

# **LEGAL ISSUES OF DEPENDENT AND INCAPACITATED PEOPLE**

---

---

**Dana Shilling**



**Civic Research Institute**

# LEGAL ISSUES OF DEPENDENT AND INCAPACITATED PEOPLE

---

---

By Dana Shilling, J.D.



**Civic Research Institute**

4478 U.S. Route 27 • P.O. Box 585 • Kingston, NJ 08528

To order, go to <http://www.civicrosearchinstitute.com/lidi.html>

Copyright © 2007

By Civic Research Institute, Inc.  
Kingston, New Jersey 08528

The information in this book is not intended to replace the services of a trained legal, accounting, or financial planning professional. Civic Research Institute, Inc. provides this information without advocating the use of or endorsing the issues, theories, precedent, guidance, resources, practical materials, or programs discussed herein. Any application of the issues, theories, precedent, guidance, resources, practical materials, or programs set forth in this book is at the reader's sole discretion and risk. The author and Civic Research Institute, Inc. specifically disclaim any liability, loss or risk, personal or otherwise, which is incurred as a consequence, directly or indirectly, of the use and application of any of the contents of this book.

All rights reserved. This book may not be reproduced in part or in whole by any process without written permission from the publisher.

This book is printed on acid-free paper.

Printed in the United States of America

Library of Congress Cataloging in Publication Data  
Legal issues of dependent and incapacitated people/Dana Shilling, J.D.

ISBN 1-887554-56-4

Library of Congress Control Number: 2006936464

# Table of Contents

*About the Author* ..... iii  
*Introduction* ..... v

## PART I: HEALTH ISSUES

### Chapter 1: Individuals With Developmental Disabilities and Their Families

¶ 1.1 Introduction ..... 1-1  
¶ 1.2 Federal Statute ..... 1-3  
    [1] Definitions ..... 1-3  
    [2] Rights to Treatment and Services ..... 1-4  
¶ 1.3 State Programs ..... 1-5  
    [1] State Examples ..... 1-6  
        [a] California ..... 1-6  
        [b] South Carolina ..... 1-7  
    [2] Issue of “Aging Out” ..... 1-8  
    [3] Group Homes for Those With Developmental Disabilities ..... 1-9  
¶ 1.4 Special Guardianship Provisions ..... 1-9

### Chapter 2: Mental Illness as the Cause of Dependency or Incapacitation

¶ 2.1 Introduction ..... 2-1  
¶ 2.2 Civil Commitment ..... 2-2  
    [1] Commitment Procedure ..... 2-3  
    [2] Rights of the Involuntarily Institutionalized ..... 2-6  
    [3] Commitment and Medicaid Managed Care ..... 2-7  
¶ 2.3 Mental Illness and Health Care Consent ..... 2-8

### Chapter 3: End-Life Issues

¶ 3.1 Introduction ..... 3-1  
¶ 3.2 Informed Consent ..... 3-2  
¶ 3.3 Life Support ..... 3-3  
    [1] Persistent Vegetative State ..... 3-6  
    [2] Conditions Other Than PVS ..... 3-8  
    [3] Blood Transfusions ..... 3-9  
    [4] Antibiotics ..... 3-9

¶ 3.4 Advance Directives . . . . .	3-10
[1] Uniform Acts . . . . .	3-13
[2] Practice Aspects . . . . .	3-13
[3] Do Not Resuscitate Orders . . . . .	3-14
[4] Decision Making in the Absence of a Directive . . . . .	3-15
¶ 3.5 Issues Involving the Terminally Ill . . . . .	3-15
[1] Individuals Who Are Minors . . . . .	3-15
[2] Individuals Who Were Never Capacitated . . . . .	3-19
¶ 3.6 Assisted Suicide and Euthanasia: A Slippery Slope? . . . . .	3-19
¶ 3.7 Medical Malpractice Issues . . . . .	3-20

## **PART II: PROTECTION OF VULNERABLE CHILDREN**

### **Chapter 4: Reporting and Investigating Child Abuse, Neglect, and Abandonment**

¶ 4.1 Introduction . . . . .	4-1
¶ 4.2 Families vs. Foster Care . . . . .	4-2
¶ 4.3 Defining Abuse and Neglect . . . . .	4-5
¶ 4.4 Abandonment . . . . .	4-7
¶ 4.5 Abuse Reporting Statutes . . . . .	4-8
[1] Rights of Persons Named in Abuse Reports vs. Duty to Report . . . . .	4-11
[2] Centralized Registries . . . . .	4-12
[3] Domestic Violence as Child Abuse . . . . .	4-13
[4] Child Fatalities . . . . .	4-14

### **Chapter 5: Determination of Dependency and Remedies on Behalf of Dependent Children**

¶ 5.1 Introduction . . . . .	5-2
¶ 5.2 Dependency Actions . . . . .	5-3
[1] Grounds for Dependency . . . . .	5-4
[a] Physical or Psychosocial Abuse . . . . .	5-4
[b] Neglect . . . . .	5-4
[c] Medical Neglect . . . . .	5-5
[d] Failure to Supervise . . . . .	5-6
[e] Truancy . . . . .	5-6
[f] Abandonment . . . . .	5-6
[2] Jurisdictional Issues . . . . .	5-7
[3] Emergency Measures . . . . .	5-7
[4] Conduct of the Hearing . . . . .	5-8

[5] The Dispositional Phase .....	5-9
¶ 5.3 Termination of Parental Rights .....	5-11
[1] Grounds for Termination .....	5-12
[2] Standard of Proof .....	5-13
[3] Time Frame for Termination .....	5-13
[4] Open vs. Closed Hearings .....	5-14
[5] Voluntary Mental Health Placements .....	5-15
¶ 5.4 Guardianship of Children .....	5-15
[1] Guardianship vs. Adoption .....	5-15
[2] Parent-Appointed Guardianship .....	5-16
[3] State- or Court-Appointed Guardianship .....	5-16
[4] Standby Guardianship .....	5-18
[a] Parental Designation .....	5-19
[b] Initiation by Petition .....	5-20
[c] Role of Noncustodial Parent .....	5-20
¶ 5.5 Foster Care .....	5-20
¶ 5.6 Adoption Assistance .....	5-22
¶ 5.7 Permanency Planning .....	5-24
¶ 5.8 Consent to Health Care for Children .....	5-27
[1] Parental Consent .....	5-27
[2] Consent by Older or Emancipated Minors .....	5-27
[3] Special Issues .....	5-28
[a] Sterilization .....	5-28
[b] Religious Rejection of Care .....	5-28
¶ 5.9 Other Dependency Issues .....	5-29

**Chapter 6: Individuals With Disabilities Education Act**

¶ 6.1 Introduction .....	6-1
[1] Definition of Special Education .....	6-2
[2] Historical Background .....	6-3
¶ 6.2 Qualifying Children .....	6-6
¶ 6.3 What Constitutes Appropriate Education? .....	6-7
[1] Free Appropriate Public Education .....	6-7
[2] Least Restrictive Placement .....	6-8
¶ 6.4 Evaluations .....	6-9
¶ 6.5 Procedural Safeguards .....	6-11
[1] The Due Process Hearing .....	6-11
[2] Burden of Proof .....	6-13
[3] Fees and Costs .....	6-14
¶ 6.6 Structuring the IEP .....	6-15

¶ 6.7 Potential Placements . . . . .	6-16
[1] Public or Private School Placement . . . . .	6-17
[2] The Stay-Put Provision . . . . .	6-18
[3] Independent Observation of Placement . . . . .	6-19
¶ 6.8 Suspensions . . . . .	6-20
¶ 6.9 IDEA Services for Preschool Children . . . . .	6-21
¶ 6.10 Advocacy Factors . . . . .	6-22
¶ 6.11 August 2006 Final Regulations . . . . .	6-25

**PART III: PROTECTION OF VULNERABLE ADULTS**

**Chapter 7: Elder and Other Vulnerable Adult Abuse**

¶ 7.1 Introduction . . . . .	7-1
[1] Signs of Abuse . . . . .	7-2
[2] Signs of Neglect . . . . .	7-3
[3] Initial Response to Observed Problem . . . . .	7-4
¶ 7.2 Adult Protective Services . . . . .	7-5
¶ 7.3 Facility Abuse . . . . .	7-9
[1] Residents' Rights . . . . .	7-9
[2] Available Legal Responses . . . . .	7-10
[3] Risk Factors . . . . .	7-11
¶ 7.4 Mandatory Reporting . . . . .	7-12
[1] Central Registries . . . . .	7-13
[2] Recent Legislation . . . . .	7-14
¶ 7.5 Ombudsprograms . . . . .	7-16
¶ 7.6 Nursing Home Tort Litigation . . . . .	7-17
[1] Elements of Damage . . . . .	7-18
[2] Case Law Examples . . . . .	7-19
¶ 7.7 Financial Exploitation . . . . .	7-20
¶ 7.8 National Center for Elder Abuse Agenda . . . . .	7-23

**Chapter 8: Guardianship**

¶ 8.1 Introduction . . . . .	8-1
[1] Guardianship of the Person . . . . .	8-2
[2] Guardianship of Property . . . . .	8-2
[3] Who Institutes the Guardianship Process? . . . . .	8-4
¶ 8.2 Uniform Acts . . . . .	8-5
¶ 8.3 Guardianship Litigation . . . . .	8-5
[1] What Is Incapacity? . . . . .	8-8
[2] Evaluation and Assessment . . . . .	8-9
[3] Conduct of the Proceeding . . . . .	8-12
[4] Choice of a Guardian . . . . .	8-13

¶ 8.4 Functions of the Guardian .....	8-16
[1] Duties of the Guardian .....	8-16
[2] Property Transfers by a Guardian .....	8-19
[3] Fiduciary Investment Standards .....	8-20
¶ 8.5 Health Care Powers of the Guardian .....	8-21
[1] Guardian’s Powers Over Life Support .....	8-24
[2] Surrogate Health Care Decision Making .....	8-25
¶ 8.6 Planning and Reporting by the Guardian .....	8-26
¶ 8.7 Guardianship of the Developmentally Disabled .....	8-28
¶ 8.8 Removal of Guardian; Termination of Guardianship .....	8-29
¶ 8.9 Alternatives to Guardianship .....	8-30
[1] Representative Payment .....	8-31
[2] Interaction of Guardianship With Alternative Measures .....	8-34
¶ 8.10 Medicaid Planning by Guardians .....	8-35
¶ 8.11 Guardianship and Divorce .....	8-37
¶ 8.12 Interstate Issues .....	8-39
¶ 8.13 Public Guardianship .....	8-42

**PART IV: FINANCIAL PLANNING ISSUES**

**Chapter 9: Implications of Tort Settlements in Cases Leading to  
Dependency or Incapacity**

¶ 9.1 Introduction .....	9-1
¶ 9.2 Settlements of Minors’ or Ward’s Claims .....	9-2
¶ 9.3 Medicaid Subrogation .....	9-4
[1] Tort Cases .....	9-5
[2] SSI Treatment of Structured Settlements .....	9-9
¶ 9.4 Worker’s Compensation Offset .....	9-10
¶ 9.5 Implications of Medicare Secondary-Payor Rules .....	9-12
[1] Federal Statute and Regulations .....	9-12
[2] Case Law Examples .....	9-14

**Chapter 10: Tax Issues**

¶ 10.1 Introduction .....	10-1
¶ 10.2 Income Items .....	10-2
[1] Miscellaneous Benefits .....	10-2
[2] Social Security and Disability Benefits .....	10-3
¶ 10.3 Medical Expense Deductions .....	10-5
[1] Capitalized Amounts .....	10-7
[2] Long-Term Care .....	10-7
[3] Nursing Services .....	10-8



[4] Health and Long-Term Care Insurance Premiums .....	10-9
[5] Psychiatric and Psychological Expenses .....	10-10
[6] Impairment-Related Work Expenses .....	10-10
[7] Special Education .....	10-11
[8] Multiple Support Agreements .....	10-11
[9] Travel and Transportation Issues Related to Medical Care .....	10-12
[10] Nondeductible Items .....	10-13
¶ 10.4 Final Return .....	10-13
¶ 10.5 Employing Household Workers .....	10-14
¶ 10.6 Tax Credits .....	10-17
[1] Credit for the Elderly and Disabled .....	10-17
[2] Child and Dependent Care Credit .....	10-18
[3] Earned Income Credit .....	10-20
[4] Health Coverage Tax Credit .....	10-21
¶ 10.7 Incapacity-Related Tax Issues .....	10-23

