

# ELDRS Update

## **Spring Edition, Volume 2, Issue 1**

*This is a publication of the Elder Law & Disability Rights Section of the State Bar of Michigan. All opinions are those of the respective authors and do not represent official positions of the Elder Law & Disability Rights Section or the State Bar of Michigan. Comments or submissions should be directed to Christine Caswell, Managing Editor, at [christine@caswellpllc.com](mailto:christine@caswellpllc.com).*

## ***ELDRS Fall Conference***

### **Save the Date**

The 17<sup>th</sup> Annual ELDRS Fall Conference, “Lost in Translation,” will be held October 3-5, 2012 at the Crystal Mountain Resort in Thompsonville, Michigan. The keynote speaker will be Kevin Urbatsch from Myers Urbatsch P.C. in San Francisco. Other speakers will include Prof. Gary Bauer from the Thomas M. Cooley Law School discussing guardianship issues, U-M Law Prof. Samuel Bagenstos discussing the constitutional implications of the U.S. Supreme Court’s ruling (whether or not there is one by that time) on the Affordable Care Act, and esteemed Section members giving updates on estate recovery, Medicaid changes, and other relevant topics.

We will be sending e-mail notices to section members when the registration form is available on-line. Please save the dates and watch the ELDRS Web page at <http://www.michbar.org/elderlaw/> for more information.

## ***Legislative Update***

*By Ellen Hoekstra and Todd Tennis, Capitol Services, Inc.*

### **Estate Recovery Update**

We appear to have a reprieve on estate recovery “reform,” SB 404-406 (Sen. Roger Kahn, R-Saginaw). It now appears highly unlikely that the legislature will move forward on these bills until (at least) after the elections, in the lame duck session. Between now and then, we encourage Council members and your colleagues to send letters or emails to *House members*, seeking their commitment to vote “no” on this legislation, should the Senate decide to take it up during the lame duck session.

### **Autism and Parity**

The final nail was driven into the proverbial mental health parity coffin as the House voted 91-19 on the main bills of the autism-only-parity bills (SB 414 and 415), and 84-26 on SB 981, the

bill that creates an “incentive act” for insurers to cover autism screening and treatment. The three bills are on the way to the Governor’s office for expected signatures.

Like full mental health parity, SB 414 and 415 would prohibit insurance companies from limiting numbers of visits, requiring different co-pays or deductibles that do not apply to physical health care generally for their insurance certificates. The big difference, of course, is that SB 414 and 415 only apply to diagnosis and treatment of autism spectrum disorders. The bills further define what autism spectrum disorders are, as well as behavioral health treatment and applied behavioral analysis.

SB 981 requires the Michigan Department of Licensing and Regulatory Affairs (LARA) to create and operate an autism coverage incentive program. Essentially, LARA will partially reimburse insurance carriers and third party administrators for some of their autism-related payments in the form of a credit.

ELDRS legislative representatives advocated strongly for inclusion of full mental health parity in the autism package. Along with other advocates for including parity, we met with Lieutenant Governor Calley and participated in over 20 meetings with individual legislators on this issue. The primary argument was an appeal to not pick winners and losers in the battle for adequate mental health coverage. Further, full mental health parity would have *included* autism spectrum disorders (defined by medical manuals and a number of court cases in states with parity laws where the courts ruled autism is indeed covered by that state’s mental health parity law). Senator Rebekah Warren (D-Ann Arbor), Representative Dian Slavens (D-Canton) and Representative Maureen Stapleton (D-Detroit) all offered amendments at different points in the process to expand the bill to include mental health parity, but they were not adopted.

One could argue, though, that passage of the autism legislation paves the way for separate full mental health parity bills, given the incredible education campaign on the issue to every lawmaker in Lansing; many agreed with the premise, but the votes just didn’t go that way. The legislature then went on a two-week spring break, so it is difficult to speculate about next steps for mental health parity. However, at a minimum, the legislature has taken some steps to help individuals with ASD.

### **Dual Eligible Update**

The Michigan Department of Community Health released its report on Dual Eligibles, as we mentioned previously, and has been taking input. The report can be found online at [Michigan.gov/mdch](http://Michigan.gov/mdch) (click the “Integrated Care for Persons Dually Eligible for Medicare and Medicaid” link).

Last January 2011, Michigan was one of only 15 states to qualify for a grant to develop an integrated care plan to treat individuals who are dually-eligible for Medicaid and Medicare. Such individuals currently have to navigate two programs with vastly different regulations, which of course only complicates their care. The whole goal of a dual eligible program is to simplify and streamline care.

This plan was developed after significant input from several stakeholder groups, not just from within the Department of Community Health itself. It includes inpatient, outpatient, and primary care, nursing, behavioral health, developmental disability services, home health care, and prescription drugs, among many others. The plan calls for oversight committees to enable input as the plan is being rolled out.

Comments on the plan were accepted until close of business on April 4, 2012, as well as at several hearings. At the hearings, which were attended by a total of more than 500 people, various advocacy groups commented regarding the necessity of a proposal but expressed concerns about details. While there was general support for the concept of phasing in the integrated system, there was concern regarding consumers having enough time and information to make good choices. Among the themes raised by recipients and providers was concern that existing services not be disrupted, which DCH spokesperson Angela Minicuci has indicated was never the department's intent. Another issue was the need for clarification of the two different health care groups, the ICO's and the PIHP's. Some individuals were also interested in expansion of services, such as dental care.

DCH will be going through a substantial amount of materials, including the more than 150 emailed comments, prior to meeting the April 26 CMS deadline. After Michigan submits its proposal, CMS has its own review and approval process including a public comment period.

### **Progress on Check-Off Legislation**

Legislation supported by the Council and that had passed the Senate to create a check off on Michigan Income tax forms to support the Michigan Alzheimer's Association (SB 324-324) is a step closer to consideration by the House. A number of House members believed that the check-off system needed a bit of an overhaul, and we were told that action had to occur before legislation for "new" check offs would be considered. We are pleased to report that since the last Council meeting, the "reform" bill—HB 5232 (Rep. Jeff Farrington, R-Utica) passed the House unanimously. The chair of the Senate Finance Committee (Sen. Jack Brandenburg, R-Harrison Twp.), seemed favorably disposed to taking up the reform bill soon after the Senate returns from the legislature's spring break.

Council members may wish to ask their state representatives to support SB 324-5 to enable support for families who are caring for relatives with Alzheimer's at home.

### **Budget Process Moving Rapidly**

In the last few weeks, the House and Senate have been working through the first stages of the Appropriations process. They are moving at a rapid pace, and the goal is to have the budget completed by June 1.

For the Community Health Budget, it seems that the House and Senate are holding off so far on the majority of the Governor's recommendations for new funding. The House Subcommittee has eliminated many of the Governor's proposed increases, while the Senate Appropriations

Committee has replaced the increases with \$100 “placeholders.” The conventional wisdom is that the final decisions on each of these potential new funding items will be made later in the process – most likely after the next Revenue Estimating Conference in mid-May.

