

MSBA ELDER LAW SECTION E-NEWSLETTER

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E-Newsletter Editorial Staff:

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[Editor's Note: Last week, an apology was extended to Catherine Thatcher, for misattributing submissions to Carol Thacher. In that apology, Catherine's last name was misspelled. I am truly sorry for the error.- Allison Burke]

ITEM OF INTEREST

MINNESOTA IMPLEMENTS NEW NURSING HOME CASE MIX CLASSIFICATIONS

Effective January 1, 2012, Minnesota will implement a new case mix classification system for Minnesota nursing homes. The case mix classification system in use now is known as RUG-III (Resource Utilization Group-III) RUG-III has 34 categories of care, ranging from PA1 at the lowest level of need to SE3, at the highest level. Each level of care is based on a Total Activities of Daily Living (ADL) score within each of seven general categories, ranging from Reduced Physical Functioning at the low end, to Extensive Services at the high end. There are two additional classifications: DDF for stays of less than 14 days, in which case no classification assessment is required and BC1, for a late or missing classification assessment and report, in which case the lowest

classification applies. Each case mix classification carries a separate reimbursement rate for medical assistance payments for the nursing home in question. Because Minnesota nursing homes are not allowed to charge private-pay residents more than the approved medical assistance rate for the same level of care, the case mix classification system in effect also regulates private-pay rates in almost all Minnesota nursing homes. Effective January 1, 2012, all Minnesota nursing homes that receive medicare or medicaid payments must follow the new RUG-IV case mix system. The new system will utilize 48 categories of care. The new system provides room for additional categories of specialized care and more differentiation in rate levels. The new system will conform Minnesota to federal requirements for reporting care delivered in Skilled Nursing Facilities. After sufficient data is generated following implementation of the new system, MA reimbursement rates will be adjusted by the Minnesota Department of Human Services. The Minnesota Department of Health is currently sending notices to all residents of affected nursing homes to report the new case mix classification that will apply to the resident on or after January 1, 2012. Here is a link to the November 2011 Department of Health PowerPoint explanation of the new system:

<http://www.health.state.mn.us/divs/fpc/112911pptslides.pdf>

Here is the link to the Minnesota Case Mix Manual of October 2010:

<http://www.health.state.mn.us/divs/fpc/CMRmanual2010.pdf>

The Manual includes instructions to nursing homes regarding required care assessments and charts to compare the RUG-III and RUG-IV classification categories.

Submitted by Julian J. Zweber

Legislative Coordinator

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LINK OF THE WEEK

The Alzheimer's Association Minnesota-North Dakota Chapter is a great resource for individuals and families dealing with Alzheimer's Disease. The organization offers

support groups, a 24/7 helpline, education programs for professionals and the community, free webinars, and a myriad of resources for those affected by the disease. To check out their website, [click here](#).

Submitted by Megan K. Stowers
stow5755@stthomas.edu

ELDER LAW NEWS

State OKs care jobs for former criminals | [Star Tribune](#)

Older Minnesotans need a new way to afford care | [Star Tribune](#)

Long-term care insurance premiums jump | [Assc. of Health Care Journalists](#)

Franken, Klobuchar, Paulsen Aim to Protect 'Frail' Seniors | [Fox 9 News](#)

A surprising study on end-of-life care | [The Washington Post](#)

Submitted by Joel Smith, Esq.

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ELDER LAW CASES

The following unpublished decisions were released by the Minnesota Court of Appeals on Monday, December 12, 2011:

A11-23

In the Matter of the Guardianship and Conservatorship of: Joseph James Langa, Ward.

WORKE, Judge

Appellants served as guardians and conservators of the ward. Appellants challenged the district court's disallowance of certain fees as unnecessary and unreasonable. We reversed and remanded with instructions to the district court to allow appellants to challenge the policies that the district court relied on in determining the reasonableness of appellants' fees and, in its discretion, to reopen the record. Following remand, appellants now argue that the district court ignored evidence and abused its discretion in disallowing certain expenses and fees and in requiring appellants to repay those amounts. We affirm.

The opinion is available [here](#).

A11-499

In the Matter of the Guardianship and Conservatorship of: William D. Hohenauer, Ward.

WORKE, Judge

Appellants served as guardians and conservators of the ward. Appellants challenged the district court's disallowance of certain fees as unnecessary and unreasonable. We reversed and remanded with instructions to the district court to allow appellants to

challenge the policies that the district court relied on in determining the reasonableness of appellants' fees and, in its discretion, to reopen the record. Following remand, appellants now argue that the district court ignored evidence and abused its discretion in disallowing certain expenses and fees and in requiring appellants to repay those amounts. We affirm.

The opinion is available [here](#).

A11-500

In the Matter of the Guardianship and Conservatorship of: Harold F. Doyle, Ward.

WORKE, Judge

Appellants served as guardians and conservators of the ward. Appellants challenged the district court's disallowance of certain fees as unnecessary and unreasonable. We reversed and remanded with instructions to the district court to allow appellants to challenge the policies that the district court relied on in determining the reasonableness of appellants' fees and, in its discretion, to reopen the record. Following remand, appellants now argue that the district court ignored evidence and abused its discretion in disallowing certain expenses and fees and in requiring appellants to repay those amounts. We affirm.

The opinion is available [here](#).

Unpublished opinions may not be cited except as provided by Minn. Stat. Section 480A.08, Subd. 3 (2009).

Submitted by Paulette Joyer, Esq.

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STATUTES, REGULATIONS, BULLETINS

There are no new Statutes, Regulations or Bulletins to report this week.

UPCOMING EVENTS AND CLE PROGRAMS

There are no upcoming events or CLE programs to report this week.

ELDER LAW SECTION ACTIVITIES

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, December 20, 2011. The Medical Assistance Committee is a study group to analyze Elder Law Section member questions and case studies and to discuss administrative policies and procedures in relation to Medical Assistance in Minnesota. Cathryn D. Reher of Long, Reher & Hanson, P.A., is Committee Chair. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A., at [952-929-0622](tel:952-929-0622) at least 24 hours in advance of the meeting. Topics for the meeting may be submitted to tfenske@mnelderlaw.com under the subject heading "MA Committee Topic", or faxed to [952-542-9201](tel:952-542-9201). Please be reminded that the meeting location is: Estate & Elder Law Services (formerly MAO Legal Services), Monroe Village, 1900 Central Avenue NE, Suite 106, Minneapolis, Minnesota 55418. There are a few parking spaces behind the building and lots of street parking. People should walk to the back of the building and come to the back door which faces directly into the meeting room.

GOVERNING COUNCIL: The next meeting of the Elder Law Section Governing Council will be on Friday, February 17, 2011 at 3:30 pm at the offices of the Volunteers of America (VOA) at 1900 Central Avenue NE, Suite 106, Minneapolis, MN 55418. For further information, please contact Suzy Scheller, Chair, at: suzy@schellerlegalsolutions.com.

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE. Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE

Click here: <http://www.mnbar.org/sections/elder-law/index.asp>

Please send E-Newsletter contributions by 10 p.m. on Sunday of each week to Allison Burke at allison@twincities-elderlaw.com.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Tamara Patton at tpatton@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www2.mnbar.org/sections/elder-law/newsletter.asp>.