**Chapter 11: Estate Planning Considerations**

¶ 11.1 Introduction .....	11-1
¶ 11.2 Wills .....	11-3
[1] Testation .....	11-3
[2] Alzheimer’s Disease and Testamentary Capacity .....	11-6
¶ 11.3 Durable Powers of Attorney .....	11-7
[1] Uniform Acts .....	11-10
[2] Springing Powers .....	11-11
[3] DPAs and Taxes .....	11-12
[4] DPA Case Law .....	11-14
[5] Drafting Considerations .....	11-15
¶ 11.4 Trusts .....	11-16
[1] § 2503 Issues .....	11-17
[2] Medicaid Planning With Trusts Before DRA ’05 .....	11-18
[3] Discretionary and Support Trusts .....	11-20
[4] Supplemental (or Special) Needs Trust .....	11-23
[5] Other Trusts Used in Disability Planning .....	11-28
¶ 11.5 Other Financial Devices .....	11-28
¶ 11.6 Disclaimers .....	11-29
¶ 11.7 Testamentary Guardianship .....	11-30
¶ 11.8 Uniform Gifts to Minors Act/Uniform Transfers to Minors Act .....	11-31
¶ 11.9 Ethical Issues in Incapacity Planning .....	11-32
[1] Risks and Conflicts .....	11-32
[2] Case Law Examples .....	11-37

**PART V: PUBLIC BENEFITS**

**Chapter 12: Supplemental Security Income and Social Security  
Disability Income**

¶ 12.1 Introduction	12-2
¶ 12.2 Basic Eligibility Qualifications for Benefits	12-4
[1] Social Security Disability Income	12-4
[2] Supplemental Security Income	12-5
¶ 12.3 Application Process	12-6
¶ 12.4 Substantial Gainful Activity	12-8
¶ 12.5 Disability Determination	12-10
[1] Five-Step Test	12-10
[2] Listed (Per Se Disabling) Impairments	12-11
[3] Determining Ability to Work	12-12
[4] Transferable Skills	12-14
[5] Onset Date	12-15
[6] Mental Impairments and Pain	12-15
[7] Procedural Aspects	12-16
[8] Older Workers	12-18
[9] Disabilities of Children	12-20
[10] Eligibility of Noncitizens	12-22
¶ 12.6 Posteligibility Review/Revocation of Benefits	12-23
¶ 12.7 Benefit Payments	12-25
[1] Determination of Benefit Amount	12-25
[2] Back Payments	12-26
[3] Recovery of Overpayments	12-27
¶ 12.8 SSI Financial Eligibility Rules	12-27
[1] Income	12-28
[2] Assets	12-29
[3] Transfers	12-30
[4] Extension Programs	12-31
[a] The Ticket to Work Act	12-33
[b] Buy-Ins	12-35
[c] Interaction With Other Programs	12-37
¶ 12.9 Posteligibility	12-38
¶ 12.10 Hearings and Appeals	12-38
[1] SSDI Hearings and Appeals	12-39
[2] Standard of Review	12-42
[3] Case Law Examples	12-43
[a] Sixth Circuit	12-43
[b] Ninth Circuit	12-43
[c] Tenth Circuit	12-44

[4] Vocational Experts .....	12-45
[5] Attorneys' Fees .....	12-45
¶ 12.11 Other Social Security Act Benefits .....	12-46

**Chapter 13: Medicare**

¶ 13.1 Introduction .....	13-1
¶ 13.2 Medicare Eligibility .....	13-2
[1] Work-Based Eligibility .....	13-2
[2] Dual Eligibles .....	13-4
¶ 13.3 Services Covered .....	13-5
[1] Coverage of Home Care .....	13-6
[2] Durable Medical Equipment .....	13-7
[3] Mental Health Coverage .....	13-8
[4] Hospice .....	13-8
[5] Benefit Period (Spell of Illness) .....	13-8
¶ 13.4 Premiums and Coinsurance .....	13-9
¶ 13.5 Medicare Part C: Managed Care .....	13-11
¶ 13.6 Prescription Drug Coverage Under Part D .....	13-13
[1] Beneficiary Financial Obligations .....	13-13
[2] Drug Formularies .....	13-14
[3] Factors in Selecting a Plan .....	13-15
[4] Subsidies for Low-Income Medicare Beneficiaries .....	13-17
[5] Early Experience With Part D .....	13-18
¶ 13.7 Medicare Appeals .....	13-20
¶ 13.8 Medicare as Secondary Payor .....	13-22
¶ 13.9 Medicare's Financial Problems .....	13-22

**Chapter 14: Medicaid Before the Deficit Reduction Act of 2005**

¶ 14.1 Introduction .....	14-1
¶ 14.2 Coverage Groups .....	14-4
¶ 14.3 Medicaid's Role in the Health Care System .....	14-6
[1] State-by-State Variations .....	14-6
[2] Medicaid and the Disabled .....	14-7
¶ 14.4 Required Services .....	14-9
[1] Services for Children .....	14-11
[2] Long-Term Care .....	14-13
[3] Prescription Drugs .....	14-14
[4] Waiver Programs .....	14-15
[5] Medicaid Managed Care .....	14-15
¶ 14.5 The Medicaid Application .....	14-16

[1] Nonfinancial Eligibility Issues .....	14-17
[2] Financial Eligibility .....	14-18
[a] Medicaid Implications of Transfers of Assets .....	14-20
[b] Exempt Transfers Generally .....	14-22
[c] Homestead Exemptions .....	14-23
[d] Policy Issues About Transfers .....	14-24
[3] Trusts and Medicaid .....	14-27
[a] Trusts: OBRA '93 Rules .....	14-28
[b] Supplemental Needs Trusts .....	14-29
[4] Annuities, Life Estates, and Other Planning Measures .....	14-31
¶ 14.6 Posteligibility .....	14-33
¶ 14.7 Liens and Estate Recovery .....	14-34
[1] Liens .....	14-35
[2] State Recovery Practices .....	14-36
¶ 14.8 ADA Issues for Medicaid Under <i>Olmstead</i> .....	14-37
¶ 14.9 Medicaid Appeals .....	14-40
¶ 14.10 Advocacy: Fighting Service Cuts .....	14-43

**Chapter 15: Medicaid: Deficit Reduction Act Provisions**

¶ 15.1 Introduction .....	15-1
¶ 15.2 Extended Look-Back Period .....	15-2
[1] General Rule .....	15-2
[2] Hardship Waivers .....	15-3
¶ 15.3 New Rules for Treatment of Assets .....	15-3
[1] Home Equity .....	15-4
[2] Annuities .....	15-4
[3] Loans and Notes .....	15-5
[4] Life Estates .....	15-5
¶ 15.4 Continuing Care Retirement Community and Life-Care Contracts .....	15-6
¶ 15.5 Methodology .....	15-6
[1] Rejection of “Resources-First” Rule .....	15-6
[2] Partial Months .....	15-7
[3] Multiple Transfers .....	15-7
¶ 15.6 Cost Sharing .....	15-8
[1] Prescription Drugs .....	15-9
[2] Emergency Rooms .....	15-9
¶ 15.7 Long-Term Care Insurance Partnerships .....	15-10
¶ 15.8 Noninstitutional Services .....	15-11
[1] Expanded Home and Community-Based Services .....	15-11
[2] Cash and Counseling .....	15-12

TABLE OF CONTENTS

[3] Adult Day Health Care .....	15-13
¶ 15.9 Children's Services .....	15-13
¶ 15.10 Early Responses .....	15-14
<b>Table of Cases .....</b>	<b>T-1</b>
<b>Table of Federal Statutes and Regulations .....</b>	<b>T-15</b>
<b>Table of State Statutes and Regulations .....</b>	<b>T-21</b>
<b>Index .....</b>	<b>I-1</b>

# Introduction

These are difficult times for vulnerable people—children, the elderly, those with physical and/or mental disabilities. The cost of providing services under Medicare and Medicaid has risen so fast and reached such levels that federal, state, and local budget-cutters have targeted these programs. But, far from reducing the amount of bureaucracy, thus freeing up more funds for actual care and services for those who need them, the modern trend is to add more and more levels of bureaucracy and to introduce more and more profit-making enterprises, further reducing the funds available for patient care.

This book will help you to identify what can be done for your vulnerable clients, and to access all the benefits and services to which they may be entitled.

## SCOPE OF COVERAGE

This book considers a number of legal issues that affect vulnerable people: children, people with disabilities, people who are incapable of managing their own property and/or taking care of themselves. Although the budgets are never high enough and the paperwork is enough to choke an elephant, there are still legal protections and services available for those in need.

Part I of this book covers health topics: developmental disability, mental illness, and end-life issues such as advance directives and termination of life support.

Part II covers protection of and services to children: laws dealing with child abuse; dependency actions and other methods of placing at-risk children in a safe, stable environment; and the Individuals With Disabilities Education Act (IDEA), the federal special education law.

Part III covers similar measures protecting vulnerable adults (the elderly or disabled), including elder abuse laws, adult protective services, and guardianship. Protection of both young and old takes similar forms: a reporting mechanism for abuse or neglect; penalties for causing harm; social services for vulnerable people and their families, designed to be furnished in the least restrictive setting that will satisfy the protective purpose.

Part IV deals with financial issues: structuring tort settlements to protect public benefit eligibility; tax issues; and mobilization of planning measures such as wills, trusts, and the Durable Power of Attorney (DPA).

Part V, the final section of this volume, deals with federal benefit programs: Supplemental Security Income and Social Security Disability Income (the former a cash benefit program for the aged, blind, and disabled, and the latter a program that provides benefits to workers who are no longer capable of performing substantial gainful activity because of injury or illness), Medicare, and

Medicaid. The Medicaid discussion is divided into two chapters. Chapter 14 covers the development of Medicaid law prior to the Deficit Reduction Act of 2005 (DRA '05).<sup>1</sup> Chapter 15 covers the major changes that DRA '05 makes in the Medicaid program, particularly by making it easier for states to reduce the scope of their Medicaid programs and make them more expensive for beneficiaries—and by making it much harder for middle-class Americans to qualify for Medicaid nursing home benefits.

## **POLICY DIRECTIONS: THE OLDER AMERICANS ACT**

Sometimes disability advocates refer to the majority group as “the temporarily abled,” and in a sense, non-senior-citizens are the “temporarily youthful.” Many people suffer some degree of disability as a result of the aging process, yet there is no single system to provide services for everyone who needs services, irrespective of age.

For senior citizens, a variety of services are made available under the Older Americans Act, although unfortunately the services are rendered through a confusing and overlapping network of government and private agencies. It is also unfortunate that the same services are not always available to non-senior-citizens who need them.

When it was first enacted, the Older Americans Act (OAA)<sup>2</sup> declared objectives for the aging population:

- Retirement in “health, honor, dignity” and with adequate income;
- “The best possible physical and mental health which science can make available and without regard to economic status”;
- Affordable, suitable housing;
- “Full restorative services for those who require institutional care” and comprehensive community-based long-term care services for the elderly and their families;
- The opportunity to work without age discrimination;
- Participation in civil, cultural, educational, training, and recreational opportunities;
- Community services, including low-cost transportation, to provide a continuum of care for supported living arrangements and social assistance; and
- Wider initiative for older individuals to plan their own lives, including

---

<sup>1</sup> Pub. L. No. 109-171.

<sup>2</sup> Enacted in 1965 as Pub. L. No. 89-73.

full participation in planning programs affecting them and protection against abuse, neglect, and exploitation.

Section 102(8) of the OAA defined “disability” as a problem caused by mental and/or physical impairments resulting in substantial functional limitations in at least one major life activity (self-care, language, learning, mobility, self-direction, capacity for independent living, economic self-sufficiency, cognitive functioning, emotional adjustment). A “severe disability” is one that is chronic, likely to continue indefinitely, and causes substantial functional limitation in three or more major life activities. Section 102(10) defined assistive technology as technology meeting the needs of older individuals with functional limitations. “Disease prevention and health promotion services” was defined by Section 102(12) as health risk assessments; routine screening for glaucoma, hypertension, and cancer, for example; nutrition counseling; health promotion and physical fitness programs; home injury control services; mental health screening; educational programs about the value of preventive health services; medication management; gerontology counseling; and counseling about social services (but not any services that could be covered by Medicare or Medicaid). “In-home services” means home health aide and homemaker services; visiting and telephone reassurance; home maintenance and chores; adult day care and other respite services; minor home modifications; and personal care services (§ 102(19)).