- **Aging Services to Support Community Living**

Increases funding for senior living community services, including \$500,000 to expand community living options counseling, \$100,000 to expand elder abuse prevention programs, and \$250,000 for community support for persons providing care for family members with Alzheimer's disease or dementia. It also includes new boilerplate one-time basis only funding of \$250,000 GF/GP for aging elder abuse prevention programs in FY 2012-13. The House Subcommittee eliminated this funding, and the Senate Appropriations Subcommittee reduced it to four separate \$100 line items.

- **Dual Eligibles to Managed Care**

The Governor proposed maintaining projected savings from shifting individuals who are eligible for both Medicare and Medicaid (dual eligibles) from fee-for-service to an integrated managed care system. This change was anticipated to generate savings in the amount of \$40.8 million gross (\$13.7 million GF/GP) in FY 2012-13 given a start date of April 1, 2012. The FY 2011-12 savings obviously will not be realized and are one again included in the FY 2012-13 Executive Recommendation with a program start date of April 1, 2013. There is no net change from FY 2011-12 to FY 2012-13 in projected savings.

- **Include Behavioral Health Drugs on Preferred Drug List**

Savings of \$18.7 million gross (\$6.3 million GF/GP) were removed from the Pharmaceutical Services line in FY 2011-12 as a result of including behavioral health drugs on the preferred drug list. There is no net change from FY 2011-12 to FY 2012-13. The FY 2011-12 savings will not be realized and are once again included in the FY 2012-13 Executive Recommendation. A statutory change would be required to realize these savings.

- **Medicaid Estate Recovery Program**

The Governor recommended a continuation of projected savings of \$16.6 million gross (\$5.6 million GF/GP) representing savings generated by what the administration refers to as “strengthening statutory changes to the existing Medicaid long-care estate recovery law.” There is no net change from FY 2011-12 to FY 2012-13. The FY 2011-12 savings will not be realized and are once again included in the FY 2012-13 Executive Recommendation. The House Subcommittee has agreed to the Governor’s recommendation.

- **MIChoice Program Adjustments**

The Governor's proposal increases the Medicaid Home- and Community-Based Services Waiver line by \$11.1 million gross (\$4.1 million GF/ GP) to recognize additional transitions from nursing homes and the reduction in the waiting list for the MIChoice program. The Long-Term Care Services line is reduced \$6.6 million gross (\$1.5 million GF/GP) in recognition of anticipated savings and transition costs. The proposed Senate bill creates a \$100 placeholder for the \$11 million HCBW increase.

- **PACE Program Adjustments**

The Governor's proposal increases the Program for All-Inclusive Care for the Elderly (PACE) line item by \$4.1 million gross (\$1.4 million GF/GP) bringing the current PACE programs up to capacity (\$2.5 million) and adding a Berrien County PACE program (\$1.6 million). Both actions are funded by a reduction to the Long-Term Care Services line in the amount of the PACE increases. The House and Senate Subcommittees have both adopted the Governor's recommendation for this item.

- **Autism Spectrum Disorder Coverage**

The Governor's budget would increase the Department's budget by \$34.1 million Gross (\$10.1 million GF/GP) to fund autism spectrum disorder treatment for an estimated 2,000 Medicaid and MIChild eligible children under the age of six. It creates a new line, "Autism Services," authorized at \$20.5 million gross (\$6.9 million GF/GP) and adds funding to the MIChild line of \$13.5 million gross (\$3.2 million GF/GP). Another \$15 million GF/GP is included in the available balance on the FY 2012-13 State balance sheet for potential insurer costs in anticipation of the possibility of a private insurance coverage mandate for autism (see above). The Senate Subcommittee created three \$100 placeholders for this initiative.

- **Traumatic Brain Injury Treatment Project**

The Governor proposes to restore \$200,000 gross (\$100,000 GF/GP) for pilot programs to encourage trauma hospital use of traumatic brain injury (TBI) treatment models. The program was last supported in FY 2010-11 but funds were not expended. The Senate Subcommittee created a \$100 placeholder for this funding.

- **Mental Health Services for Special Populations**

Last year, the DCH budget included \$3 million as a one-time enhancement for CMH Services for special populations. The Governor has proposed the elimination of this one-time funding. The Senate Subcommittee created a \$100 placeholder for the one-time funding.

- **Children with Serious Emotional Disturbance Waiver**

The Governor recommended an Increase in funding for the Children with Emotional Disturbance Program by \$4.5 million gross (\$0 GF/GP), enabling the Department to serve additional children eligible for the federal waiver program in which community mental health services programs (CMHSPs) provide home and community-based mental health services. Currently, 12 CMHSPs in 18 counties provide services for up to 357 children. The House Subcommittee and the Senate Subcommittee both have concurred with the Governor's recommendation.

### **DHS Budget Items of Interest**

In the Governor's recommended budget changes to the Department of Human Services, please note the following items of interest:

- The SDA program is reduced by \$2.4 million GF/GP from 10,250 cases at \$227 per month to 9,350 cases at \$207 per month. The House and Senate Subcommittees have both concurred in this proposed reduction.
- Local office adult services staff are increased by 41 FTE's and \$2.9 million gross. The new staff is expected to reduce caseloads per worker from 237:1 to 200:1 in their work on APS and Adult Community Placements. The House Subcommittee agreed with the Governor's recommendation, but the Senate Subcommittee reduced the proposed increase by half (20.5 FTE's).
- A 1.0 FTE increase is proposed for SSI advocacy. The House Subcommittee would reduce the number of SSI advocates by 2, while the Senate would leave the current number (10) unchanged.
- Proposal increases funding and FTE's added during FY 2009-2010 to perform eligibility reconsiderations for persons applying for federal SSI and SSDI in an effort to reduce the number of individuals requesting a federal appeal. The FTE's were never hired because the federal government suspended the reconsideration process.

### **Elder Abuse – Senior Alert Update**

The House Families, Children and Seniors Committee has reported out four bills that are part of the larger Vulnerable Adult package of legislation passed earlier this session by the Senate. Senate Bill 466, which would create the Senior Medical Alert Program, was reported from the committee on March 13. Senate Bills 455, 459 and 465 (which increase penalties for the financial abuse of vulnerable adults) were approved on March 20. All four bills are currently awaiting action on the House floor.

## **AARP Report on Home Care Released**

The AARP has just released a report suggesting that the state spends too much on nursing home care, whereas shifting state Medicaid resources to home care saves an average of \$57,338 per person. The report “Consumer-Focused, Cost Effective Long Term Care for an Age-Friendly Michigan” states that Michigan spends only 21.5% on home services, even though most seniors prefer to remain in their own home, and 78.4% on nursing home care. Thirty-five other states spend a lower proportion of their funding on nursing home care, with six spending over half on home-based care.

AARP proposes that the Department of Community Health apply for two federal programs for Medicaid available under the Affordable Care Act: the State Balancing Incentive Payment Program (BIPP) and the Community First Option (CFCO).

