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# ◆ ELDER LAW REVIEW ◆<sup>TM</sup>

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March 2015

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## MARCH 31 LAST DAY TO OPT OUT OF FIDA

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As discussed in a prior edition of the Elder Law Review, the government has initiated a pilot program known as Fully Integrated Dual Advantage (FIDA). The program affects eligible residents of New York City, Westchester, and Long Island who are enrolled in Managed Long Term Care plans (MLTC plans) and Medicaid Advantage Plus plans (MAP plans). Eligible participants (“dual eligibles”) are those over 21 who have both Medicare and Medicaid, are receiving 120 days or more of long term care and live in a county where FIDA is rolled out.

MLTC plans provide home care, adult day care, dental care, eyeglasses/optometry, transportation to doctors, medical supplies, hearing aids/audiology, and other Medicaid services. Commencing this year, these plans will also provide nursing home care. They do not cover doctors, lab tests, hospital care, and prescription drugs. MLTC plan participants access these benefits through Medicare.

Dual eligibles could potentially have 4 different plans of

coverage: Medicare, Medicaid, Part D and MLTC. FIDA combines all the care under one umbrella. In other words, all Medicaid and Medicare coverage is coordinated under a single health plan, with a care planning team that coordinates Medicaid and Medicare services. There are no premiums with a FIDA plan and no deductibles or co-pays. For the first 90 days of enrollment, the FIDA plan is required to allow recipients to see their current doctors, even if they are out of network. However, the doctor must be willing to accept the plan's terms for payment and the plan's rules on authorizing services.

Enrollment in FIDA is not beneficial for many people. For example, enrollment in a FIDA plan could jeopardize health coverage received through a retirement plan. Also, if one has a Medigap plan and then decides to disenroll from a FIDA plan, that individual cannot again buy Medigap coverage, since it essentially duplicates Medicaid coverage. Further, for those with prescription drugs, the FIDA plan may not cover those drugs if they are not on the plan formulary.

The implementation of FIDA and ability to opt-in began on January 1, 2015 for MLTC recipients in New York City and Nassau. Passive enrollment begins April 1, 2015. Nursing home residents who were admitted after February 1, 2015 will be passively enrolled after August, 2015. A 90 day notice went out on January 1, 2015 as did a 60 day notice on February 1, 2015 and a 30 day notice on March 1, 2015. The notice gives 90, 60, 30 days respectively to either select and enroll in a FIDA plan or opt out.

If the recipients don't opt out they will be passively enrolled into a FIDA plan. This means that they will be automatically assigned to a FIDA plan that is affiliated with their MLTC plan. Passive enrollment starts on Apr. 1, 2015 beginning with those receiving SSI with a birthday in January, February or March and non-SSI recipients with Medicaid eligibility authorization due for renewal from January to August 2015. Passive enrollment starts on May 1, 2015 for SSI recipients with birthdays in April, May or June and non-SSI recipients with Medicaid authorization dates from September to November, 2015.

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No earlier than June 1, DOH will passively enroll individuals with Medicaid eligibility authorization due for renewal in December 2015 or January 2016 and those not up for renewal who have a birthday within July, August and September. No earlier than July 1 DOH will passively enroll those with eligibility authorizations due for renewal in February and March 2016 and those with birthdays in October, November and December.

The notice explains that FIDA will provide all Medicaid and Medicare benefits, including MLTC services and Part D prescription drugs in one plan. The notice does not mention that one doesn't have to sign up for FIDA or that if you don't opt out before April 1 you will be assigned to a plan.

The notice does not fully explain that members will be limited to using in-network providers (doctors, labs, hospitals, home care agencies, pharmacies, clinics, etc.) for all services as well as prescription drugs on the FIDA plan's formulary. The notice also fails to mention that you must still pay the Medicaid spend-down, if applicable, to the FIDA plan. However, as with MLTC, FIDA members may continue to use pooled trusts to eliminate their spend-down.

To opt out one has to call NY Medicaid Choice at 1-855-600-3432.

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**UPCOMING EVENT:**

***ELDER LAW LECTURE PRESENTED BY RONALD FATOULLAH, ESQ.***

**DATE:** Saturday, June 6, 2015

**TIME:** 2:30—4:00 P.M.

**LOCATION:** Flushing House

3820 Bowne Street

Flushing, New York 11354

**CONTACT:** Robert Salant (347) 532-3025