The OAA set up an “aging network” (§ 102(16)) consisting of state agencies, area agencies on aging, grantee organizations, and the federal Administration on Aging (AoA). Title II created the Administration on Aging; Title III set up the granting program to fund state agencies in the development of comprehensive, coordinated systems to serve the aging.<sup>3</sup> State units on aging have the responsibility of coordinating state activities; developing a state plan; serving as an advocate for older persons by commenting on state activities that affect the aging; and preserving service availability for low-income minority and rural elders. There are fifty-seven state and territory agencies on aging, and the AoA funds them with grants, based on the number of aged in the state. The money is used to administer the supportive and nutrition services under Title III; the money can also be used to leverage state and local resources.

The 1972 amendments to the OAA added a national nutrition program for the elderly (e.g., Meals on Wheels). Since the initial enactment of the OAA, the focus has changed from social services in the community (e.g., senior centers and recreational services) to health-related services aimed at reducing the risk of institutionalization of the frail elderly. Under Title III-B, supportive services can be delivered in the home and community (transportation, case manage-

---

<sup>3</sup> See, e.g., South Dakota Department of Social Services, History of Older Americans Act, [www.state.sd.us/social/ASA/Funding/Act/history.htm](http://www.state.sd.us/social/ASA/Funding/Act/history.htm).



ment, and outreach; homemaker and chore services for families with Alzheimer's patients; adult day care and legal assistance). Title III-C covers meals for the elderly either furnished at a senior center or other community setting, or in the person's own home. Title III-D provides services in the home for the frail elderly, to keep them in the community as long as this is feasible, via services such as homemaker and chore services, personal care, and home safety modifications. Title III-F covers disease prevention and healthy lifestyle services.

The 1992 reauthorization of the OAA (and 1994 appropriations) directed the states to advocate for elders who are most vulnerable and most in economic or social need; the states were directed to develop elder rights program (Title VII). The elder rights plan comprises ombudsprograms, programs to combat elder abuse, neglect, and exploitation, legal assistance, and outreach.<sup>4</sup> The 1992 legislation also requires states to have a "legal developer" for education and training about elder rights and to assist the development of legal services for the elderly.

The OAA was reauthorized once again in 2000,<sup>5</sup> and the legislation was scheduled for reauthorization every five years in the future. The 2000 legislation reorganized the seven titles of the OAA statute. Title III programs are now organized into Part B, Supportive Services, Part D, In-Home Services for the frail elderly, Part E, additional assistance for the special needs of the elderly, and Part G, caregiver support programs, including a National Family Caregiver Support Program. There is also a program for caregivers for Native American elders.

The OAA was scheduled for reauthorization in 2005, and congressional hearings were held, stressing the need to cope with the predictable needs of the baby-boom generation.<sup>6</sup> Congress did not pass reauthorizing legislation, but that did not result in termination of OAA programs; in fact, in the past, reauthorization has been delayed by as much as five years from the time it theoretically should have occurred.

The Centers for Medicare and Medicaid Services (CMS) announced in August 2005 that \$15 million in Aging and Disability Resource Center (ADRC) grants had been awarded jointly by CMS and the Department of Health and Human Services' AoA. The funds are to be used by the nineteen grantee states to set up single sources of information and assistance that fami-

---

<sup>4</sup> For details, see Title VII Vulnerable Elder Rights Protection Activity, [www.state.sd.us/social/ASA/Funding/Act/TitleVII.htm](http://www.state.sd.us/social/ASA/Funding/Act/TitleVII.htm).

<sup>5</sup> Administration on Aging, Older Americans Act: Summary of Key Changes in the 2000 Amendments, [www.aoa.gov/about/legbudg/oa/legbudg\\_oaa\\_summary.asp](http://www.aoa.gov/about/legbudg/oa/legbudg_oaa_summary.asp).

<sup>6</sup> Press Release, Subcommittee Holds Hearings on Older Americans Act (May 24, 2005), [edworkforce.house.gov/press/press109/first/05may/0aa052405.htm](http://edworkforce.house.gov/press/press109/first/05may/0aa052405.htm).

<sup>7</sup> CMS release, Aug. 18, 2005, Medicare/Medicaid Guide (CCH) Report No. 1374 at 7.

lies can use to find long-term care resources in their communities. Although a great deal of information is available, it is often scattered and hard to compile.<sup>7</sup>

An additional \$28.5 million in grants was awarded to seventeen states in September 2005 for support for disabled persons and persons with long-term illnesses to remain in the community. The grants were divided between funding community centers for families of special-needs children and improving the coordination of long-term services and increasing the extent to which the recipients of the services can direct them.<sup>8</sup> In fiscal year (FY) 2003–2004, CMS and AoA gave states grants of about \$19 million to build a single, coordinated system of information and access for everyone seeking long-term care; \$15 million in FY 2005, and a total of forty-three states have gotten grants to, for example, provide information and referral (I&R), outreach, counseling about long-term care options and public benefits, and case management. Some states have physical offices for this purpose; others use Websites or toll-free numbers.

## **POLICY DIRECTIONS: 2005 WHITE HOUSE CONFERENCE**

Learning about services for the elderly is always helpful for advocates for senior citizens, of course—and it can also suggest economic and policy trends and directions that can be useful for advocates for children and non-senior adults with disabilities. Pursuant to the OAA, a White House Conference on Aging was held in December 2005.<sup>9</sup> The topics covered included the following:

- Strengthening economic incentives for adequate individual savings for retirement;
- Using long-term care insurance and other means to finance long-term care;
- Preventing financial elder abuse (including fraud and exploitation);
- Adding incentives, such as phased retirement and assistive technology, for older workers to remain in the workforce longer;
- Protection against age discrimination in employment;
- Resources for “aging in place,” especially for suburban residents who currently have limited access to services, and for alternatives to driving for elders who can no longer drive safely;

---

<sup>8</sup> CMS release, Sep. 26, 2005, Medicare/Medicaid Guide (CCH) Report No. 1379 at 6; *see also* H.R. Rep. No. 109-362 on DRA '05, [thomas.loc.gov/cgi-bin/cpquery/R?cp109:FLD101:@1\(hr362\)](http://thomas.loc.gov/cgi-bin/cpquery/R?cp109:FLD101:@1(hr362)).

<sup>9</sup> The final annotated agenda for the conference can be found at 70 Fed. Reg. 71531 (Nov. 29, 2005).

- Appropriate housing;
- Coordinated services such as information and referral and senior centers, meeting the particular needs of the baby-boom cohort;
- Better coordination of care for chronic illnesses; and
- Healthy lifestyle education, disease management programs, and substance abuse counseling.

# Index

[References are to paragraphs (§)].

## A

AACWA. *See* Adoption Assistance and Child Welfare Act of 1980 (AACWA)

Abandonment of children

as child abuse, 4.4

grounds for dependency of children, 5.2[1][f]

Abuse of persons. *See* Child abuse; Elder abuse

ADA. *See* Americans With Disabilities Act (ADA)

Adoption, standby adoption, 5.7

Adoption and Safe Families Act of 1997 (ASFA), 5.2[5]

Adoption Assistance and Child Welfare Act of 1980 (AACWA), 5.2[5]

Adoption of children

assistance, 5.6

guardianship vs., 5.4[1]

Adult day health care, Medicaid, DRA '05 provisions, 15.8[3]

Adult protective services, vulnerable adults, abuse of, 7.2

Advance directives

*See also* Durable powers of attorney

end-life issues, 3.4

sample, App. 3.1

Advocacy factors

children and IDEA, 6.10

Medicaid before DRA '05, 14.10

AFDC. *See* Aid to Families With Dependent Children (AFDC)

ASFA. *See* Adoption and Safe Families Act of 1997 (ASFA)

Age

*See also* Children; Elderly persons; End-life issues; Minors

state health programs, 1.3[2]

“aging out,” state health programs, 1.3[2]

## Aides

*See also* Home care services

Medicare, home care coverage, 13.3[1]

tax issues, home health aides, 10.5

Aid to Families With Dependent Children (AFDC), 5.5

Alzheimer's disease, 8.3[1]

testamentary capacity and, 11.2[2]

American Hospital Association, *A Patient's Bill of Rights*, 3.2

Americans With Disabilities Act (ADA), Medicaid before DRA '05, 14.8

Annuities

application for Medicaid before DRA '05, 14.5[4]

Medicaid, DRA '05 provisions, 15.3[2]

private annuities, 11.5

Antibiotics, life support and, 3.3[4]

Appeal and review

Medicaid before DRA '05, 14.9

Medicare, 13.7

SSI and SSDI, 12.10, 12.10[1]

Application process

Medicaid before DRA '05, 14.5–14.5[4]

SSI and SSDI, 12.3

Appropriate education, children and IDEA, 6.3–6.3[2]

Assets

Medicaid, DRA '05 provisions, new rules for, 15.3–15.3[4]

Medicaid application before DRA '05, asset transfer implications for, 14.5[2][a]–14.5[2][d]

SSI and SSDI, financial eligibility rules and, 12.8[2]

Assisted suicide, 3.6

Federal Assisted Suicide Funding

Restriction Act of 1997, 3.3 n.18

Asylum, dependent children, 5.9

[References are to paragraphs (§).]

- Attorneys' fees, SSI and SSDI, posteligibility, 12.10[5]  
Awards. *See* Tort settlements
- B**  
"Baby Moses" law, 4.5  
Balanced Budget Act of 1997, 12.1[1] n.11  
Bankbook trusts, 11.5  
Benefits Improvement and Protection Act of 2000 (BIPA), 13.7  
BIPA. *See* Benefits Improvement and Protection Act of 2000 (BIPA)  
Blood transfusions, life support and, 3.3[3], 5.8[3][b]  
Burden of proof, children and IDEA, 6.5[2]
- C**  
California, state health programs, 1.3[1][a]  
Capacity, 2.1, 3.5[2], 3.6, 8.3[1]  
Capitalized amounts, tax deductions, 10.3[1]  
CAPTA. *See* Child Abuse Prevention and Treatment Act of 1996 (CAPTA)  
"Cash and counseling," Medicaid, DRA '05 provisions, 15.8[2]  
Central registries  
  abuse of vulnerable adults, mandatory reporting of, 7.4  
  child abuse, 4.5[2]  
Child abuse  
  abandonment as, 4.4  
  centralized registries, 4.5[2]  
  deaths from, 4.5[4]  
  defining abuse and neglect, 4.3  
  dependency, abuse as grounds for, 5.2[1][a]  
  domestic violence as, 4.5[3]  
  duty to report, 4.5[1]  
  families vs. foster care, 4.2  
  fatalities from, 4.5[4]  
  foster care, families vs., 4.2  
  investigating child abuse, 4.1–4.5[4]  
  registries, centralized, 4.5[2]  
  reporting and investigating, 4.1–4.5[4]  
  rights of persons named in abuse reports vs. duty to report, 4.5[1]  
  scandals, 4.2  
  statutes for reporting, 4.5  
Child Abuse Prevention and Treatment Act of 1996 (CAPTA), 3.5[1], 4.1, 4.3, 4.5[4], 5.2[1][b]  
Child care tax credit, 10.6[2]  
"Child-find" process, 6.4  
Child protection, 4.1–6.11  
  *See also* Children  
Children  
  abandonment  
    child abuse, 4.4  
    grounds for dependency, 5.2[1][f]  
  abuse  
    abandonment as, 4.4  
    centralized registries, 4.5[2]  
    deaths from, 4.5[4]  
    defining abuse and neglect, 4.3  
    dependency, abuse as grounds for, 5.2[1][a]  
    domestic violence as, 4.5[3]  
    duty to report, 4.5[1]  
    families vs. foster care, 4.2  
    fatalities from, 4.5[4]  
    foster care, families vs., 4.2  
    investigating child abuse, 4.1–4.5[4]  
    named persons, rights of persons named in reports vs. duty to report, 4.5[1]  
    registries, centralized, 4.5[2]  
    reporting and investigating, 4.1–4.5[4]  
    rights of persons named in abuse reports vs. duty to report, 4.5[1]  
    statutes for reporting, 4.5  
  adoption  
    assistance, 5.6  
    guardianship vs. adoption, 5.4[1]  
  advocacy factors, IDEA, 6.10  
  appropriate education, IDEA, 6.3–6.3[2]  
  burden of proof, IDEA, 6.5[2]  
  centralized registries, child abuse, 4.5[2]  
  child care tax credit, 10.6[2]  
  closed hearings, termination of parental rights, 5.3[4]  
  conduct of the hearing, 5.2[4]  
  consent to health care for children, 5.8–5.8[3]  
  costs, IDEA, 6.5[3]  
  court-appointed guardianship of children, 5.4[3]  
  deaths from child abuse, 4.5[4]

[References are to paragraphs (§).]