## **Other Bills of Recent Interest**

- SB 787 (now Public Act 51) (Senator Mike Nofs (R-Battle Creek)) requires a criminal history check and criminal records check, through the FBI, of an applicant for a license to operate a home for the aged or an adult foster care facility. This bill was signed by the Governor on March 21 and took immediate effect.
- SB 884 (Senator Geoff Hansen (R-Hart)) modifies the nursing home survey process to require, among other things, a criminal history check on nursing home surveyors. There was a Senate Families Committee hearing on this legislation, and a new draft makes some improvements to the bill as introduced, according to advocates.
- SB 990 (Senator Bruce Caswell (R-Hillsdale)) allows individuals moving into assisted living facilities to retain principal residence exemptions and clarifies the contiguity requirement. The bill is in the Senate Finance Committee, introduced on February 29.
- SB 1050 (Senator John Gleason (D-Flushing)) prohibits the commissioner of the Office of Financial and Insurance Services from working for entities regulated by the office for two years after leaving the office. The bill is in the Government Operations Committee, introduced March 28.
- SB 1054 (Senator John Gleason (D-Flushing)) provides for income tax credit for certain renovations made to the home of a person with a disability. It is in the Senate Finance Committee and was introduced on March 29.

## **Consumers Can Compare Home Health Agencies’ Patient Survey Results CMS publicly reports on consumer experiences with Medicare-certified home health agencies**

Results from the Centers for Medicare & Medicaid Services’ (CMS) national survey asking patients about their experiences with Medicare-certified home health agencies are now

available on the agency's Quality Care Finder ([www.medicare.gov/quality-care-finder](http://www.medicare.gov/quality-care-finder)) website.

CMS Acting Administrator Marilyn Tavenner announced the new tool offering prospective patients, their families and caregivers the chance to compare home health agencies by looking at patient survey results. The Home Health Care Consumer Assessment of Healthcare Providers and Systems (HHCAHPS) Survey, which will be updated every four months with new survey data, will complement the clinical measures already available on the agency's "Home Health Compare" website.

"CMS is doing all it can to help consumers make better, educated choices, and help them find the home health agency that best meets their needs," Tavenner said. "The survey is the first national assessment tool for collecting information on patient experience and will enable valid comparisons among all home health agencies."

The HHCAHPS collects feedback on topics that patients have identified as important in determining which home health agencies provide high-quality care. For example, the survey asks patients about the care they received from their home health agency, including such topics as overall care; provider communication skills; whether care was provided in a courteous and respectful way; and whether the agency discussed medicines, pain, and home safety. A prospective patient or caregiver will be able to review and compare feedback from other patients about Medicare-certified home health agencies' care of patients, communication between providers and patients, as well as the specific care issues identified on the survey. Ratings include an overall rating of home health care and a patient's willingness to recommend the agency to someone else.

The survey results are designed to create incentives for home health agencies to improve quality of care, as well as to give patients additional information so they are aware of the types of care they will receive from a particular agency. Additionally, public reporting enhances accountability in health care by increasing transparency.

For more information on the survey, visit <https://homehealthcahps.org>. To access the survey data, visit the Quality Care Finder tool in [Medicare.gov](http://www.medicare.gov) and click on Home Health Compare at <http://www.medicare.gov/quality-care-finder/index.html>.



## **Don't Give Up When Your Client's LTC Insurance Carrier Says "No"**

*By Robert C. Anderson, Anderson Associates, P.C.*

This article is a sequel to an earlier article which reported that my client's LTC Insurance carrier denied coverage because the assisted living facility (ALF) in which she resided was not licensed by the State. Like many LTC policies, coverage for assisted living is only allowed in "licensed" facilities. The problem is that Michigan does not license ALFs, although some ALFs are licensed as a "Home for the Aged" (HFA).

I filed a complaint with the insurance carrier and the Michigan Office of Financial and Insurance Regulation (OFIR) and received denials from both. But I didn't give up. I wrote a tougher letter of appeal to the Commissioner of OFIR, R. Kevin Clinton, and to the insurance carrier's legal department; and this time I received a positive response granting coverage.

So, the moral of the story is simply "do not give up" when your client receives a denial for LTC coverage.

## **The Guru's Secret**

*By John Payne, Garrison Law House, P.C.*

As a lawyer with a post-graduate tax degree, I am known in some circles as a tax guru. I am also frequently consulted about Medicare, Medicaid and Social Security questions by other attorneys. One of the secrets to being a guru is knowing where to call to get information. Gurus cannot know everything, so they have to know where to go for answers.

The Social Security Administration, Medicare and the Internal Revenue Service have surprisingly good telephone hotlines that are available to answer citizen questions. I find that professionals can also get answers easily by calling the agency directly. Here are the numbers to call:

- Social Security Administration      800-772-1213 (24/7)
- IRS for Individuals                      800-829-1040 (M-F 7:00 a.m.-7:00 p.m.)
- IRS for Businesses                        800-829-4933 (M-F 7:00 a.m.-7:00 p.m.)
- IRS for Nonprofits and Trustees        877-829-5500 (M-F 8:00 a.m.-5:00 p.m.)

The hotline for Medicare questions is 800-MEDICAR(e), numerically 800-633-4227. Although it is difficult to speak to someone on the Medicare hotline if you are not already enrolled in Medicare, enrollment questions are generally handled through the Social Security hotline.

There is no national Medicaid hotline, and it is difficult to get answers about Medicaid that go beyond basic eligibility criteria. Many Medicaid agencies will only provide answers through local office staff, and there is no access to staff for persons who are not applying or already enrolled in Medicaid.

Nongovernmental organizations have contracts with Medicaid to answer citizen enquiries in most states, but the quality of the information varies from state to state and from person to person. Elder law attorneys may be able to provide the most helpful answers, but finding a knowledgeable Medicaid attorney can be difficult. Start with the attorney directory on the National Academy of Elder Law Attorneys website, [www.naela.org](http://www.naela.org).

There are good times and bad times to call these different agencies. In general, call early in the day and not on Monday or Friday. I usually call in, put the phone on speaker and wait for someone to pick up. You might have to penetrate several levels of advisors to get an answer to a difficult question, but it is cost-effective, and the answer you finally get should be authoritative, if not conclusive. If you have called one of the above hotlines, please fill out the following survey on my blog: [www.topomyhead.wordpress.com](http://www.topomyhead.wordpress.com).

