

# A STEP AHEAD

BERWITZ & DITATA LLP

## MEDICAID REFORM: GOVERNOR PATAKI'S 2005-2006 BUDGET BILL

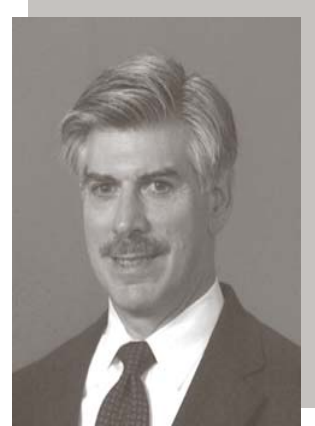
In our last issue we reported that Medicaid reform had received a reprieve from the Legislature. While it is widely conceded that the staggering cost of long-term care has a significant impact on the state's budget, during the last term, the Senate and the Assembly rejected the Governor's proposals for Medicaid cutbacks in favor of implementing budgetary provisions which promote the purchase of private, long-term care insurance. Unfortunately, Governor Pataki's new budget proposal once again calls for significant cut-

backs in Medicaid.

Like the prior proposal, the new budget bill calls for the application of the same transfer of asset rules, under which an ineligibility for services, or "penalty," is imposed following a transfer or gift, to home-care applications as is currently imposed for institutional care applications.

The prior proposal sought the elimination of the spousal refusal strategy. The current bill seeks to limit the applicability of spousal refusal to situations where the spouse is actually absent and...

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## DO I NEED HEALTH INSURANCE OTHER THAN MEDICARE ?

Medicare is a federally funded health insurance program designed for Americans who are either permanently disabled or are 65 years of age and

older. It pays many of the health care costs, but not all of them. Coverage under the program is divided into two parts - A and B. Part A, traditionally

referred to as "Hospital Insurance," covers in-patient hospitalization, some skilled nursing care, hospice care and...

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## MEDICAID REFORM: GOVERNOR PATAKI'S BUDGET BILL

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refuses to make income and resources available to pay for care. In addition, the Department of Health would be granted authority to request the Attorney General to commence spousal recovery actions.

The new bill once again suggests changes which, because Medicaid is federally financed, will require the commissioner to secure fed-

eral approval. So, for instance, it calls for the extension of the 36-month "look-back period," the period during which applicants for Medicaid must disclose all financial transactions, to 60 months. Similarly, under the new proposal, the penalty period resulting from all transfers would commence to run on the date of application instead of the date of transfer. The state leg-

islature is not likely to implement these changes unless it is assured that federal financing will not be affected.

Medicaid reform has been and continues to be a "hot button" for budget planners. We can anticipate that the call for these reforms will not disappear – just one more reason that Medicaid planning should be implemented sooner rather than later.

## SNOWBIRDS-WHERE DO YOU LIVE?

### A Question of Domicile

Some of our clients and friends have more than one home. Particularly after retirement, they divide their time between New York and a warmer or drier climate. If you have a home in more than one state, it is necessary to determine your legal domicile and to ensure that it is properly established.

Domicile is the state in which you maintain your permanent home. To establish domicile, you must be physically

present within that state and have the intention of making it your permanent residence. While a person may have multiple "residences," or places where they reside, they should have but one domicile.

Your choice of domicile is critical to estate planning, estate and gift taxation and even income tax. If your domicile is unclear, more than one state may claim the right to tax. Not all states define property

ownership the same way and in some states marital status may have an affect on ownership. The concept of domicile is particularly important to estate planning. Rules that apply to executors, trustees and administrators are governed by state law. Disastrous tax consequences can result, for example, if taxes are assessed in an unintended state.

Domicile can be established in a variety of ways.

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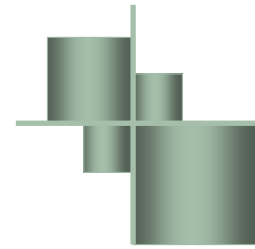
## SNOWBIRDS-WHERE DO YOU LIVE?