- definitions
  - child abuse and neglect, 4.3
  - special education, IDEA, 6.1[1]
- dependency
  - abandonment as grounds for dependency, 5.2[1][f]
  - abuse as grounds for dependency, 5.2[1][a]
  - actions, generally, 5.2–5.4
  - adoption, guardianship vs., 5.4[1]
  - adoption assistance, 5.6
  - closed hearings, termination of parental rights, 5.3[4]
  - conduct of the hearing, 5.2[4]
  - consent to health care for children, 5.8–5.8[3]
  - court-appointed guardianship of children, 5.4[3]
  - determination of, 5.1–5.4
  - dispositional phase, 5.2[5]
  - emancipated minors, consent to health care, 5.8[2]
  - emergency measures, 5.2[3]
  - evidence, 5.2[5], 5.3[2]
  - failure to supervise as grounds for dependency, 5.2[1][d]
  - foster care, 5.5
  - grounds for dependency, 5.2[1]–5.2[1][e]
  - grounds for termination of parental rights, 5.3[1]
  - guardianship of children, 5.4–5.4[4][c]
  - health care for children, consent to, 5.8–5.8[3]
  - hearings, 5.2[4], 5.3[4]
  - jurisdictional issues, 5.2[2]
  - medical neglect as grounds for dependency, 5.2[1][c]
  - mental health placements and termination of parental rights, 5.3[5]
  - neglect as grounds for dependency, 5.2[1][b], 5.2[1][c]
  - noncustodial parent, standby guardianship, 5.4[4][c]
  - older minors, consent to health care, 5.8[2]
  - parental consent to health care for children, 5.8[1]
  - parental designation, standby guardianship, 5.4[4][a]
  - parental rights, termination of, 5.3–5.3[5]
  - parent-appointed guardianship of children, 5.4[2]
  - permanency planning, 5.7
  - petition, standby guardianship, 5.4[4][b]
  - physical abuse as grounds for dependency, 5.2[1][a]
  - psychosocial abuse as grounds for dependency, 5.2[1][a]
  - religious rejection of health care, 5.8[3][b]
  - remedies on behalf of dependent children, 5.1–5.9
  - special issues, consent to health care for children, 5.8[3]
  - standard of proof, termination of parental rights, 5.3[2]
  - standby guardianship of children, 5.4[4]–5.4[4][c]
  - state-appointed guardianship of children, 5.4[3]
  - sterilization, consent to health care for children, 5.8[3][a]
  - supervision, failure as grounds for dependency, 5.2[1][d]
  - termination of parental rights, 5.3–5.3[5]
  - time frame for termination of parental rights, 5.3[3]
  - truancy as grounds for dependency, 5.2[1][e]
  - voluntary mental health placements and termination of parental rights, 5.3[5]
- dispositional phase, dependency actions, 5.2[5]
- domestic violence as child abuse, 4.5[3]
- due process hearing, IDEA, 6.5[1]
- duty to report child abuse, 4.5[1]
- education, Individuals With Disabilities Education Act (IDEA), 6.1–6.11
- emancipated minors, consent to health care, 5.8[2]
- emergency measures, dependency actions, 5.2[3]

[References are to paragraphs (¶).]

- Children (*continued*)
- end-life issues, terminally ill children, 3.5[1]
  - evaluations, IDEA, 6.4
  - evidence
    - dispositional phase, dependency actions, 5.2[5]
    - IDEA, 6.5[2]
    - termination of parental rights, 5.3[2]
  - failure to supervise as grounds for dependency, 5.2[1][d]
  - fatalities from child abuse, 4.5[4]
  - fees and costs, IDEA, 6.5[3]
  - final regulations, IDEA, 6.11
  - foster care, 4.2, 5.5
  - free appropriate public education, IDEA, 6.3[1]
  - grounds for dependency, 5.2[1]–5.2[1][e]
  - grounds for termination of parental rights, 5.3[1]
  - guardianship of children, 5.4–5.4[4][c]
  - health care for children, consent to, 5.8–5.8[3]
  - hearings
    - conduct of the hearing, dependency of children, 5.2[4]
    - due process, IDEA, 6.5[1]
    - termination of parental rights, 5.3[4]
  - historical background, IDEA, 6.1[2]
  - IEP, structuring, IDEA, 6.6
  - independent observation of placement, IDEA, 6.7[3]
  - Individuals With Disabilities Education Act (IDEA), 6.1–6.11
    - advocacy factors, 6.10
    - appropriate education, 6.3–6.3[2]
    - August 2006 final regulations, 6.11
    - burden of proof, 6.5[2]
    - costs, 6.5[3]
    - definition of special education, 6.1[1]
    - due process hearing, 6.5[1]
    - evaluations, 6.4
    - evidence, 6.5[2]
    - fees and costs, 6.5[3]
    - final regulations, 6.11
    - free appropriate public education, 6.3[1]
    - hearings, due process, 6.5[1]
    - historical background, 6.1[2]
    - IEP, structuring, 6.6
    - independent observation of placement, 6.7[3]
    - least restrictive placement, appropriate education, 6.3[2]
    - potential placements, 6.7–6.7[3]
    - preschool children, IDEA services for, 6.9
    - private school placement, 6.7[1]
    - procedural safeguards, 6.5–6.5[3]
    - public school placement, 6.7[1]
    - qualifying children, 6.2
    - school placement, 6.7[1]
    - special education, definition of, 6.1[1]
    - stay-put provision, potential placements, 6.7[2]
    - structuring the IEP, 6.6
    - suspensions, 6.8
  - initiation by petition, standby guardianship, 5.4[4][b]
  - investigating child abuse, neglect, and abandonment, 4.1–4.5[4]
  - jurisdictional issues, 5.2[2]
  - least restrictive placement, appropriate education, IDEA, 6.3[2]
  - Medicaid, DRA '05 provisions, children's services, 15.9
  - Medicaid before DRA '05, required services for, 14.4[1]
  - medical neglect as grounds for dependency, 5.2[1][c]
  - mental health placements and termination of parental rights, 5.3[5]
  - neglect, 4.1–4.5[4]
    - as grounds for dependency, 5.2[1][b], 5.2[1][c]
  - noncustodial parent, standby guardianship, 5.4[4][c]
  - observation of placement, independent, IDEA, 6.7[3]
  - older minors, consent to health care, 5.8[2]
  - open vs. closed hearings, termination of parental rights, 5.3[4]
  - Parental Kidnapping Prevention Act (PKPA), 5.2[2]
  - parents
    - appointed guardianship of children, 5.4[2]
    - consent to health care for children, 5.8[1]

[References are to paragraphs (¶).]

- designation, standby guardianship, 5.4[4][a]
- rights, termination of parental rights, 5.3–5.3[5]
- permanency planning, dependency, 5.7
- petition, standby guardianship, 5.4[4][b]
- physical abuse as grounds for dependency, 5.2[1][a]
- potential placements, IDEA, 6.7–6.7[3]
- preschool children, IDEA services for, 6.9
- private school placement, IDEA, 6.7[1]
- procedural safeguards, IDEA, 6.5–6.5[3]
- protection of vulnerable children, 4.1–6.11
- psychosocial abuse as grounds for dependency, 5.2[1][a]
- public benefits
  - children’s services, Medicaid, DRA ’05 provisions, 15.9
  - Medicaid before DRA ’05, required services for, 14.4[1]
  - SSI and SSDI, disabilities of children, 12.5[9]
- public school placement, IDEA, 6.7[1]
- qualifying children, IDEA, 6.2
- registries, child abuse, 4.5[2]
- religious rejection of health care, 5.8[3][b]
- remedies on behalf of dependent children, 5.1–5.9
- reporting child abuse, neglect, and abandonment, 4.1–4.5[4]
- rights
  - parental rights, termination of, 5.3–5.3[5]
  - persons named in child abuse reports vs. duty to report, 4.5[1]
  - termination of parental rights, 5.3–5.3[5]
- role of noncustodial parent, standby guardianship, 5.4[4][c]
- school placement, IDEA, 6.7[1]
- special education, definition of, IDEA, 6.1[1]
- special issues, consent to health care for children, 5.8[3]
- SSI and SSDI, disabilities of children, 12.5[9]
- standard of proof, termination of parental rights, 5.3[2]
- standby guardianship of children, 5.4[4]–5.4[4][c]
- state-appointed guardianship of children, 5.4[3]
- statutes for reporting child abuse, 4.5
- stay-put provision, potential placements, IDEA, 6.7[2]
- sterilization, consent to health care for children, 5.8[3][a]
- structuring the IEP, IDEA, 6.6
- supervision, failure as grounds for dependency, 5.2[1][d]
- suspensions, IDEA, 6.8
- tax credit, child care, 10.6[2]
- terminally ill children, end-life issues, 3.5[1]
- termination of parental rights, 5.3–5.3[5]
- time frame for termination of parental rights, 5.3[3]
- truancy as grounds for dependency, 5.2[1][e]
- voluntary mental health placements and termination of parental rights, 5.3[5]
- vulnerable children, protection of, 4.1–6.11
  - as witnesses, 5.2[4]
- Chiropractor, public benefits, 12.10[1]
- Civil commitment
  - mental illness and health issues, 2.2
  - procedure for, 2.2[1]
- Civil Rights Attorney’s Fee Awards Act, 6.5[3]
- Coinsurance
  - Medicaid, 15.6
  - Medicare, 13.4
- Commitment for mental illness
  - health issues and civil commitment, 2.2
  - termination of parental rights, 5.3[5]
- Community-based services, Medicaid, DRA ’05 provisions, 15.8[1]
- Comprehensive Drug Abuse Prevention and Control Act of 1970, 3.6
- Conduct of the hearing
  - dependency of children, 5.2[4]
  - guardianship, 8.3[3]
- Consent
  - See also* Health care consent
  - end-life issues, informed consent, 3.2



[References are to paragraphs (¶).]

- Continued Payment Under Vocational Rehabilitation Program, 12.8[4]
- Continuing care retirement community, Medicaid, DRA '05 provisions, 15.4
- Costs  
 children and IDEA, 6.5[3]  
 sharing, Medicaid, DRA '05 provisions, 15.6–15.6[2]  
 SSI and SSDI, posteligibility attorneys' fees, 12.10[5]
- Counseling  
 noninstitutional services, Medicaid, DRA '05 provisions, 15.8[2]  
 tax expense deductions, 10.3[5]
- Court-appointed guardianship, children, 5.4[3]
- Coverage groups, Medicaid before DRA '05, 14.2
- Crummey* powers, 11.4[4]
- Custody, joint, 5.7
- D**
- Day health care  
 Medicaid, DRA '05 provisions, 15.8[3]
- DDABR. *See* Developmental Disabilities and Bill of Rights Act (DDABR)
- Death  
*See also* End-life issues  
 child abuse fatalities, 4.5[4]
- Death With Dignity Act, 3.6
- Debt Collection Improvement Act, 12.11
- Deductions, medical expenses, tax deductions, 10.3–10.3[10]
- Deficit Reduction Act of 2005 (DRA '05), 9.3[1], 12.7[2] n.60  
 Medicaid planning with trusts before, 11.4, 11.4[2]
- Definitions  
 abuse, 7.1, 7.4[2]  
 assistive technology, 1.2[1]  
 child abuse and neglect, 4.3  
 civil commitment, 2.2  
 developmental disability, 1.2[1]  
 disability, 12.1  
 elder abuse, 7.1, 7.4[2]  
 emotional or mental abuse, 4.3  
 exploitation, 7.4[2]  
 family support, 1.2[1]  
 health issues from federal statute, 1.2[1]  
 homebound, 13.3[1]  
 incapacity, 8.3[1]  
 medical expenses, 10.3  
 mental incapacity, 8.3[1]  
 mental retardation, 1.3[1][b]  
 physical incapacity, 8.3[1]  
 self-neglect, 7.4[2]  
 sexual abuse, 4.3  
 special education, children and IDEA, 6.1[1]  
 substantial developmental delay, 1.2[1]  
 substantial functional limitations, 1.2[1]
- Dementias, 8.3[1]
- Dependency  
 children. *See* Dependency of children  
 tort settlements in cases leading to, 9.1–9.5[2]
- Dependency of children  
 abandonment as grounds for dependency, 5.2[1][f]  
 abuse as grounds for dependency, 5.2[1][a]  
 actions, generally, 5.2–5.4  
 adoption  
 assistance, 5.6  
 guardianship vs., 5.4[1]  
 asylum, 5.9  
 closed hearings, termination of parental rights, 5.3[4]  
 conduct of the hearing, 5.2[4]  
 consent to health care for children, 5.8–5.8[3]  
 court-appointed guardianship of children, 5.4[3]  
 determination of, 5.1–5.4  
 dispositional phase, 5.2[5]  
 education issues, 5.9  
 emancipated minors, consent to health care, 5.8[2]  
 emergency measures, 5.2[3]  
 evidence, 5.2[5], 5.3[2]  
 failure to supervise as grounds for dependency, 5.2[1][d]  
 foster care, 5.5  
 grounds  
 for dependency, 5.2[1]–5.2[1][e]  
 for termination of parental rights, 5.3[1]  
 guardianship of children, 5.4–5.4[4][c]  
 health care for children, consent to, 5.8–5.8[3]

[References are to paragraphs (¶).]