## Recent News for the Elder Practitioner

Spring 2012

*By Christopher W. Smith, Michigan Law Center, PLLC*

### Topics

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## By the Numbers

- Medicare's hospital insurance trust fund (Part A) is still on track to be depleted by 2024. The Social Security trust fund "will be exhausted in 2033, three years sooner than projected last year." Social Security's disability insurance program is expected to run out of funds in 2016 (two years sooner than predicted last year). [Robert Pear, Social Security's Financial Health Worsens, N.Y. Times, April 23, 2012.](#)
- In 2009, the average U.S. life expectancy for males was 76.2 years and 81.3 years for females, according to a comprehensive study by the Institute for Health Metrics and Evaluation. From 1989 to 2009, "life expectancy for men improved by 4.6 years on average but only by 2.7 years for women." The report showed the life expectancy gap between white and black Americans closing but expressed concern that life expectancies for women are declining in hundreds of counties nationwide. You can get county-specific detail [here](#). [Girls Born in 2009 Will Live Shorter Lives Than Their Mothers in Hundreds of U.S. Counties, Institute for Health Metrics and Evaluation, April 19, 2012.](#)
- Only 41% of adults 65 and older use the internet and only 30% have a broadband connection. Only 54% of individuals with disabilities use the internet. Overall, 78% of Americans use the internet (a number that is pulled down by adults 65 and older). [Kathryn Zickuhr and Aaron Smith, Digital Differences, Pew Internet, April 13, 2012.](#)
- "The number of prescriptions issued to patients declined by 1.1% compared with 2010, and visits to the doctor fell by 4.7%," according to a report by the IMS Institute for Healthcare Informatics. In contrast, emergency room visits increased by 7.4%. Prescriptions for those 65 and older declined by 3.1% last year. [Katie Thomas, Americans Cutting Back on Drugs and Doctor Visits, N.Y. Times, April 4, 2012.](#)
- Differences in educational attainment accounts for 35% of the variation in premature deaths (i.e., before age 75) between different counties, according to a University of Wisconsin study. "When average post-secondary education levels increased by one year [in a county], there was a 16% decline in years of life lost before age 75." [Sabrina Tavernise, Longevity Up in U.S., But Education Creates Disparity, Study Says, N.Y. Times, April 3, 2012.](#)
- Americans "60 and older still owe about \$36 billion in student loans" and more than 10% of those loans are delinquent. Some of the debt is from co-signing loans for children or grandchildren. [Yian Q. Mui, Senior Citizens Continue to Bear Burden of Student Loans, W. Post, April 1, 2012.](#)
- The number of 501(c)(3) charities fell from 1.3 million in 2010 to 1.1 million in 2011. The drop was mostly due to organizations failing to file required tax forms. "55,319 groups applied for charity status in 2011, down 7.7% from 2010." Of those that applied, 90% were approved "and fewer than 1% were rejected." [Noelle Barton, Number of Charities](#)

[and Foundations in U.S. Drops Sharply As New Law Goes into Effect, The Chronicle of Philanthropy, March 29, 2012.](#)

- “1 in 3 people lived in a family that had trouble paying its medical bills within the previous year,” according to a Centers for Disease Control report analyzing data from 2011. Even with Medicare, “19% of those between 65 and 74 and 12% of those over age 75 reported some financial burden for medical care.” [Julie Rovner, 1 in 3 Americans Is Having a Hard Time Paying Medical Bills, NPR: Shots Blog, March 7, 2012.](#)
- The average age of a reverse mortgage borrower is 73. Sixty-seven percent of those receiving reverse mortgage counseling still had a conventional mortgage on the home that would need to be repaid. [MetLife Mature Market Institute, Changing Attitudes, Changing Motives: The MetLife Study of How Aging Homeowners Use Reverse Mortgages, March 2012.](#)

### **Alzheimer’s/Dementia**

The Alzheimer’s Association released its 72-page annual facts and figures reports. Some findings:

- 1 in 8 Americans 65 and older has Alzheimer’s. In total, 5.4 million Americans are living with Alzheimer’s disease. It is the sixth leading cause of death in the United States.
- In Michigan, the report estimates that there are 180,000 Michiganders with Alzheimer’s, and that number is projected to grow to 190,000 by 2025 (one of the smallest projected increases in the country).
- In 2011, unpaid caregivers gave 17.4 billion hours or an estimated \$210 billion in unpaid care. 80% of care provided at home is provided by a family member. In Michigan, the study estimated 575 million hours of unpaid care in 2011 at an economic value of just under \$7 billion.
- In Michigan in 2009, 41% of nursing home residents had a moderate/severe cognitive impairment, 26% had a mild cognitive impairment, and 33% had no cognitive impairment at all. This is in line with the national averages.

[Alzheimer’s Association, 2012 Alzheimer’s Disease: Fact and Figures, 2012.](#)

- “The rate of cognitive decline in older patients [65 and older] more than doubled after a hospital stay” according to a recent study published in the journal *Neurology*. Delirium, now considered to be a form of brain injury, is believed to be the main cause. [Judith Graham, After Hospitalization, Mental Trouble for Elderly Parents, N.Y. Times, March 23, 2012.](#)
- A popular Alzheimer’s drug, Aricept, made by drug maker Eisai, came under scrutiny when a study found that its high 23 milligram dosage provided little or no additional benefit, yet had significant side effects. The Food and Drug Administration approved the

increased dosage despite the evidence. Eisai developed “Aricept 23” when its 5 and 10 milligram dosages were losing patent protection. [Katie Thomas, Drug Dosage Was Approved Despite Warning, N.Y. Times, March 22, 2012.](#)

- Nearly all those currently diagnosed with mild or very mild Alzheimer’s may be reclassified “as having mild cognitive impairment” according to a study in Archives of Neurology. The study analyzed the impact of using the latest diagnosis guidelines prepared by the Alzheimer’s Association and the National Institute on Aging that were released last year. [Alice Park, New Criteria May Change Alzheimer’s Diagnosis, Time, February 8, 2012.](#)
- The Obama administration announced that it was devoting “an extra \$50 million [to] dementia research, on top of the \$450 million it currently spends” and asked Congress for an additional \$80 million. By comparison, the government spends \$3 billion on AIDS research. [Lauren Neergaard, Obama to Seek More Alzheimer’s Research Money, Associated Press, February 7, 2012.](#)

#### **Estate Planning and Advance Directives**

- According to the Centers for Disease Control and Prevention, 29% of those over 85 died in hospitals in 2007, down from 40% in 1989. “During that same time, the proportion who died at home climbed to 19 percent from 12 percent.” However, 40% still die in long-term care facilities. [Paula Span, Where the Oldest Die Now, N.Y. Times: The New Old Age Blog: April 18, 2012.](#)
- When is a person “dead” for organ donation purposes? Historically, the debate has been between “brain death” and “cardiac death” where there still might be some brain activity. Now the University of Michigan is adding to the debate by placing “possible donors on a heart-lung machine, called ECMO, even before their hearts have stopped beating.” While it raises many ethical questions, proponents say that it gives a family more time to say goodbye and preserves the organs. [Rob Stein, A Struggle to Define ‘Death’ for Organ Donors, NPR Morning Edition, March 28, 2012.](#)
- A study published in the Annals of Internal Medicine found that patient advocates tend to interpret a physician’s statement about a patient’s likely outcome more optimistically than what was actually said. [Paul Span, Weighing the Chance at Life’s End, N.Y. Times: The New Old Age Blog, March 8, 2012,](#) reporting on [L.S. Zier et al., Surrogate Decision Makers’ Interpretation of Prognostic Information, Annals of Internal Medicine, March 6, 2012.](#)
- Indiana is phasing out its inheritance tax in stages until it is eliminated in 2021. The exemption for transfers to immediate family members was also increased from \$100,000 to \$250,000 in the meantime. [Gov. Daniels Signs Indiana Inheritance Tax Phase-Out Bill, Associated Press, March 21, 2012.](#)

- The IRS has a new website to check the status of various tax-exempt organizations located at <http://apps.irs.gov/app/eos/>.

