caregiver needs additional resources, please consider the AARP's Legal Checklist for Family Caregivers¹⁸ and the New York Times' recent article discussing how to create a caregiver plan.¹⁹

Ashleigh Pagano, Class of 2023
University of Maryland Francis King Carey School of Law
NALP Annual Education Conference
April 2023

¹⁴ <https://www.mdlab.org/get-help-services/>

¹⁵ <https://www.mdlab.org/get-help-services/#state-services>

¹⁶ <https://disabilityrightsmd.org/>

¹⁷ <https://www.law.umaryland.edu/Programs-and-Impact/Clinical-Law/>

¹⁸ <https://www.aarp.org/caregiving/financial-legal/info-2020/caregivers-legal-checklist.html>

¹⁹ <https://www.nytimes.com/2023/01/19/well/family/caregiver-plan-aging-illness.html>



Having “The Conversation” with Your Family Member/Parents

It’s important to talk to your family member or parents about their values and wishes sooner rather than later. Before illnesses worsen, or dementia literally clouds the issue, you want to get clarity on what they expect in the future. The conversation is difficult, but necessary (for both your sakes).

At your table, discuss and share tips and advice on the following prompts. We will debrief and ask each table to share out any significant approaches or findings.

1. How would you approach the conversation? What might be the best way to begin it?
 2. Which of the below questions would be the toughest? The easiest?
 3. Is there a particular “order” of questions that would work best? Would you split the conversation up? If so, how?
 4. How would you handle pushback? What techniques would you use to get past it?
 5. If you could not get past the pushback, what steps could you take on your own?
- *Have you thought about how you want to be remembered?*
 - *What are your fears about [growing older] [your illness]?*
 - *If you are no longer able to do the things you once enjoyed or take care of yourself, what is most important to you?*
 - *If you have a life-threatening illness, what sort of medical care do you want?*
 - *If you have dementia, do you want doctors to focus on life-saving measures, or comfort measures?*
 - *What do your final arrangements look like?*
 - *What does a good end look like to you? Do you want to be in a hospital with doctors doing all they can, or resting at home?*



Office Continuity Planning Checklist

Continuity of Operations - People

1. What are the key responsibilities of each staff member?
 - a. Sources of information: staff evaluations, job descriptions
2. Who will handle each of those responsibilities, if needed?
 - a. What are the required/preferred skills and knowledge base needed for a smooth transition?
 - b. Does anyone on the staff at your school or office do similar work already?
3. Is cross-training an option?

Continuity of Operations - Documents

1. Save key documents in a shared drive.
2. Create lists of significant contacts/working partners.
3. Create outlines, checklists, and agendas for events and projects.
 - a. Include key contact information.
4. Create templates for annual reports.
5. Create a calendar of events and annual deadlines.
6. Share institutional passwords with key staff members.
 - a. Databases, e-resources, social media.

Continuity of Operations - Communications

1. Use a master calendar to share important events/dates of importance.
2. Inform your stakeholders and audiences about the shift in responsibilities in a timely, but sensitive, manner.
 - a. Prevent unanswered emails and phone calls to the person who is unavailable.
 - b. Prevent unnecessary stresses on everyone involved.



Documents Checklist for the Medicaid Application Process

- ____ 1. Medicaid Application Form
- ____ 2. Personal Documents
 - ____ A. Birth Certificate
 - ____ B. Social Security Card
 - ____ C. Medicare Card
 - ____ D. Health Care Insurance Cards (Front and Back) and Premium Notice
 - ____ E. Marriage License
 - ____ F. Divorce Papers (if applicable)
 - ____ G. Death Certificate of Spouse (if applicable)
 - ____ H. Power of Attorney (if applicable)
- ____ 3. Social Security Benefits Letter for the year of application for the applicant and, if applicable, the applicant's spouse.
***If not available, call 1-800-772-1213 and ask for computer printout.**
- ____ 4. Copy of Irrevocable Prepaid Funeral Trust
- ____ 5. Pension Verification, if applicable, copy of statement showing the monthly gross amount received.
- ____ 6. Copies of all Savings Account passbook(s) or statement(s) for **five (5)** years prior to the date of application or closing of the account. In addition, **any deposit or withdrawal equal to or greater than \$1,000 must be accounted for** by a canceled check or similar documentation.

Bank: _____
Account No.: _____

Bank: _____
Account No.: _____

Bank: _____
Account No.: _____

Bank: _____
Account No.: _____
- ____ 7. Copies of all Checking Account statement(s) for the **five (5)** years prior to the date of application or closing of the account with copies of all checks written for transactions equal to or greater than \$1,000. In addition, **any deposit or**

withdrawal equal to or greater than \$1,000 must be accounted for by a canceled check or similar documentation (i.e. transfer of \$ from this account to that account, deposit of social security check).

Bank: _____
Account No.: _____
Bank: _____
Account No.: _____
Bank: _____
Account No.: _____

- ____ 8. Copies of all Money Market statement(s) for the **five (5)** years prior to the date of application or closing of the account with copies of all checks written for greater than \$1,000. In addition, **any deposit or withdrawal greater than \$1,000 must be accounted for** by a canceled check or similar documentation (i.e., transfer of \$ from this account to that account, deposit of social security check).

Bank: _____
Account No.: _____
Bank: _____
Account No.: _____
Bank: _____
Account No.: _____

- ____ 9. Copies of all Mutual Fund statement(s) for the **five (5)** years prior to the date of the application or closing of the account with copies of all checks written for greater than \$1,000.00. In addition, **any deposit or withdrawal greater than \$1,000 must be accounted for** by a canceled check or similar documentation (i.e., transfer of \$ from this account to that account, deposit of social security check).