- hearings
    - conduct of the hearing, 5.2[4]
    - termination of parental rights, 5.3[4]
  - initiation by petition, standby guardianship, 5.4[4][b]
  - jurisdictional issues, 5.2[2]
  - medical neglect as grounds for dependency, 5.2[1][c]
  - mental health placements and termination of parental rights, 5.3[5]
  - neglect as grounds for dependency, 5.2[1][b], 5.2[1][c]
  - noncustodial parent, standby guardianship, 5.4[4][c]
  - older minors, consent to health care, 5.8[2]
  - open vs. closed hearings, termination of parental rights, 5.3[4]
  - parental consent to health care for children, 5.8[1]
  - parental designation, standby guardianship, 5.4[4][a]
  - parental rights, termination of, 5.3–5.3[5]
  - parent-appointed guardianship of children, 5.4[2]
  - permanency planning, 5.7
  - petition, standby guardianship, 5.4[4][b]
  - physical abuse as grounds for dependency, 5.2[1][a]
  - psychosocial abuse as grounds for dependency, 5.2[1][a]
  - religious rejection of health care, 5.8[3][b]
  - role of noncustodial parent, standby guardianship, 5.4[4][c]
  - standard of proof, termination of parental rights, 5.3[2]
  - standby guardianship of children, 5.4[4]–5.4[4][c]
  - state-appointed guardianship of children, 5.4[3]
  - sterilization, consent to health care for children, 5.8[3][a]
  - supervision, failure as grounds for dependency, 5.2[1][d]
  - termination of parental rights, 5.3–5.3[5]
  - time frame for termination of parental rights, 5.3[3]
  - truancy as grounds for dependency, 5.2[1][e]
  - voluntary mental health placements and termination of parental rights, 5.3[5]
  - Dependent care tax credit, 10.6[2]
  - Developmental Disabilities and Bill of Rights Act (DDABR), 1.2[1]
  - Developmentally disabled persons, guardianship of, 8.7
  - Directions to provide maximum care (DPMC), 3.4
  - Disability benefits, taxation, income items, 10.2[2]
  - Disabled persons
    - Medicaid before DRA '05, 14.3[2]
    - tax credits for, 10.6[1]
  - Discipline, legitimate physical, 4.3
  - Disclaimers, estate planning, 11.6
  - Discretionary trusts, 11.4[3]
  - Dispositional phase, dependency of children actions, 5.2[5]
  - Divorce, guardianship and, 8.11
  - Domestic violence, as child abuse, 4.5[3]
  - Do Not Resuscitate (DNR) orders, 3.4, 3.4[3]
  - Down syndrome, education and, 6.3[2]
  - DPMC. *See* Directions to provide maximum care (DPMC)
  - DRA. *See* Deficit Reduction Act of 2005 (DRA '05)
  - Drug abuse, grounds for dependency of children, 5.2[1][b]
  - Drug formularies, Medicare prescription drug coverage, 13.6, 13.6[2]
  - Dual eligibles, Medicare, 13.2[1]
  - Due process hearing, children and IDEA, 6.5[1]
  - Durable medical equipment, Medicare, 13.3[2]
  - Durable powers of attorney, 11.3–11.3[5]
  - Duty to report, child abuse, 4.5[1]
  - Dylan Lee James Act, 15.9
- E**
- Earned income tax credit, 10.6[3]
  - Education
    - dependent children, 5.9
    - Individuals With Disabilities Education Act (IDEA), 6.1–6.11
    - tax deductions for, 10.3[7]

[References are to paragraphs (¶).]

- Education for All Handicapped Children Act of 1975, 6.1[2]
- Elder abuse, 7.1–7.8  
 adult protective services, 7.2  
 available legal responses, 7.3[2]  
 case law examples, nursing home tort litigation, 7.6[2]  
 central registries, mandatory reporting, 7.4[1]  
 elements of damage, nursing home tort litigation, 7.6[1]  
 facility abuse, 7.3–7.3[3]  
 financial exploitation, 7.7  
 initial response to observed problem, 7.1[3]  
 legislation, mandatory reporting, 7.4[2]  
 mandatory reporting, 7.4–7.4[2]  
 National Center for Elder Abuse agenda, 7.8  
 nursing home tort litigation, 7.6–7.6[2]  
 ombudsman programs, 7.5  
 registries, mandatory reporting, 7.4[1]  
 reporting, mandatory, 7.4–7.4[2]  
 residents' rights, 7.3[1]  
 rights of residents, 7.3[1]  
 risk factors, facility abuse, 7.3[3]  
 signs of abuse, 7.1[1], 7.1[2]  
 signs of neglect, 7.1[2]  
 tort litigation, nursing home, 7.6–7.6[2]
- Elderly persons  
 abuse. *See* Elder abuse  
 Medicare, 13.1–13.9  
 tax credits for, 10.6[1]
- Elementary and Secondary School Education Act (ESEA), 6.1[1]
- Elements of damage, abuse of vulnerable adults, nursing home tort litigation, 7.6[1]
- Eligibility for public benefits  
 Medicaid, 14.5–14.5[4], 15.1–15.10  
 Medicare, 13.2–13.2[1]  
 spousal impoverishment, 14.5[2]  
 SSI and SSDI, 12.2, 12.5–12.5[10], 12.8–12.8[4][c]
- Emancipated minors, consent to health care, 5.8[2]
- Emergency measures, dependency of children, 5.2[3]
- Emergency Medical Treatment and Labor Act (EMTALA), 15.6[2] n.8
- Emergency rooms, cost sharing, Medicaid, DRA '05 provisions, 15.6[2]
- Employment, household workers, tax issues, 10.5
- EMTALA. *See* Emergency Medical Treatment and Labor Act (EMTALA)
- End-life issues, 3.1–3.7  
*See also* Estate planning  
 absence of advance directive, decision making in, 3.4[4]  
 advance directives, 3.4  
 antibiotics, life support and, 3.3[4]  
 assisted suicide, 3.6  
 blood transfusions, life support and, 3.3[3]  
 capacity, 3.5[2]  
 chemotherapy, 3.3[2]  
 children, terminally ill, 3.5[1]  
 decision making in absence of advance directive, 3.4[4]  
 dialysis, 3.3[2]  
 Do Not Resuscitate orders, 3.4[3]  
 euthanasia, 3.6  
 feeding tubes, 3.3[1]  
 hospice, 13.3[4]  
 infants, terminally ill, 3.5[1]  
 informed consent, 3.2  
 life support, 3.3  
   other conditions than PVS, 3.3[2]  
   persistent vegetative state, 3.3[1]  
   transfusions, 3.3[3]  
 medical malpractice issues, 3.7  
 Medicare coverage for hospice, 13.3[4]  
 minors, terminally ill, 3.5[1]  
 practice aspects and advance directives, 3.4[2]  
 quadriplegia, 3.3[2]  
 suicide, assisted, 3.6  
 terminal illness, issues involving infants and adults, 3.5, 3.5[1]  
   transfusions, life support and, 3.3[3]  
 Uniform Acts and advance directives, 3.4[1]
- ESEA. *See* Elementary and Secondary School Education Act (ESEA)
- Estate planning, 11.1–11.9[2]  
 Alzheimer's disease and testamentary capacity, 11.2[2]  
 case law  
   durable powers of attorney, 11.3[4]  
   ethical issues, 11.9[2]

[References are to paragraphs (¶).]

- conflicts in planning, 11.9[1]
- disclaimers, 11.6
- discretionary trusts, 11.4[3]
- DRA '05, Medicaid planning with trusts before, 11.4[2]
- drafting considerations, durable powers of attorney, 11.3[5]
- durable powers of attorney, 11.3–11.3[5]
- ethical issues, 11.9–11.9[2]
- gifts, Uniform Gifts to Minors Act, 11.8
- guardianship, testamentary, 11.7
- minors, Uniform Gifts to Minors Act/Uniform Transfers to Minors Act, 11.8
- powers of attorney, durable, 11.3–11.3[5]
- risks in planning, 11.9[1]
- § 2503 issues, trusts, 11.4[1]
- special needs trust, 11.4[4]
- springing powers, durable powers of attorney, 11.3[2]
- supplemental needs trust, 11.4[4]
- support trusts, 11.4[3]
- tax issues, durable powers of attorney and, 11.3[3]
- testamentary guardianship, 11.7
- testation, 11.2[1]
- trusts, 11.4–11.4[5]
- Uniform Acts
  - durable powers of attorney, 11.3[1]
  - Uniform Gifts to Minors Act, 11.8
  - Uniform Transfers to Minors Act, 11.8
  - Uniform Gifts to Minors Act, 11.8
  - Uniform Transfers to Minors Act, 11.8
  - wills, 11.2–11.2[2]
- Estate recovery, Medicaid, 14.7–14.7[2]
- Ethical issues, estate planning, 11.9–11.9[2]
- Euthanasia, 3.6
- Evaluations, children and IDEA, 6.4
- Evidence
  - See also* Witnesses
  - dependency of children
    - dispositional phase, dependency actions, 5.2[5]
    - termination of parental rights, 5.3[2]
- Excess reimbursement, as income, 10.2[1]
- Exempt transfers of property, Medicaid application, 14.5[2][b], 15.3
- Exhaustion of remedies, advocacy factors, IDEA, 6.10
- Expenses, medical, tax deductions for, 10.3–10.3[10]
- Experts, SSI and SSDI, posteligibility, vocational experts, 12.10[3]
- Exploitation, defined, 7.4[2]
- Extension programs, SSI and SSDI financial eligibility rules, 12.8[4]–12.8[4][c]
- F**
- Fair Labor Standards Act, 10.5
- Families
  - child abuse, families vs. foster care, 4.2
  - health issues, families of individuals with developmental disabilities, 1.1–1.4
- Fatalities, child abuse, 4.5[4]
- Federal Adoption Assistance Program, 5.6
- Federal Assisted Suicide Funding Restriction Act of 1997, 3.3 n.18
- Federal Employers' Liability Act (FELA), 9.4
- Federal statutes and regulations
  - health issues, 1.2
  - Medicare secondary-payor rules and tort settlements, 9.5[1]
- FELA. *See* Federal Employers' Liability Act (FELA)
- Fiduciaries, 11.3, 11.4, 11.8, 11.9
  - See also* Guardianship
  - investment standards, guardianship, 8.4[3]
- Final regulations, Individuals with Disabilities Education Act (IDEA), 6.11
- Financial eligibility for public benefits
  - Medicaid, 14.5[2]–14.5[2][d], 15.2–15.6
  - SSI and SSDI, 12.8–12.8[4][c]
- Financial exploitation, vulnerable adults, 7.7
- Financial obligations, Medicare prescription drug coverage, 13.6[1]
- Financial planning, 9.1–11.9[2]
  - aides, tax issues, 10.5
  - Alzheimer's disease and testamentary capacity, 11.2[2]
  - annuities, Medicaid, 14.5[4], 15.3[2]
  - asset transfer implications, Medicaid, 14.5[2][a]–14.5[2][d], 15.5
  - capitalized amounts, tax deductions, 10.3[1]
  - case law
    - durable powers of attorney, 11.3[4]

[References are to paragraphs (¶).]