### Healthcare and Medicine

- Only 13.4% of adults have high cholesterol, down from 18.3% a decade earlier. Experts believe this is largely due to cholesterol-lowering drugs. [Scott Hensley, Americans' Cholesterol Levels Shrink, Even As Waistlines Expand, NPR: Shots Blog, April 24, 2012.](#)
- Get up from your desk. An Australian study found that “people who sat more than 11 hours a day had a 40% higher risk of dying in the next three years than people who sat less than four hours a day.” [Neil Wagner, Confirmed: He Who Sits the Most Dies the Soonest, The Atlantic, April 19, 2012.](#)
- Your dentist has one less reason to bug you about not flossing. The American Heart Association concluded that there is no link between gum disease and cardiovascular illness. [New Analysis Debunks Connection Between Gum Disease and Heart Attack, Reuters, April 18, 2012.](#)
- A Harvard study shows that each summer daily temperature swing of 1°C increases the death rate of older adults with chronic conditions from between 2.8% to 4.0%, depending on the chronic condition. [Press Release, Summer Temperature Variability May Increase Mortality Risk for Elderly With Chronic Disease, April 9, 2012.](#)
- The United States spent an average of \$70,000 on a cancer case in 2010 versus \$44,000 among various European countries studied. However, “the average survival in the U.S. was 11.1 years” versus 9.3 years in European countries. [Eryn Brown, Is the Price Americans Pay for Cancer Treatment Worth the Results?, L.A. Times: Booster Shots Blog, April 9, 2012.](#)
- “Consumers would have received rebates of nearly \$2 billion – in some cases as much as \$300 a member – if the health-law cap on insurance profits and overhead had been in place in 2010” according to a study by the Commonwealth Fund. In Michigan, insurers would have returned over \$24 million or \$239 a member. [Jay Hancock, 2010 Insurance Rebates Would Have Hit \\$2 Billion, Study Says, Kaiser Health News: Capsules Blog, April 5, 2012,](#) reporting on study performed by the [Commonwealth Fund](#).
- Nine prominent physician groups released a “list of 45 common tests and treatments they say are often unnecessary and may even harm patients.” Some of the procedures and treatments include EKG tests and antibiotics for sinuses (many are difficult for the layperson to decipher). The groups are marketing their efforts through the Choosing Wisely campaign at <http://www.choosingwisely.org> and are working in cooperation with *Consumer Reports*. [Julie Appleby, Physicians Wade into Efforts to Curb Unnecessary Treatments, Kaiser Health News, April 4, 2012.](#)

- The Federal Trade Commission voted 3-to-1 to let Express Scripts \$29 billion merger with Medco Health Solutions proceed. The vote clears the way for the creation of the largest pharmacy benefit manager with a projected \$116 billion in 2011 revenue. CVS Caremark is second at \$107 billion and, together, they will make up about 73% of the current benefit manager market. [Reed Abelson and Natasha Singer, F.T.C. Approves Merger of 2 of the Biggest Pharmacy Benefit Managers, N.Y. Times, April 2, 2012.](#)
- Examining your DNA will not do much to predict your medical future according to a study published in *Science Translational Medicine*. Most people will simply be told that they are at “average” risk for many common diseases and even if you are at “high” risk, that risk may only be 10%. “Behavior, environment and random events” will likely be a bigger determinant of your health future. [Gina Kolata, Study Says DNA’s Power to Predict Illness is Limited, N.Y. Times, April 2, 2012.](#)
- Stents versus coronary bypass surgery? A recent study found that individuals were less likely to die five years after coronary bypass surgery (16%) than those that opted for stents (21%). [Richard Knox, Bypass Surgery Edges Stents for Health Treatment, NPR: Shots Blog, March 27, 2012.](#)
- Daily aspirin use may significantly reduce the risk of cancer. In one University of Oxford study, the risk of cancer was reduced by almost 25% for those who took aspirin daily for 3 years and 37% for those who took aspirin for five years. Another British study seemed to confirm these results. Obviously doctors are cautious of the results and the potential side effects of aspirin use (e.g., gastrointestinal bleeding) must be weighed. [Roni Caryn Rabin, Studies Link Daily Doses of Aspiring to Reduced Risk of Cancer, N.Y. Times, March 20, 2012.](#)
- According to the AARP, “drug prices used most widely by older Americans rose by nearly 26 percent from 2005 to 2009, nearly twice the rate of inflation.” The report said that while generic drugs fell by 31% during that time, the prices of “brand-name drug prices grew by nearly 41 percent.” However, the report has been criticized because it uses the full retail price for prescriptions and does not take into account the amount insurers and those who are insured actually pay for prescriptions. [Katie Thomas, AARP Study Says Price of Popular Drugs Rose 26%, N.Y. Times, March 6, 2012](#) reporting on [AARP Public Policy Institute, Rx Price Watch Report: Trends in Retail Prices of Prescription Drugs Widely Used by Medicare Beneficiaries 2005 to 2009, March 2012.](#)
- Are rapidly increasing lifespans inevitable? No, according to some researchers. Called the “reliability theory of aging,” these researchers argue that “the body, like a machine, amasses more flaws as it ages” increasing the probability of death and keeping mortality at more or less a constant rate. [Carl Bialik, Death Gets in The Way of Old-Age Gains, Wall Street Journal, March 2, 2012.](#)

- The United States Preventative Services recommends that women receive pap smears less frequently because of the harm of false positive tests. The recommendation advises women to be screened no more than every three years beginning at age 21 regardless of sexual activity. Furthermore, the task force reaffirmed its previous recommendation that women over 65 not receive pap smears so long as they “have had adequate prior screening and are not otherwise at high risk for cervical cancer.” [Tara Parker-Pope, \*New Guidelines Advise Less Frequent Pap Smears, N.Y. Times, March 14, 2012.\*](#)
- Could the answer for many common conditions of aging (memory loss, insomnia, etc.) be partly the result of aging eyes? Several research studies are showing that “the aging eye filters out blue light,” which plays a key part in regulating the body’s internal clock. This may cause the body’s circadian rhythms to be out of sync, which is already known to have significant health effects (e.g., night shift workers). Cataract surgery will help, but the study may caution the use of blue-blocking lenses that are currently used in about one-third of surgeries. [Laurie Tarkan, \*Aging of Eyes Is Blamed for Range of Health Woes, N.Y. Times, February 20, 2012.\*](#)
- Take what your doctor says with a grain of salt. 55% of physicians “reported they often or sometimes described a patient’s prognosis in a more positive manner than the facts might support” in a survey recently published in Health Affairs. Also, “more than a third of doctors did not completely agree that they should disclose their financial relationships with drug and device companies to patients.” [Jessica Marcy, \*Study: Some Physicians Not Always Honest with Patients, Capsules: The Kaiser Health News Blog, February 8, 2012.\*](#)

