



Moriah Adamo, Esq., Lawrence N. Berwitz, Esq. and  
Maureen Rothschild DiTata, Esq.

## A STEP AHEAD

### Introducing Our Team

#### Moriah Adamo, Esq.

Moriah Adamo is a Partner at Abrams Fensterman, LLP and leads the firm's Elder Law & Estate Planning Practice in its Lake Success office. Moriah distinguishes herself as litigator and, in the past, represented health care providers in the areas of Medicaid qualifications and appeals. Like us, this experience and skill set has shaped her philosophy in practicing preventative law to deliver creative strategies to assist families planning for every stage of their lives. Moriah has been certified as an expert witness in both federal and state Courts in the substantive area of Medicaid eligibility. In guardianship proceedings, Moriah marries her litigation skills with an extensive knowledge of Medicaid to achieve pragmatic results for incapacitated individuals.

In her spare time, Moriah enjoys the outdoors with her two daughters and husband. They enjoy hiking and skiing together. Moriah loves a good book and a good meal with family and friends.

#### Lawrence N. Berwitz, Esq.

After working his way through law school at night as a police officer in New York City, Larry served

CONTINUED ON PAGE 3

### Berwitz & DiTata LLP Has Joined With Abrams Fensterman, LLP

As you likely have heard by now, our entire Berwitz & DiTata LLP team has merged with the law firm of Abrams Fensterman, LLP! We are thrilled to now be settling into the Elder Law and Estate Planning Practice, in its Lake Success office, with our new partner, Moriah Adamo, Esq. We, of course, will continue to provide the same scope of

services with dedication to caring representation of you and your family. But now, we also have so much more to offer.

Our new modern offices provide expanded space and technical capabilities in a convenient location, right off both the Northern State Parkway and Long Island Express-

CONTINUED ON PAGE 3

### Medicaid: What to Expect in 2023

Amendments to the law are often necessary to adapt to the growing needs of the community at large. Sometimes change is beneficial. Unfortunately, on occasion change deprives benefits to those who are most vulnerable. Anticipated changes in the New York State Community Medicaid Program (Medicaid home care) promise both the good and the bad in 2023.

Medicaid home care aids those who need personal care assistance, housekeeping, and rehabilitation services to improve or maintain function and/or health. It is designed to provide the services that will allow people to age *in their*

CONTINUED ON PAGE 2



#### IN THIS ISSUE:

Introducing Our Team

Berwitz & DiTata LLP  
Has Joined With  
Abrams Fensterman, LLP

Medicaid: What to Expect  
in 2023

## Medicaid: What to Expect in 2023

CONTINUED FROM PAGE 1

*homes*. However, it should be remembered that the Medicaid home care program was originally designed to help the needy. Over the years, as our population aged and the cost of health care sky-rocketed, the government has implemented rules and regulations that have allowed the middle-class to gain access to home care benefits through Medicaid *planning* strategies - often with the assistance of qualified elder law counsel. The legislature continues to respond to the demands on the home care program with regulations that are aimed at balancing the benefits offered with its fiscal requirements. The 2023 changes demonstrate the

tension and encompass both increases in one's ability to financially qualify for the home care benefits and changes to the way in which care will be accessed.

Starting on January 1, 2023, the resource allowance to qualify for Medicaid benefits generally will increase from \$16,800 to \$28,134 per individual. Couples will be entitled to keep \$37,908 of available resources, up from \$24,600. Income allowances are also increasing to \$1,563 for individuals and \$2,106 for couples. In addition, the State has delayed, until early 2024, the implementation of the look-back period for home care services that was passed in the 2020 budget.

Still, while financial eligibility for home care benefits broadens, access to actual home care *services* is narrowing. In our last issue, we addressed the impending changes in the assessment process to determine the level of care that Medicaid will provide an applicant. The implementation of the New York Independent Assessors ("NYIA") program is fully effective December 1, 2022. The practical effect will undoubtedly delay access to care and deny those in the greatest need.

NYIA requires that individuals be evaluated by a state-appointed nurse and clinician. Namely, a medical expert with *no prior relationship to the applicant*. This two-pronged assessment has led to a delay in approving those in need of home care services. The independent assessor must issue a Practitioner's Order ("PO") to certify that the applicant can be safely cared for in the community. Most significantly, if the PO calls for home care services for 12 hours or more a day, a separate Independent Review Panel ("IRP") must approve the care plan to assure that it is reasonable and appropriate to maintain health and safety in the home. Again, this IRP has no first-hand knowledge of the applicant or their limitations. This multiple-step assessment presents many traps for the unwary.

The need for an advocate through this process is ever increasing. As we approach 2023, it is important to be mindful of these changes and how they might affect you or a loved one. Medicaid planning can be daunting, but it is better to face these changes head-on with a knowledgeable team rather than find yourself ineligible on grounds that could have been mitigated.