- Financial planning, case law (*continued*)
- ethical issues in estate planning, 11.9[2]
    - tort settlements, 9.3[1], 9.5[2]
  - child care tax credit, 10.6[2]
  - conflicts in estate planning, 11.9[1]
  - counseling expense tax deductions, 10.3[5]
  - deductions for medical expenses, 10.3–10.3[10]
  - dependency, tort settlements in cases leading to, 9.1–9.5[2]
  - dependent care tax credit, 10.6[2]
  - disability benefits as income items, taxation, 10.2[2]
  - disabled persons, tax credits for, 10.6[1]
  - disclaimers, estate planning, 11.6
  - discretionary trusts, 11.4[3]
  - drafting considerations, durable powers of attorney, 11.3[5]
  - durable powers of attorney, 11.3–11.3[5]
  - earned income tax credit, 10.6[3]
  - education, tax deductions for, 10.3[7]
  - elderly, tax credits for, 10.6[1]
  - eligibility, Medicaid, 14.5[2]–14.5[2][d], 15.1–15.5
  - employment of household workers, tax issues, 10.5
  - estate planning, 11.1–11.9[2]
    - Alzheimer’s disease and testamentary capacity, 11.2[2]
    - case law, 11.3[4], 11.9[2]
    - conflicts in planning, 11.9[1]
    - disclaimers, 11.6
    - discretionary trusts, 11.4[3]
    - DRA ’05, Medicaid planning with trusts before, 11.4[2]
    - drafting considerations, durable powers of attorney, 11.3[5]
    - durable powers of attorney, 11.3–11.3[5]
    - ethical issues, 11.9–11.9[2]
    - gifts, Uniform Gifts to Minors Act, 11.8
    - guardianship, 8.1–8.4, 8.6, 11.7
    - Medicaid, planning with trusts, 11.4[2]
    - minors, Uniform Gifts to Minors Act/Uniform Transfers to Minors Act, 11.8
    - powers of attorney, durable, 11.3–11.3[5]
    - risks in planning, 11.9[1]
    - § 2503 issues, trusts, 11.4[1]
    - special needs trust, 9.2, 11.4[4]
    - springing powers, durable powers of attorney, 11.3[2]
    - supplemental needs trust, 9.2, 11.4[4], 14.5[3][b]
    - support trusts, 11.4[3], 14.5[3][b]
    - tax issues, durable powers of attorney and, 11.3[3]
    - testamentary guardianship, 5.4[2], 11.7
    - testation, 11.2[1]
    - trusts, 11.4–11.4[5]
    - Uniform Acts, 11.3[1], 11.8
    - Uniform Gifts to Minors Act, 11.8
    - Uniform Transfers to Minors Act, 11.8
    - wills, 11.2–11.2[2]
  - ethical issues in estate planning, 11.9–11.9[2]
  - expenses, medical, tax deductions for, 10.3–10.3[10]
  - final tax return, 10.4
  - gifts, Uniform Gifts to Minors Act, 11.8
  - guardian’s fiduciary investment standards, 8.4[3]
  - guardianship, testamentary, 5.4[2], 11.7
  - health coverage tax credit, 10.6[4]
  - health insurance premiums, tax deductions, 10.3[4]
  - home health aides, tax issues, 10.5
  - homestead exemptions, Medicaid, 14.5[2][c]
  - household workers, tax issues, 10.5
  - impairment-related work expenses tax deductions, 10.3[6]
  - incapacity
    - tax issues relating to, 10.7
    - tort settlements in cases leading to, 9.1–9.5[2]
  - income items, tax issues, 10.2–10.2[2]
  - insurance
    - premiums, tax deductions, 10.3[4]
    - tax credits, 10.6[4]
  - joint bank accounts, 11.5
  - life estates, Medicaid, 14.5[4], 15.3[4]
  - long-term care, tax issues, 10.3[2], 10.3[4], 10.5
  - Medicaid
    - annuities, 14.5[4], 15.3[2]

[References are to paragraphs (¶).]

- application before DRA '05, 14.5–14.5[4]
- asset transfer, implications of, 14.5[2][a]–14.5[2][d], 15.3, 15.5[3]
- estate planning with trusts before DRA '05, 11.4[2], 14.5–14.5[4]
- exempt transfers, generally, 14.5[2][b] financial eligibility, 14.5[2]–14.5[2][d], 15.1–15.5
- homestead exemptions, 14.5[2][c]
- life estates, 14.5[4], 15.3[4]
- nonfinancial eligibility issues, 14.5[1]
- OBRA '93 rules, trusts, 14.5[3][a]
- policy issues about transfers, 14.5[2][d], 15.2, 15.5
- subrogation and tort settlements, 9.3–9.3[2]
- supplemental needs trusts, 14.5[3][b]
- transfers of assets, 14.5[2][a]–14.5[2][d], 15.2, 15.3
- trusts, 14.5[3]–14.5[3][b]
- medical expense tax deductions, 10.3–10.3[10]
- Medicare secondary-payor rules and tort settlements, 9.5–9.5[2]
- mental health expense, tax deductions, 10.3[5]
- mileage deductions, tax issues, 10.3[9]
- minors
  - estate planning, 11.8
  - tort settlements, minors' claims, 9.2
- miscellaneous benefits as income items, tax issues, 10.2[1]
- multiple support agreements, tax deductions, 10.3[8]
- nondeductible items, tax issues, 10.3[10]
- nursing service, tax issues, 10.3[3], 10.5
- OBRA '93 rules, trusts, Medicaid, 14.5[3][a]
- offset of worker's compensation, tort settlements, 9.4
- powers of attorney, durable, 11.3–11.3[5]
- returns, final tax return, 10.4
- risks in estate planning, 11.9[1]
- secondary-payor, Medicare's rules, tort settlements, 9.5–9.5[2]
- § 2503 issues, trusts, 11.4[1]
- settlements, tort, 9.1–9.5[2]
- Social Security as income item, tax issues, 10.2[2]
- special education, tax deductions for, 10.3[7]
- special needs trust, 11.4[4]
- springing powers, durable powers of attorney, 11.3[2]
- SSI treatment of structured settlements, 9.3[2]
- standards, guardian's fiduciary investment standards, 8.4[3]
- statutes, Medicare secondary-payor rules and tort settlements, 9.5[1]
- structured settlements, SSI treatment of, 9.3[2]
- subrogation, Medicaid and settlements, 9.3–9.3[2], 14.7
- supplemental needs trusts, 11.4[4], 14.5[3][b]
- support agreements, tax deductions, 10.3[8]
- support trusts, 11.4[3]
- tax credits, 10.6–10.6[4]
- tax issues, 10.1–10.7
  - aides, employment of, 10.5
  - capitalized amounts, deductions, 10.3[1]
  - child care tax credit, 10.6[2]
  - counseling expense deductions, 10.3[5]
  - credits, 10.6–10.6[4]
  - deductions for medical expenses, 10.3–10.3[10]
  - dependent care tax credit, 10.6[2]
  - disability benefits as income items, 10.2[2]
  - disabled persons, tax credits for, 10.6[1]
  - durable powers of attorney and, 11.3[3]
  - earned income tax credit, 10.6[3]
  - education, deductions for, 10.3[7]
  - elderly, tax credits for, 10.6[1]
  - employment of household workers, 10.5
  - final return, 10.4
  - health and long-term care insurance premiums, deductions, 10.3[4]
  - health coverage tax credit, 10.6[4]
  - health insurance premiums, deductions, 10.3[4]

[References are to paragraphs (¶).]

- Financial planning, tax issues (*continued*)
- home aides, tax issues, 10.5
  - household workers, employment of, 10.5
  - impairment-related work expenses deductions, 10.3[6]
  - incapacity-related tax issues, 10.7
  - income items, 10.2–10.2[2]
  - insurance, tax credits, 10.6[4]
  - insurance premiums, deductions, 10.3[4]
  - long-term care, 10.3[2], 10.3[4], 10.5
  - medical expense deductions, 10.3–10.3[10]
  - mental health expense deductions, 10.3[5]
  - mileage deductions, 10.3[9]
  - miscellaneous benefits as income items, 10.2[1]
  - multiple support agreements, deductions, 10.3[8]
  - nondeductible items, 10.3[10]
  - nursing services, 10.3[3], 10.5
  - powers of attorney and, 11.3[3]
  - return, final, 10.4
  - Social Security as income item, 10.2[2]
  - special education, deductions for, 10.3[7]
  - support agreements, deductions, 10.3[8]
  - tax credits, 10.6–10.6[4]
  - training, deductions for, 10.3[7]
  - transportation issues related to medical care, deductions, 10.3[9]
  - travel expense deductions, 10.3[9]
  - work expenses, impairment-related, deductions for, 10.3[6]
- testamentary guardianship, 5.4[2], 11.7
- testation and estate planning, 11.2–11.9
- tort settlements, 9.1–9.5[2]
- case law, 9.3[1], 9.5[2]
  - federal statute and regulations, Medicare secondary-payor rules, 9.5[1]
  - Medicaid subrogation, 9.3–9.3[2]
  - Medicare secondary-payor rules, 9.5–9.5[2]
  - minors' claims, 9.2
  - offset, worker's compensation, 9.4
  - regulations, Medicare secondary-payor rules, 9.5[1]
  - secondary-payor rules, Medicare's, 9.5–9.5[2]
  - SSI treatment of structured settlements, 9.3[2]
  - subrogation, Medicaid, 9.3–9.3[2]
  - worker's compensation offset, 9.4
  - training, tax deductions for, 10.3[7]
  - transfers of assets and Medicaid application, 14.5[2][a]–14.5[2][d], 15.2–15.3
  - transportation issues related to medical care, tax deductions, 10.3[9]
  - travel expense tax deductions, 10.3[9]
  - trusts, 8.9[2], 11.4–11.4[5], 12.8[2]
  - Medicaid application, 14.5[3]–14.5[3][b], 15.2[1]
- Uniform Acts
- durable powers of attorney, 11.3[1]
  - Uniform Gifts to Minors Act, 11.8
  - Uniform Transfers to Minors Act, 11.8
  - Uniform Gifts to Minors Act, 11.8
  - Uniform Transfers to Minors Act, 11.8
  - visiting nurses, tax issues, 10.5
  - wards' claims, tort settlements, 9.2
  - wills, 11.2–11.2[2]
  - work expenses, impairment-related, tax deductions for, 10.3[6]
- Five-step test, SSI and SSDI, 12.5[1]
- Formularies of drugs, Medicare prescription drug coverage, 13.6, 13.6[2]
- Foster care, child abuse, families vs., 4.2
- Free appropriate public education, children and IDEA, 6.3[1]
- G**
- Gifts, Uniform Gifts to Minors Act, 11.8
  - Group homes, persons with developmental disabilities, 1.3[3]
  - Groups, coverage, Medicaid, 14.2, 15.8, 15.9
  - Guardianship, 8.1–8.13
    - alternative measures, interaction of guardianship with, 8.9[2]
    - alternatives to, 8.9–8.9[2]
    - assessment for litigation, 8.3[2]
    - children, 5.4–5.4[4][c]
    - choice of guardian, litigation, 8.3[4]

[References are to paragraphs (¶).]