## Insurance

- “In states that have not banned gender rating, more than 90 percent of the best-selling health plans charge women more than men,” according to a study by the National Women’s Law Center. The Affordable Care Act would ban such gender ratings starting in 2014. [Robert Pear, \*Gender Gap Persists in Cost of Health Insurance, N.Y. Times, March 19, 2012.\*](#)
- The Obama administration unveiled its requirements for easy to read summaries of health insurance plans, which is a requirement in the Affordable Care Act. The samples (which look fairly similar to the charts available for Medicare Advantage plans at Medicare.gov) make it very easy to understand how much certain services will cost for various procedures and if there are any other limitations and exceptions for that procedure. [Susan Jaffe, \*HHS Unveils Requirements for Consumer Insurance Labels, Kaiser Health News, February 9, 2012.\*](#)
- 26% of adults ages 19-24 were uninsured for at least part of 2011 and of this group, 57% have been uninsured for over two years. A third of low-income Americans under 133%



of the poverty level and between the ages 19 and 64 have lacked health insurance for at least the last two years according to a recent study by the Commonwealth Fund. Half of these individuals have also used an emergency room to get a prescription filled. [Jordan Rau, Nowhere to Go But Up for the Poor Lacking Insurance, Says Study, Kaiser Health News: Capsule Blog, February 7, 2012](#) and [Noam M. Levey, Survey Shows Holes in Health Insurance Coverage, L.A. Times, April 19, 2012](#). The Commonwealth Fund study can be found [here](#).

### **Long-Term Care**

The Centers for Disease Control and Prevention released a survey of residents living in residential care facilities in 2010 (facilities that are less than skilled care, such as assisted living). Key findings:

- 54% of residents were 85 and over;
- The median length of stay was 671 days or about 22 months;
- For 19% of the residents, Medicaid paid for at least some of the services;
- However, 56% of younger residents had Medicaid versus 10% of residents aged 85 and over;
- The mean monthly charge was \$3,165;
- Bathing was by far the daily living activity receiving the most assistance at 72%, followed by dressing (52%), toileting (36%), transferring (25%), and eating (22%); and
- 38% required assistance with three to five activities of daily living, 36% required help with one or two, and 26% do not need any assistance.

[Residents Living in Residential Care Facilities: United States, 2010, Centers for Disease Control and Prevention, April 2012](#).

- You can now compare the quality of Medicare-certified home health agencies at <http://www.medicare.gov/quality-care-finder/>. The tool, released by the Centers for Medicare and Medicaid Services (CMS), uses data from its national patient survey and will be updated every four months when new survey data is available. [CMS, Press Release: Consumers Can Now Compare Results from Home Health Agencies Patient Surveys, April 19, 2012](#).
- In the United Kingdom, older women have a higher risk of being admitted to a nursing home than men even when taking other variations into account. An Oxford University study found that it is not that the men are less willing to take on a caretaker role for their wives, but it is that they are less physically able to do so. [Mark McCann et al., Gender Difference in Care Home Admission Risk: Partner's Age Explains the Higher Risk for Women, Oxford University: Age and Ageing Journal, April 18, 2012](#).

- The Obama administration announced the creation of the Administration for Community Living that will bring together the Administration on Aging, the Office on Disability, and the Administration on Developmental Disabilities into one agency. By combining these organizations, the administration hopes to find more “cross-cutting” initiatives to enhance the participation of older American and people with disabilities as “full members of their communities.” [U.S. Department of Health & Human Services, Press Release: A Statement from Secretary Sebelius on the Administration for Community Living, April 16, 2012.](#)
- Prudential is joining the ranks of insurers that will no longer sell long-term care insurance to individuals. [Leslie Scism, Prudential, Following Rivals, Pares Long-Term-Care Offerings, The Wall Street Journal, March 7, 2012.](#)
- Michigan AARP issued a white paper encouraging state policymakers to spend more resources and Medicaid dollars on home- and community-based services. The paper argued that 35 states “spend a smaller proportion of their long term care dollars on nursing homes” than Michigan and that, on average, the Medicaid dollars “can support nearly three older people and adults with physical disabilities in [home and community based services] for every one person in a nursing home.” [Michigan AARP, Consumer-Focuses, Cost Effective Long Term Care for an Age-Friendly Michigan, March 2012.](#)

## Medicaid

- The Henry J. Kaiser Family Foundation issued a paper on the various state budgets proposal for Medicaid in FY 2013. Many governors are actually proposing enhancements to Medicaid. [Governors’ Budgets for FY 2013 – What is Proposed for Medicaid?, The Kaiser Commission on Medicaid and the Uninsured, March 27, 2012.](#)
- Also, the Kaiser Family Foundation released an informative guide to the Medicaid appeals process, including a very helpful section on managed care appeals. [Kaiser Commission on Medicaid and the Uninsured, A Guide To The Medicaid Appeals Process, March 2012.](#)
- The National Senior Citizens Law Center announced a new website to monitor efforts to integrate care for dual eligibles (those who receive both Medicare and Medicaid). The website is focused on providing resources and tools to advocates and is located at <http://dualsdemoadvocacy.org/>. In related news, Michigan opened up [its integrated care proposal](#) for public comment.

## Medicare

- The Government Accountability Office severely criticized Medicare’s demonstration project that presumably pays bonuses to reward high-performing Medicare Advantage plans. The report stated that most of the money went to “average-performing plans

rated lower than the benchmarks set by Congress.” Based on the Affordable Care Act, one-third of the plans would have qualified for bonuses, but 90% are eligible under the demonstration project. [Robert Pear, G.A.O. Calls Test Project by Medicare Costly Waste, N.Y. Times, April 22, 2012.](#)