## Berwitz & DiTata LLP Has Joined With Abrams Fensterman, LLP

CONTINUED FROM PAGE 1

way on the Nassau/Queens border. In addition, Abrams Fensterman, LLP has offices in Brooklyn MetroTech, White Plains, Albany, and Rochester. Throughout New York, Abrams Fensterman, LLP embraces the power of expertise. Our 115+ attorneys include preeminent practitioners across multiple disciplines, including:

- Real Estate Law
- Matrimonial Law
- Family Law
- Civil Litigation
- Corporate & Securities Law
- Mental Health Law
- Criminal Defense and Governmental Investigation
- Insurance Defense
- Employment Law

- Restructuring, Bankruptcy & Creditor's Right Law
- No-Fault & Workers Compensation Litigation
- Election Law
- Entertainment Law
- Foreclosure
- Government Litigation, Negotiation & Strategy
- Cannabis Law
- Health Care Fraud and Regulatory Enforcement
- Health Care Compliance
- Land Use & Zoning

In upcoming newsletters, we will highlight the work of various practice areas, so that you may acquaint yourself with these new possibilities. For now, know that we are equipped to service the legal needs of most



clients within Abrams Fensterman, LLP. This ability to provide holistic representation to your family's needs assures that your legal matters are handled with skill and efficiency by attorneys who regularly work together and toward a common cause - delivery of quality counsel, innovative solutions, and personalized service for all our clients.

## Introducing Our Team

CONTINUED FROM PAGE 1

as an assistant district attorney in Bronx County. Larry transitioned his practice to commercial litigation in highly respected Manhattan law firms where he also handled estate planning and estate matters. In 1997, Larry narrowed his law practice to estate planning, elder law, trust and estates, guardianships and special needs planning. Larry continued to use the trial skills he developed as a prosecutor and commercial litigator in contested Surrogate's Court matters and guardianships. Larry's expertise in these areas led him to serve as a

co-chair of both the Nassau County Bar Association's Surrogate's Court Estates & Trusts Committee and the Elder Law, Social Services & Health Advocacy Committee. Larry, who has achieved his certification as an Accredited Estate Planner, is currently a member of the Estate Planning Council of Nassau, Inc. and serves on its Board of Directors. Larry is also a certified mediator concerning issues that relate to his area of practice.

In his spare time, Larry ballroom dances with his wife and partner, Maureen, and aspires to learning to

play golf well. He is a lifetime New York sports fan. And, while he hopes all New York teams play well, regrettably, he especially roots for the Mets and Jets.

### Maureen Rothschild DiTata, Esq.

Maureen began her legal career as a criminal prosecutor and served as an Assistant District Attorney in Manhattan where she had the opportunity to handle a broad range of criminal matters. After the completion of her service as an ADA, she joined the ranks of civil and commercial litigators and then, in 2000, she and Lawrence N. Berwitz, her husband and lifetime partner, formed their own law firm

CONTINUED ON PAGE 4

Abrams Fensterman, LLP  
Long Island Office  
3 Dakota Drive Suite 300  
Lake Success, New York 11042

TELEPHONE: (516) 328-2300  
FACSIMILE: (516) 328-6638  
WEBSITE: [www.abramslaw.com](http://www.abramslaw.com)

---

## Introducing Our Team

CONTINUED FROM PAGE 3

in Garden City. Maureen is a new Partner at Abrams Fensterman, LLP and joins the firm's Elder Law & Estate Planning Practice in its Lake Success office. Maureen devotes her skills to estate and asset preservation planning, special needs planning, estate and trust administration and elder law, including Medicaid planning and Medicaid applications. Because Maureen is an active listener and has always enjoyed creative problem solving, she has, for most of her career, guided clients in the resolution of issues that would oth-

erwise have resulted in costly and time-consuming litigation. Beginning in 2013, Maureen began formal mediation training and has developed an expertise in alternative dispute resolution, principally among members of the same family. She mediates matters involving trusts and estates and guardianship and enjoys assisting clients in exploring alternative avenues for achieving resolution of these most personal and emotional disputes.

Maureen is the proud owner of two West Highland terriers (Westies), named Kepler and Copernicus.

Have You  
Relocated?

Do You Want to  
Keep Receiving  
This Newsletter?

If you have moved to a new home, either permanently or temporarily, please contact our office with your up-to-date address, telephone numbers and e-mail addresses. We want to be sure that you will continue to receive communication from us.

---

This newsletter does not constitute the provision of legal or tax advice.  
It is to provide general information only and should not be acted upon without legal and/or professional assistance.

Copyright © 2022 Berwitz & DiTata LLP/Abrams Fensterman, LLP All Rights Reserved