Bank: _____
Account No.: _____
Bank: _____
Account No.: _____

- ____ 10. CDs / Savings Bonds / Treasury Bills/ Municipal Bonds/ Any other Bonds - Copies of appropriate documentation. This includes all CDs that existed within the past **five (5)** years.

____ 11. Stocks - Copies of appropriate documentation.

____ 12. Copies of all IRA, Pension, and/or Profit Sharing Plan statement(s) for the **five (5)** years prior to the date of application or closing of the plan. In addition, **any deposit or withdrawal equal to or greater than \$1,000 must be accounted for** by a canceled check or similar documentation.

Institution: _____

Account No.: _____

Institution: _____

Account No.: _____

Institution: _____

Account No.: _____

Institution: _____

Account No.: _____

____ 13. Annuities: Documentation of the value over the past **five (5)** years.

**** PLEASE CHECK TAX RETURNS TO ASSURE THAT YOU HAVE INCLUDED ALL ACCOUNTS THAT HAVE EXISTED FOR THE PAST FIVE (5) YEARS****

____ 14. Real Estate:

____ A. Currently own home:

- ____ 1. Estimate of value.
- ____ 2. Copy of the deed.
- ____ 3. Mortgage balance and supporting documentation.

____ B. Sale of home within 60 months of application date:

- ____ 1. Copy of settlement papers (HUD-1)
- ____ 2. Support for disposition of funds received.

- ____C. Other property (vacation home, timeshare, land, condo, etc.)
- ____1. Estimate of value.
____2. Copy of the deed.
____3. Mortgage balance and supporting documentation.
- ____15. Cash Surrender Value of Life Insurance Policy
- ____16. Documentation supporting Limited Partnership(s).
- ____17. Documentation supporting any Business and/or Business Assets owned by the client.
- ____18. Is there an Escrow (deposit) at the Nursing Home? This is counted by Medicaid as an asset and must be spent down before Medicaid will approve an application. If there is an escrow (deposit) account:
- ____A. Amount of deposit \$_____
____B. Escrow will be used to pay for the Nursing Home Bill due the month **prior** to the Medicaid eligibility date.
____C. Escrow was not required.
- ____19. Tax Returns for the five years prior to the date of the application
- ____ 2017 ____ 2018 ____ 2019 ____ 2020 ____ 2021

***NOTE: INCOME IS TO BE PAID TO THE NURSING HOME/ASSISTED LIVING FACILITY MONTHLY AS OF THE EXPECTED ELIGIBILITY DATE**

Medicaid Eligibility and Spend Down

Medicaid is a welfare program, and thus it has strict financial eligibility criteria. The criteria are mostly concerned with three concepts: 1) Resources, 2) Income, and 3) Transfers. Resources are financial assets like bank accounts (checking, savings, IRAs, brokerages, etc.), stocks, bonds, life insurance, cars, and real estate, that can be liquidated, and the proceeds used for the individual's maintenance and support. resources are countable, except for the primary residence, regardless of whether they belong to the applicant or the spouse. Only income of the applicant, not the spouse is considered.

The term "transfer" refers to the following types of transactions: 1) resources that have been given away as outright gifts during the five years immediately prior to the application for benefits, and 2) resources that have been transferred for less than fair market value in the five years immediately prior to the application for benefits. Gifts and transfers are relevant if made during the "Five Year Lookback Period"

To determine whether resources have been spent down in a way that is consistent with the goals and purpose of the Medicaid program, the caseworker in charge of processing the application will look through five years of the applicant's financial records. During the audit, the caseworker will want to see every financial statement to see if any funds were transferred for less than fair market value or "gifted" during the lookback period. The total amount of gifts/transfers made during the five-year lookback are added together, then divided by a formula to determine the length of the period during which the applicant will be ineligible for benefits as a result of the gifts. This period of ineligibility is known as a "penalty period" or a "transfer penalty. The caseworker will also look for deposits and other transactions (like paying insurance or premiums) that may signify there are other assets not previously disclosed.

The goal of a spend down is to decrease your assets to the applicable resource limit of \$2,000.00 for an applicant, as well as the current limit for spouses (2022 maximum of \$137,400). We would do that by paying for things that the applicant or spouse may need or want. This may involve paying down any debts; converting what Medicaid deems to be available resources that can be used to pay for the cost of your care into unavailable resources and income for the spouse; and purchasing exempt assets. Some examples of items that may be purchased are anything the spouse (or applicant if living at home) needs for the house, like new appliances, flooring, and furniture, and a new car. We would also encourage you to purchase additional items that the Medicaid applicant may need in the

future such as clothing, extra glasses, or dentures. Some items like diapers and durable medical equipment may be covered by Medicaid but you may prefer to purchase a higher quality item than Medicaid would cover. We also recommend making pre-paid funeral arrangements for the applicant and spouse through an irrevocable funeral trust. This can be done with any funeral home but ensure you advise them that you are applying for Medicaid. Legal fees can also be included as part of the Medicaid spend down.

It is essential that you work with our team to ensure that you have achieved the spenddown by the last day of the month prior to the needed eligibility date. Unfortunately, a miscalculation of \$5 or forgetting a small asset like a single stock or bond can result in eligibility being delayed for a month. Making sure to turn over income to the facility each month is also key because income becomes a countable resource after one month. Make sure to review our QIT FAQ sheet if applicable.