- The Obama administration announced that it would expand competitive bidding (versus a fee schedule) for durable medical equipment. In its pilot program, the Obama administration announced that the competitive bidding process reduced Medicare costs by 42% without negative health consequences. It expects to have competitive bidding throughout the United States by 2016. [Robert Pear, In a Shift, Medicare Pushes Bids, N.Y. Times, April 18, 2012.](#)
- “Medicare patients who reach the annual gap in coverage known as the ‘doughnut hole’ are 57% more likely than those with continuous coverage to stop taking drugs for heart-related conditions such as high blood pressure or heart disease,” according to a study by Harvard Medical School in cooperation with others. [Julie Rovner, Seniors in Medicare “Doughnut Hole” More Likely to Stop Heart Drugs, NPR: Shots Blog, April 17, 2012.](#)
- Some 2013 Medicare Part D numbers were released. For 2013, the standard benefit deductible will increase from \$320 to \$325, the initial coverage limit (i.e., before the doughnut hole) will increase from \$2,930 to \$2,970 in total prescription drug costs, and the catastrophic coverage level (i.e., when you break through the doughnut hole) will increase from \$4,700 to \$4,750 in total prescription costs paid for by the beneficiary. [CMS Announces 2013 Guidelines for Medicare Parts C And D, National Council on Aging, April 16, 2012.](#)
- A report by the Kaiser Family Foundation found Medicare “less generous” than employer plans if you do not include supplemental coverage. “For the average senior, Medicare covers \$11,930 of the \$14,890 in estimated annual health care spending – less than would be covered under either the federal employee plan (\$12,260) or the typical PPO comparison plan (\$12,800) for an employee who is 65 or older.” [Jason Kane, Medicare ‘Less Generous’ Than Private Plans, Study Finds, PBS Newshour, April 6, 2012, reporting on How Does the Benefit Value of Medicare Compare to the Benefit Value of Typical Large Employer Plans?: A 2012 Update, Kaiser Family Foundation, April 4, 2012.](#)
- According to a study published in the New England Journal of Medicine, paying hospitals bonuses based on performance metrics (e.g., mortality rates for heart attack and heart bypass surgery) did not reduce mortality rates. The study questions the ultimate effectiveness of pay for performance efforts contemplated by the Affordable Care Act. [Jordan Rau, Effort to Pay Hospitals Based on Quality Didn’t Cut Death Rates, Study Finds, Kaiser Health News, March 28, 2012.](#)
- If a Medicare Advantage plan bids less “in an area than traditional Medicare, then it gets a rebate of 75% of the difference that it must pass along to seniors in extra benefits or

lower-cost sharing.” A recent study by Avalere Health showed that this average rebate is \$73 month or \$27 a month in Michigan. [Marilyn Werber Serafini, Winners and Losers in Medicare Advantage Extras: Avalere Report, Kaiser Health News: Capsules Blog, March 12, 2012.](#)

- Presidential candidate Mitt Romney, who turned 65 in March, does not plan to enroll in Medicare. [Jennifer Haberkorn, Mitt Romney Won't Sign Up for Medicare, Politico, March 12, 2012.](#)
- Medicare unveiled its redesigned quarterly Medicare Summary Notices that will be sent out beginning in 2013. At first glance, the new design makes informational notices easier to read, makes it very clear what the maximum amount a person can be billed is, and makes appealing a claim very simple. A side by side comparison of the old and new notices can be found at: [http://www.cms.gov/apps/files/msn\\_changes.pdf](http://www.cms.gov/apps/files/msn_changes.pdf). [Susan Jaffe, HHS Unveils Requirements For Consumer Insurance Labels, Kaiser Health News, February 9, 2012.](#)
- In an odd case, the U.S. Court of Appeals for the District of Columbia ruled in a 2-1 vote that you cannot opt out of your automatic entitlement to Medicare Part A (although you can refuse its benefits) without also opting out of Social Security. The case has the appearance of political theater as Dick Armey was one of the plaintiffs. [Nedra Pickler, Appeals Court Rules Seniors Who Receive Social Security Can't Reject Medicare, The Huffington Post, February 2, 2012.](#)
- The Department of Health and Human Services announced that average Medicare Advantage premiums fell “from \$33.97 to \$31.54 in 2012, while enrollment has risen from 11.7 million in 2011 to 12.8 million in 2012.” [Press Release, Medicare Advantage Premiums Down 7 Percent On Average, Enrollment Up 10 Percent, U.S. Dept. of Health & Human Services, February 1, 2012.](#)

## Michigan

- A Chicago debt collection company, Accretive Health, that provides debt collection services to Henry Ford, Beaumont Hospitals, Royal Oak, and St. John Providence Health of Warren, is under investigation for violating health privacy and debt collection laws. [Patricia Anstett, Collection Agency Used by Three Metro Health Systems Under Investigation, Detroit Free Press, April 27, 2011.](#)
- Michigan ranked as the fourth best state for elder economic security in the United States. However, the study by Wider Opportunities for Women in conjunction with the University of Massachusetts, found that every state had a gap between basic living expenses for elders and the average median income. In Michigan, the study said that median income for fully retired individuals 65 and older is \$19,500 (excluding public assistance), but the basic cost of living is \$21,360, which leaves a \$1,860 gap. [Doing](#)

[Without: Economic Insecurity and Older Americans, Wider Opportunities for Women, March 1, 2012.](#)

Two different studies about the health of counties came out this quarter:

- The Robert Wood Johnson Foundation released its annual County Health Rankings. The top counties were: (1) Leelanau, (2) Ottawa, (3) Clinton, (4) Livingston, and (5) Washtenaw. The bottom counties were: (78) Lake, (79) Alcona, (80) Clare, (81) Wayne, and (82) Ontonagon. There is a wealth of data to explore with lots of fun and easy to use features at: <http://www.countyhealthrankings.org>.
- The Commonwealth Fund released its “first-ever Scorecard on Local Health System Performance.” Michigan ranked 20th overall and ranked in the following categories: Equity (14th), Prevention & Treatment (15th), Healthy Lives (35th), and Avoidable Hospital Use & Costs (40th). The scorecard also stated that in order to perform at the level of the best state, Michigan would have to have 548,647 more insured adults and 3,713 fewer long-stay nursing home residents hospitalized (at a projected Medicare savings of nearly \$31 million). Within Michigan, the Grand Rapids region scored the best (with Muskegon and Traverse City also performing highly), and Dearborn scored the worst. [The Commonwealth Fund, Rising to the Challenge: Results from A Scorecard on Local Health System Performance, 2012, March 14, 2012.](#)

## **Retirement**

There are three recent studies on American attitudes towards retirement:

- According to Gallup, “the average nonretired American now expects to retire at age 67, up from age 63 a decade ago and age 60 in the mid-1990s.” 38% of nonretirees say “they will have enough money to live comfortably in retirement.” [Jeffrey M. Jones, Expected Retirement Age in U.S. to 67, Gallup, April 27, 2012.](#)
- According to MetLife, 45% of 65-year-old Baby Boomers are now fully retired and 14% report they are retired, but working part-time. “On average, [65-year-old] Boomers who have not yet retired plan to do so by age 68.5 and “they will be old at age 79.” Of those that retired earlier than expected, 37% said it was due to health reasons and 16% cited loss of job or job opportunities. [Transitioning into Retirement: The MetLife Study of Baby Boomers at 65, MetLife Mature Market Institute, April 2012.](#)
- According to the 2012 Retirement Confidence Survey, Americans’ confidence in their ability to retire comfortably remained stagnant with only 14% of workers being very confident that they will be able to live comfortably in retirement. 60% of workers report that the total value of their assets (minus home and defined benefit plans) is

less than \$25,000. 37% of workers stated they plan to retire after age 65, up from 11% in 1991. 51% of retirees stated that they were “not too” or “not at all” confident that they have enough money to pay for long-term care expenses. [Ruth Helman et al., The 2012 Retirement Confidence Survey, Employee Benefit Research Institute, March 2012.](#)