- commencement of guardianship process, 8.1[2]
  - conduct of the proceeding, 8.3[3]
  - definition of incapacity, 8.3[1]
  - of developmentally disabled, 8.7
  - and divorce, 8.11
  - duties of guardian, 8.4[1]
  - fiduciary investment standards, 8.4[3]
  - functions of guardian, generally, 8.4–8.4[3]
  - health care powers of guardian, 8.5–8.5[2]
  - health issues, special provisions, 1.4
  - hearing, 8.3[3]
  - incapacity, defined, 8.3[1]
  - interaction of guardianship with
    - alternative measures, 8.9[2]
  - interstate issues, 8.12
  - investment standards, fiduciary, 8.4[3]
  - joint guardianship, 5.7
  - life support, guardian's health care powers over, 8.5[1]
  - litigation, 8.3–8.3[4]
  - Medicaid planning by guardians, 8.10
  - payment, representative, 8.9[1]
  - of the person, 8.1[1]
  - petition for, 8.3, 11.7
  - planning by guardian, 8.6
  - of property, 8.1[2]
  - property transfers by guardian, 8.4[2]
  - public guardianship, 8.13
  - removal of guardian, 8.8
  - reporting by guardian, 8.6
  - representative payment, 8.9[1]
  - short-term guardianship, 5.7
  - special provisions, 1.4
  - standards, fiduciary investment, 8.4[3]
  - standby guardianship, 5.7
  - surrogate health care decision making, 8.5[2]
  - termination of guardianship, 8.8
  - testamentary guardianship, 11.7
  - tort settlements, wards' claims, 9.2
  - transfer of property by guardian, 8.4[2]
  - Uniform Acts, 8.2
  - vulnerable adults, 8.1–8.13
- H**
- Hardship waivers, extended look-back period, Medicaid, DRA '05 provisions, 15.2[2]
  - Health care
    - consent. *See* Health care consent
    - guardian's health care powers, 8.5–8.5[2]
    - noninstitutional services, Medicaid, DRA '05 provisions, 15.8[3]
  - Health care consent
    - children, 5.8–5.8[3]
    - end-life issues, 3.2
    - Health Care Consent Act, 3.7
    - mental illness and, 2.3
    - Health Care Consent Act, 3.7
  - Health care proxy
    - See also* Durable powers of attorney
    - end-life issues, 3.4
  - Health insurance
    - premiums, tax deductions, 10.3[4]
    - tax credit, 10.6[4]
  - Health Insurance Portability and Accountability Act (HIPAA), 11.3[2]
  - Health issues
    - See also* End-life issues
    - “aging out,” and state programs, 1.3[2]
    - California state program, 1.3[1][a]
    - civil commitment, mental illness, 2.2
    - commitment for mental illness, civil, 2.2
    - commitment procedure, 2.2[1]
    - consent for health care, mental illness and, 2.3
    - death. *See* End-life issues
    - definitions from federal statute, 1.2[1]
    - examples of state programs, 1.3[1]
    - families of individuals with developmental disabilities, 1.1–1.4
    - group homes, developmental disabilities, 1.3[3]
    - guardianship provisions, special, 1.4
    - health care consent, mental illness and, 2.3
    - individuals with developmental disabilities and their families, generally, 1.1–1.4
    - insurance. *See* Health insurance
    - involuntarily institutionalized persons committed for mental illness, rights of, 2.2[2]
    - Medicaid, role in health care system, 14.3–14.3[2], 15.1, 15.8



[References are to paragraphs (¶).]

- Health issues (*continued*)
- Medicaid Managed Care, civil
    - commitment for mental illness, 2.2[3]
  - mental illness as cause of dependency or incapacitation, 2.1–2.3
  - procedure for commitment for mental illness, 2.2[1]
  - rights of involuntarily institutionalized persons, 2.2[2]
  - rights to treatment and services, 1.2[2]
  - South Carolina state program, 1.3[1][b]
  - special guardianship provisions, 1.4
  - state programs, 1.3
  - treatment, right to, 1.2[2]
- Hearings
- See also* Dependency of children
  - due process hearing, children and IDEA, 6.5[1]
  - guardianship, 8.3[3]
  - Medicaid, 14.9
  - Medicare, 13.7
  - SSI and SSDI, posteligibility, 12.10, 12.10[1]
- Homebound, coverage of home care, 13.3[1]
- Home care services
- Medicaid, DRA '05 provisions, 15.8[1]
  - Medicare coverage, 13.3[1]
  - tax issues, 10.5
- Home equity, Medicaid, 14.5[2][c], 15.3[1]
- Homestead exemptions, 12.8[2]
- Medicaid application, 14.5[2][c], 15.3[1]
- Hospice services, Medicare coverage, 13.3[4]
- Household workers, tax issues, 10.5
- I**
- IDEA. *See* Individuals with Disabilities Education Act (IDEA)
- Impairment-related work expenses, 10.3[6], 12.4
- Incapacity
- defined, guardianship, 8.3[1]
  - determination of, 8.1[2]
  - tort settlements in cases leading to, 9.1–9.5[2]
- Income
- Medicaid, 14.5, 14.6, 15.5[1]
  - Medicare beneficiaries, subsidies for prescription drug coverage for low-income persons, 13.6[4]
  - SSI and SSDI, financial eligibility rules, 12.8[1]
  - tax issues, 10.2–10.2[2]
- Incompetence, determination of, 8.1[2]
- Independent observation, placement, children and IDEA, 6.7[3]
- Individualized Education Plan (IEP), structuring, children and IDEA, 6.6
- Individuals with Disabilities Education Act (IDEA), 6.1–6.11
- advocacy factors, 6.10
  - appropriate education, 6.3–6.3[2]
  - burden of proof, 6.5[2]
  - costs, 6.5[3]
  - definition of special education, 6.1[1]
  - due process hearing, 6.5[1]
  - evaluations, 6.4
  - evidence, 6.5[2]
  - fees and costs, 6.5[3]
  - final regulations, 6.11
  - free appropriate public education (FAPE), 6.3[1]
  - hearings, due process, 6.5[1]
  - historical background, 6.1[2]
  - IEP, structuring, 6.6
  - independent observation of placement, 6.7[3]
  - least restrictive placement, appropriate education, 6.3[2]
  - observation of placement, independent, 6.7[3]
  - potential placements, 6.7–6.7[3]
  - preschool children, IDEA services for, 6.9
  - private school placement, 6.7[1]
  - procedural safeguards, 6.5–6.5[3]
  - public school placement, 6.7[1]
  - qualifying children, 6.2
  - special education, definition of, 6.1[1]
  - stay-put provision, potential placements, 6.7[2]
  - suspensions, 6.8
- Informed consent. *See* Health care consent
- Insurance
- health. *See* Health insurance
  - long-term care insurance partnerships, Medicaid, 15.7
- Interstate issues
- guardianship, 8.12
- Investigation
- child abuse, 4.1–4.5[4]
  - elder abuse, 7.1

[References are to paragraphs (¶).]

- Investment standards, fiduciary, guardian's, 8.4[3]  
 Involuntarily institutionalized persons, rights of, 2.2[2]
- J**  
 Joint bank accounts, as planning devices, 11.5  
 Joint custody, 5.7  
 Joint guardianship, 5.7  
 Jurisdictional issues  
   children, dependency of, 5.2[2]  
   Uniform Child Custody Jurisdiction Act (UCCJA), 5.2[2]
- K**  
 Katie Beckett waivers, 12.5[9], 14.2  
 Keeping Children and Families Safe Act, 4.1, 5.2[1][b]  
 Kendra's Law, 2.3
- L**  
 Least restrictive placement (IDEA), 6.3[2]  
 Liens, Medicaid before DRA '05, 14.7–14.7[2]  
 Life-care contracts, 15.4  
 Life estates  
   Medicaid, DRA '05 provisions, 15.3[4]  
   Medicaid application before DRA '05, 14.5[4]  
 Life support, 3.3  
   guardian's health care powers over, 8.5[1]  
 Listed impairments, SSI and SSDI, 12.5[2]  
 Living wills  
   *See also* Advance directives  
   end-life issues, 3.4  
 Loans, Medicaid, DRA '05 provisions, 15.3[3]  
 Long-term care  
   insurance partnerships, Medicaid, DRA '05 provisions, 15.7  
   Medicaid before DRA '05, required services, 14.4[2]  
   tax issues, 10.3[2], 10.3[4], 10.5  
 Long-term care insurance policy, proceeds as income, 10.2[1]  
 Look-back period, Medicaid, 14.5[2], 14.5[3], 15.2–15.2[2]  
 Low-income persons, Medicare beneficiaries, subsidies for prescription drug coverage, 13.6[4]
- M**  
 Mainstreaming, in education, 6.3[2]  
 Managed care  
   Medicaid before DRA '05, 14.4[5]  
   Medicare, Part C, 13.5  
 Mandatory reporting  
   child abuse, 4.5  
   elder abuse, 7.4–7.4[2]  
 Medicaid, 14.1–14.10  
   ADA issues for Medicaid under *Olmstead*, 14.8  
   advocacy, 14.10  
   annuities, 14.5[4]  
   appeals, 14.9  
   application for Medicaid, 14.5–14.5[4]  
     annuities, 14.5[4]  
     asset transfer, implications of, 14.5[2][a]–14.5[2][d]  
     exempt transfers, generally, 14.5[2][b]  
     financial eligibility, 14.5[2]–14.5[2][d]  
     homestead exemptions, 14.5[2][c]  
     life estates, 14.5[4]  
     nonfinancial eligibility issues, 14.5[1]  
     OBRA '93 rules, trusts, 14.5[3][a]  
     supplemental needs trusts, 14.5[3][b]  
     transfers of assets, 14.5[2][a]–14.5[2][d]  
     trusts, 14.5[3]–14.5[3][b]  
   asset transfer implications for Medicaid application, 14.5[2][a]–14.5[2][d]  
   children, required services for, 14.4[1]  
   coverage groups, 14.2  
   disabled persons and Medicaid, 14.3[2]  
   eligibility, 14.5–14.5[4]  
   estate recovery, 14.7–14.7[2]  
   exempt transfers of property, 14.5[2][b]  
   financial eligibility, 14.5[2]–14.5[2][d]  
   financial planning  
     estate planning with trusts before DRA '05, 11.4[2]  
     subrogation and tort settlements, 9.3–9.3[2]  
   guardians, planning by, 8.10  
   health care system, role of Medicaid in, 14.3–14.3[2]  
   disabled persons and Medicaid, 14.3[2]  
   state-by-state variations, 14.3[1]  
   homestead exemptions and Medicaid application, 14.5[2][c]  
   liens and estate recovery, 14.7–14.7[2]

[References are to paragraphs (¶).]

- Medicaid (*continued*)
- life estates and Medicaid application, 14.5[4]
  - long-term care, required services, 14.4[2]
  - managed care
    - civil commitment for mental illness, 2.2[3]
    - Medicaid, 14.4[5]
  - nonfinancial eligibility issues, 14.5[1]
  - OBRA '93 rules, trusts, 14.5[3][a]
  - policy issues about transfers and Medicaid application, 14.5[2][d]
  - posteligibility, 14.6
  - prescription drugs, required services, 14.4[3]
  - qualifying trust, 9.3[1]
  - recovery, estate, 14.7–14.7[2]
  - required services, 14.4–14.4[5]
  - state recovery practices, 14.7[2]
  - subrogation, tort settlements and, 9.3–9.3[2]
  - supplemental needs trusts and Medicaid application, 14.5[3][b]
  - transfers of assets and Medicaid application, 14.5[2][a]–14.5[2][d]
  - trusts and application for Medicaid, 14.5[3]–14.5[3][b]
  - waiver programs, required services, 14.4[4]
- Medicaid, DRA '05 provisions, 15.1–15.10
- adult day health care, 15.8[3]
  - annuities, 15.3[2]
  - assets, new rules for treatment of, 15.3–15.3[4]
  - cash and counseling, 15.8[2]
  - children's services, 15.9
  - community-based services, 15.8[1]
  - continuing care retirement community, 15.4
  - cost sharing, 15.6–15.6[2]
    - emergency rooms, 15.6[2]
    - prescription drugs, 15.6[1]
  - counseling, noninstitutional services, 15.8[2]
  - day health care, 15.8[3]
  - early responses, 15.10
  - emergency rooms, cost sharing, 15.6[2]
  - expanded home and community-based services, 15.8[1]
  - extended look-back period, 15.2–15.2[2]
    - general rule, 15.2[1]
    - hardship waivers, 15.2[2]
  - health care, noninstitutional services, 15.8[3]
  - home equity, 15.3[1]
  - home services, 15.8[1]
  - insurance, long-term care insurance partnerships, 15.7
  - life-care contracts, 15.4
  - life estates, 15.3[4]
  - loans, 15.3[3]
  - long-term care insurance partnerships, 15.7
  - methodology, 15.5–15.5[3]
    - multiple transfers, 15.5[3]
    - partial months, 15.5[2]
    - rejection of “resources-first” rule, 15.5[1]
    - transfers, multiple, 15.5[3]
  - multiple transfers, 15.5[3]
  - noninstitutional services, 15.8–15.8[3]
    - adult day health care, 15.8[3]
    - cash and counseling, 15.8[2]
    - community-based services, 15.8[1]
    - counseling, 15.8[2]
    - day health care, 15.8[3]
    - expanded home and community-based services, 15.8[1]
    - health care, adult day health care, 15.8[3]
    - home services, 15.8[1]
  - notes, 15.3[3]
  - partial months, 15.5[2]
  - prescription drugs, cost sharing, 15.6[1]
  - rejection of “resources-first” rule, 15.5[1]
  - retirement communities, continuing care, 15.4
  - transfers, multiple, 15.5[3]
  - waivers, hardship, extended look-back period, 15.2[2]
- Medicaid While Working, 12.8[4]
- Medical equipment
- as impairment-related work expenses, 12.4
  - deductible, 10.3
  - Medicare, 13.3[2]
  - sales proceeds as income, 10.2[1]
- Medical expenses
- defined, 10.3
  - tax deductions, 10.3–10.3[10]

[References are to paragraphs (¶).]