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Generally, the length of time you spend in a state is not determinative. Where you vote, where your driver's license is issued, the address listed in your last passport and the

address listed in your last will and testament are all indications of domicile. The location of the majority of your assets and your important personal property may also be of significance. If you

spend time each year in two or more states, or routinely move between states at different seasons, it may be extremely important to document your domicile consistently.



## DO I NEED HEALTH INSURANCE OTHER THAN MEDICARE ?

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very limited home health care - all subject to deductibles. Most seniors receive Part A coverage automatically when they turn 65. Part B is "Medical Insurance." It covers physicians services, out-patient medical and surgical services and supplies, some diagnostic tests and durable medical equipment such as wheelchairs, hospital beds and walkers. There is a monthly premium for this coverage (\$66.60) and an annual deductible (\$110) must be satisfied.

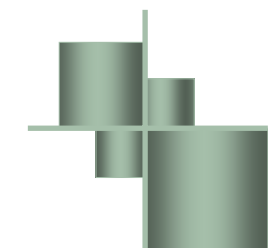
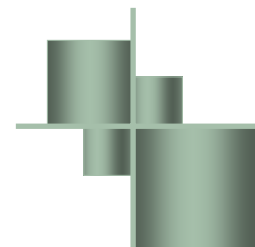
Because the basic protection afforded by Medicare leaves gaps in coverage that require out-of-pocket expenditures, having only

Medicare coverage for health insurance can pose a financial burden for seniors who are on a fixed income. There are other kinds of health insurance that "fill the gap." They help to pay the costs that Medicare does not. These policies are known as Medigap policies.

Medigap policies are sold by private insurance companies to provide supplemental health insurance. Medigap coverage affords various health benefits at different premiums. There are ten available policies, identified by alphabet letters A through J, that are federally regulated and standardized across most of the United States (except Massa-

chusetts, Minnesota and Wisconsin). Premiums are age-rated, meaning that they may be more costly as you age, and community rated, taking into consideration claims experience. Provided that an application for Medigap coverage is submitted within six months of eligibility for Medicare, coverage cannot be denied, even for a pre-existing condition.

For the most part, Medigap policies cover the Medicare deductibles, coinsurance and co-payments. Some Medigap policies also cover benefits that are not covered by Medicare, like routine check-ups and even prescriptions. These policies help lower out-of-pocket expense.



## BERWITZ & DiTATA LLP

224 Seventh Street  
Garden City, New York 11530  
Telephone: 516-747-3200  
Facsimile: 516-747-3727  
Website: [www.berwitz-ditata.com](http://www.berwitz-ditata.com)

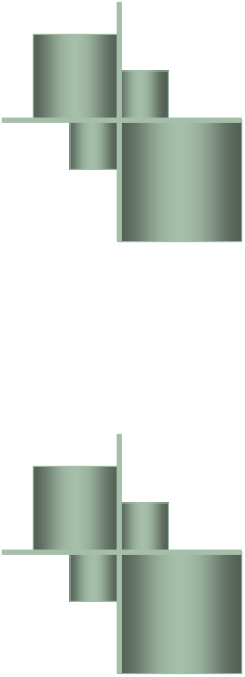
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[www.berwitz-ditata.com](http://www.berwitz-ditata.com)



Berwitz & DiTata LLP has merged into cyberspace to bring the most up-to-date information concerning the protection of your assets right to your desktop computer.

Our new website will post notices detailing changes in the law that affect our clients..

The new website will also include copies of our articles that were published in law

journals, newspapers, and magazines. In addition, back issues of this newsletter "*A Step Ahead*" will be available at the touch of a key.

If you read about something you are concerned may affect you, just give us a call and together we will determine if any changes are needed.

So please, come visit our updated website at [www.berwitz-ditata.com](http://www.berwitz-ditata.com).

**B&D..IN THE NEWS**  
**Lawrence N. Berwitz** appeared in **Newsday** in the "*Ask The Expert*" column which appeared in the "**Act II**" section of that paper on 12/11/04.

**Berwitz & DiTata** were also published in the magazine "**BUSINESS LI**". They wrote an article entitled "*Are You Prepared*" concerning the need for estate planning for businesses.

**B&D** continues to write a monthly column for the bar journal "**The Attorney of Nassau County**".