How do your IRA savings compare to others in your age group and zip code? Fidelity has a tool where you can compare your IRA savings to others in your geographic area who are actively contributing to a Fidelity workplace savings plan. It is available at <https://communications.fidelity.com/wi/2012/compare/>. [Fidelity Brokerage Services, LLC, How Does Your Contribution Rate Stack Up?, 2012.](#)

### **Social Security**

- 26.9% of those eligible for Social Security signed up in 2011, the lowest “in any other year since 1976.” This is likely balancing out the large number who took Social Security (31%) in 2009 when the first baby boomers were eligible for Social Security and the economy was particularly weak. [Emily Brandon, Social Security Claiming Slows, U.S. News: Planning to Retire Blog, April 17, 2012.](#)
- AARP studied how knowledgeable 52- to 70-year-olds were regarding the impact of taking Social Security benefits at various times. Most (89%) knew that they would get higher Social Security benefits by waiting until his or her full retirement age, but only 29% knew that they would receive the maximum Social Security monthly benefit at age 70. Only 48% of respondents who were married or had been married were aware that spousal benefits were available (although 95% knew around widow/widower benefits). [The Impact of Claiming Age on Monthly Social Security Retirement Benefits: How Knowledgeable Are Future Beneficiaries?, AARP, February 2012.](#)

### **Special Needs**

There were several new articles and studies on autism recently released:

- The Centers for Disease Control and Prevention reported that the diagnosis of an autism spectrum disorder “increased more than 20% from 2006 to 2008.” In 2008, one child in 88 received a diagnosis of autism, while Asperger syndrome, a related disorder, was up from one in 110 two years earlier. Boys (at one in 54) “were almost five times as likely” as girls (at one in 252) to be diagnosed. The prevalence of the diagnosis also varied widely between the states studied. Experts disagree whether the cause is related to a greater incidence of autism, greater awareness, or both. [Benedict Carey, Diagnosis of Autism on the Rise, Report Says, N.Y. Times, March 29, 2012](#) reporting on [Centers for Disease Control and Prevention, Prevalence of Autism](#)

[Spectrum Disorders – Autism and Developmental Disabilities Monitoring Network, March 30, 2012.](#)

- Four recent studies looked at autism and genetics. “15% of autism cases in families with no other autistic children were linked to de novo mutations in either the sperm or the egg that joined during conception.” These mutations were “four times more likely to occur in the fathers than in the mothers – and the risk for men began increasing at age 35.” [Maia Szalavitz, Autism Studies Confirm Genetic Complexity and Risk for Older Fathers, Time, April 5, 2012.](#)
- A study in the journal *Pediatrics* found that moms who were obese, diabetic, or had high blood pressure were 60% more likely to have a child with an autism spectrum disorder and the chance was more than double that the child would have some sort of other developmental delay. [Jon Hamilton, Study Warns of Autism Risk For Children of Obese Mothers, NPR: Shots Blog, April 9, 2012.](#)

Johnson & Johnson faces massive judgments against it for its illegal marketing of the anti-psychotic drug Risperdal that it fraudulently marketed to treat “schizophrenia, bipolar disorder” and behavioral issues associated with autism. The drug performed no better than cheaper generics. An Arkansas judge ordered J&J to pay \$1.2 billion, which raises the stakes for several other pending lawsuits in the matter. [Katie Thomas, J&J Fined \\$1.2 Billion in Drug Case, N.Y. Times, April 11, 2012.](#)

### **Veterans**

The Department of Veterans Affairs announced that “it plans to hire about 1,600 additional psychiatrists, psychologists, social workers and other mental health clinicians in an effort to reduce long wait times for services at many veterans’ medical centers.” This came on the heels of a *USA Today* report stating “the Department of Veterans Affairs is short psychiatrists, with 20% vacancy rates in much of the country served by VA hospitals,” and nationally the vacancy rate is 15%, according to *USA Today*. [James Dao, Veterans Dept. Will Increase Mental Health Staffing, N.Y. Times, April 19, 2012,](#) and [Gregg Zoroya, VA Sees Shortfall Of Mental Health Specialists, USA Today, April 4, 2012.](#)

## Calendar

By Krystal Casey Danielak

### **May 15, 2012**

SBM/ICLE

Estate & Financial Planning, Video available/2012

Medicaid & Health Care Planning, Video available

[www.icle.org](http://www.icle.org)

### **May 17-19, 2012**

SBM Probate Section/ICLE

52 Annual Probate & Estate Planning Institute

Acme, MI

Live feed available

[www.icle.org](http://www.icle.org)

### **June 2, 2012**

SBM ELDRS Council Meeting

Troy, MI

### **June 9, 2012**

SBM Probate Section

Council Meeting

East Lansing, MI

[www.michbar.org/probate/meetingschedule.cfm](http://www.michbar.org/probate/meetingschedule.cfm)

### **June 15-16, 2012**

SBM Probate Section

52nd Annual Probate & Estate Planning Institute

Plymouth, MI

[www.icle.org](http://www.icle.org)

### **June 26, 2012**

SBM/ICLE Probate & Estate Section

Drafting an Estate Plan for an Estate under \$5 million

Plymouth, MI

[www.icle.org](http://www.icle.org)

### **July 18-21, 2012**

SBM Real Property Law Section to Host Summer Conference

Boyne Mountain Resort

"Reinventing Michigan Cities through Redevelopment"

<http://www.michbar.org/realproperty/summerconf.cfm>



**Aug. 4, 2012**

SBM ELDRS Council Meeting  
Ishpeming, MI

**Aug. 8, 2012**

SBM Taxation Section/ICLE  
Estate & Trusts Committee  
Southfield, MI

[www.michbar.org/tax/news.cfm](http://www.michbar.org/tax/news.cfm)

**Sep 8, 2012**

SBM Probate Section  
Council Meeting  
East Lansing, MI

[www.michbar.org/probate/meetingschedule.cfm](http://www.michbar.org/probate/meetingschedule.cfm)

**October 3-5, 2012**

SBM ELDRS  
Fall Conference  
Thompsonville, MI

[www.michbar.org/elderlaw/calendar.cfm](http://www.michbar.org/elderlaw/calendar.cfm)

**November 6-7**

2012 Advanced Elder Law Review  
Omni Shoreham Hotel – Washington, DC

[www.naela.org](http://www.naela.org)

**November 8-10, 2012**

2012 National Aging and Law Institute  
Omni Shoreham Hotel – Washington, DC  
Theme: "The Post Election Special Edition"

[www.naela.org](http://www.naela.org)