- Medical neglect
  - dependency, as grounds for, 5.2[1][c]
- Medicare, 13.1–13.9
  - aides, home care, 13.3[1]
  - appeals, 13.7
  - beneficiary’s financial obligations,
    - prescription drug coverage, 13.6[1]
  - benefit period, services covered, 13.3[5]
  - coinsurance, 13.4
  - coverage, 13.3–13.3[5]
  - drug formularies, prescription drug coverage, 13.6, 13.6[2]
  - dual eligibles, 13.2[1]
  - durable medical equipment, 13.3[2]
  - early experience with Part D, 13.6[5]
  - eligibility, 13.2–13.2[1]
    - dual eligibles, 13.2[1]
    - work-based eligibility, 13.2[1]
  - equipment, durable medical equipment, 13.3[2]
  - factors in selecting drug coverage plan, 13.6[3]
  - financial obligations of beneficiary,
    - prescription drug coverage, 13.6[1]
  - financial problems of Medicare program, 13.9
  - formularies of drugs, prescription drug coverage, 13.6, 13.6[2]
  - home care services covered, 13.3[1]
  - hospice services covered, 13.3[4]
  - low-income Medicare beneficiaries,
    - subsidies for prescription drug coverage, 13.6[4]
  - managed care, 13.5
  - medical equipment, durable, 13.3[2]
  - mental health services covered, 13.3[3]
  - nursing, home care, 13.3[1]
  - Part C (managed care), 13.5
  - Part D (prescription drug coverage), 13.6–13.6[5]
  - premiums, 13.4
  - prescription drug coverage under Part D, 13.6–13.6[5]
    - beneficiary financial obligations, 13.6[1]
    - drug formularies, 13.6, 13.6[2]
    - early experience with Part D, 13.6[5]
    - factors in selecting a plan, 13.6[3]
    - financial obligations of beneficiary, 13.6[1]
    - formularies of drugs, 13.6, 13.6[2]
    - low-income Medicare beneficiaries,
      - subsidies for, 13.6[4]
    - selecting a plan, factors in, 13.6[3]
    - subsidies for low-income Medicare beneficiaries, 13.6[4]
  - secondary payors
    - Medicare as, 13.8
    - tort settlements, 9.5–9.5[2]
  - selection of plan, prescription drug coverage, 13.6[3]
  - services covered, 13.3–13.3[5]
    - benefit period, 13.3[5]
    - durable medical equipment, 13.3[2]
    - equipment, durable medical equipment, 13.3[2]
    - home care, 13.3[1]
    - hospice, 13.3[4]
    - mental health, 13.3[3]
    - period of benefit period, 13.3[5]
    - spell of illness, 13.3[5]
    - spell of illness, services covered, 13.3[5]
    - subsidies for prescription drug coverage for low-income Medicare beneficiaries, 13.6[4]
    - work-based eligibility, 13.2[1]
- Mental health issues
  - as cause of dependency or incapacitation, 2.1–2.3
  - health care proxies, 3.4
  - health issues, 2.1–2.3
  - Medicare coverage, 13.3[3]
  - psychiatric disorders, 8.3[1]
  - SSI and SSDI, mental impairments, 12.5[6]
  - termination of parental rights, mental health placements, 5.3[5]
- Mercy killing, 3.6
- Mileage deductions, tax issues, 10.3, 10.3[9]
- Miller trusts, 11.4[2], 14.5[3]
- Minors
  - See also* Children
  - “aging out,” state health programs, 1.3[2]
  - end-life issues, terminally ill children, 3.5[1]
  - estate planning, 11.8
  - financial planning
    - estate planning, 11.8
    - tort settlements, minors’ claims, 9.2

[References are to paragraphs (¶).]

- Minors (*continued*)  
 terminally ill, end-life issues, 3.5[1]  
 tort settlements, minors' claims, 9.2  
 Uniform Gifts to Minors Act, 11.8  
 Uniform Transfers to Minors Act, 11.8  
 Multiple transfers of assets  
 Medicaid, DRA '05 provisions, 15.5[3]
- N**  
 National Center for Elder Abuse (NCEA),  
 7.1, 7.8  
 National Coalition for Child Protection  
 Reform, 4.2  
 Natural Death Act, 3.6  
 NCEA. *See* National Center for Elder Abuse  
 (NCEA)  
 Neglect  
 children, 4.1–4.5[4]  
 as grounds for dependency, 5.2[1][b],  
 5.2[1][c]  
 self-neglect, elderly persons, 7.1[2],  
 7.4[2]  
 vulnerable adults, abuse of, 7.1[2]  
 No Child Left Behind Act, 6.1[1], 6.1[2], 6.4  
 Noncitizens, SSI and SSDI eligibility,  
 12.5[10]  
 Noncustodial parent  
 standby guardianship of children,  
 5.4[4][c]  
 Nondeductible items  
 tax issues, 10.3[10]  
 Nonfinancial eligibility issues  
 Medicaid before DRA '05, 14.5[1]  
 Noninstitutional services  
 Medicaid, DRA '05 provisions,  
 15.8–15.8[3]  
 Notes, Medicaid, 14.5[4], 15.3[3]  
 Nursing home tort litigation  
 vulnerable adults, abuse of, 7.6–7.6[2]  
 Nursing services  
*See also* Home care services  
 Medicare coverage, 13.3[1]  
 tax issues, 10.3[3], 10.5
- O**  
 OBRA '93. *See* Omnibus Reconciliation Act  
 of 1993 (OBRA '93)  
 Offset, worker's compensation, tort  
 settlements, 9.4  
 Older Americans Act, 7.5  
 Older minors, consent to health care, 5.8[2]
- Olmstead*, ADA issues, 14.8  
 Ombudsman programs, vulnerable adults,  
 abuse of, 7.5  
 Omnibus Reconciliation Act of 1993  
 (OBRA '93), 9.3[1], 11.4[4]  
 long-term care insurance partnerships,  
 15.7  
 Medicaid before DRA '05, trusts,  
 14.5[3][a]  
 Open hearings, termination of parental  
 rights, 5.3[4]
- P**  
 Parens patriae power, 5.1  
 Parental Kidnapping Prevention Act (PKPA),  
 5.2[2]  
 Parents. *See* Dependency of children  
 Part C Medicare, managed care, 13.5  
 Part D Medicare, prescription drug coverage,  
 13.6–13.6[5]  
 Partial months, Medicaid, DRA '05  
 provisions, 15.5[2]  
*Patient's Bill of Rights*, American Hospital  
 Association, 3.2  
 Patient Self-Determination Act, 3.4  
 Payback trusts, 11.4[4]  
 Payment  
 representative, guardianship, 8.9[1]  
 SSI and SSDI benefits, 12.7–12.7[3]  
 Percutaneous endoscopic gastronomy (PEG)  
 tubes, end-life issues, 3.3[1]  
 Permanency planning, children, dependency,  
 5.7  
 Persistent vegetative state, life support and,  
 3.3[1]  
 Personal injury suit settlement, as income,  
 10.2[1]  
 Personal Responsibility and Work  
 Opportunity Reconciliation Act of 1996,  
 12.1[2], 12.5[9]  
 Petitions  
 children, standby guardianship of,  
 5.4[4][b]  
 guardianship, 8.3, 11.7  
 Physical abuse, dependency, as grounds for,  
 5.2[1][a]  
 PKPA. *See* Parental Kidnapping Prevention  
 Act (PKPA)  
 Placements, potential, children and IDEA,  
 6.7–6.7[3]  
 Planning, guardianship, 8.6

[References are to paragraphs (¶).]

- Posteligibility  
 Medicaid, 14.6, 15.5  
 SSI and SSDI, 12.6, 12.9–12.10
- Potential placements (IDEA), 6.7–6.7[3]
- Powers of attorney, 11.3–11.3[5]
- Practice aspects, advance directives and, 3.4[2]
- Premiums, Medicare, 13.4
- Preschool children, IDEA services for, 6.9
- Prescription drug coverage  
 cost sharing, Medicaid, DRA '05 provisions, 15.6[1]  
 Medicaid before DRA '05, required services, 14.4[3]  
 Medicare Part D, 13.6–13.6[5]
- Private annuities, 11.5, 14.5[4], 15.3[3]
- Private school placement, children and IDEA, 6.7[1]
- Property, guardianship, 8.1[2], 8.4[2]
- Protection  
 vulnerable adults, 7.1–8.13  
 vulnerable children, 4.1–6.11
- Protection and Advocacy for Mentally Ill Individuals Act, 2.1
- Psychiatric disorders, 8.3[1]
- Psychiatric and psychological expenses, tax deductions, 10.3[5]
- Psychosocial abuse, dependency, as grounds for, 5.2[1][a]
- Public benefits  
 ability to work, determination of, SSI and SSDI, 12.5[3]  
 ADA issues under *Olmstead*, Medicaid before DRA '05, 14.8  
 adult day health care, Medicaid, DRA '05 provisions, 15.8[3]  
 advocacy and fighting service cuts, Medicaid before DRA '05, 14.10  
 age, SSI and SSDI, 12.5[8], 12.5[9]  
 aides, home care, Medicare, 13.3[1]  
 amount of benefit, determination of, SSI and SSDI, 12.7[1]  
 annuities  
 application for Medicaid before DRA '05, 14.5[4]  
 Medicaid, DRA '05 provisions, 15.3[2]  
 appeals  
 Medicaid before DRA '05, 14.9  
 Medicare, 13.7  
 SSI and SSDI, 12.10, 12.10[1]  
 applications  
 Medicaid before DRA '05, 14.5–14.5[4]  
 SSI and SSDI, 12.3  
 assets  
 new rules for treatment of, Medicaid, DRA '05 provisions, 15.3–15.3[4]  
 SSI and SSDI financial eligibility rules, 12.8[2]  
 transfer implications for Medicaid application, before DRA '05, 14.5[2][a]–14.5[2][d]  
 attorneys' fees, posteligibility, SSI and SSDI, 12.10[5]  
 back payments, SSI and SSDI, 12.7[2]  
 basic eligibility qualifications for benefits, SSI and SSDI, 12.2  
 buy-ins and financial eligibility rules, SSI and SSDI, 12.8[4][b]  
 cash and counseling (Medicaid), 15.8[2]  
 children  
 Medicaid, DRA '05 provisions for children's services, 15.9  
 Medicaid before DRA '05, required services for, 14.4[1]  
 SSI and SSDI, disabilities of children, 12.5[9]  
 chiropractor, 12.10[1]  
 coinsurance, 13.4, 15.6  
 community-based services, Medicaid, DRA '05 provisions, 15.8[1]  
 continuing care retirement community, Medicaid, DRA '05 provisions, 15.4  
 cost sharing, Medicaid, DRA '05 provisions, 15.6–15.6[2]  
 counseling, noninstitutional services, Medicaid, DRA '05 provisions, 15.8[2]  
 coverage, Medicare, 13.3–13.3[5]  
 coverage groups, Medicaid before DRA '05, 14.2  
 date of onset, SSI and SSDI, 12.5[5]  
 day health care, Medicaid, DRA '05 provisions, 15.8[3]  
 description, SSI and SSDI, 12.2[1], 12.2[2]  
 determination of disability, SSI and SSDI, 12.5–12.5[10]

[References are to paragraphs (¶).]

- Public benefits (*continued*)
- disabling impairments, SSI and SSDI, 12.5[2]
  - drug formularies, prescription drug coverage, Medicare, 13.6, 13.6[2]
  - dual eligibles, 13.2[1]
  - durable medical equipment, Medicare, 13.3[2]
  - early experience with Part D, Medicare, 13.6[5]
  - early responses, Medicaid, DRA '05 provisions, 15.10
  - eligibility
    - Medicaid, 14.5–14.5[4], 15.1–15.5
    - Medicare, 13.2–13.2[1]
    - SSI and SSDI, 12.2, 12.5–12.5[10], 12.8–12.8[4][c]
  - emergency rooms, cost sharing, Medicaid, DRA '05 provisions, 15.6[2]
  - equipment, durable medical equipment, Medicare, 13.3[2]
  - estate recovery, Medicaid, 14.7–14.7[2]
  - exempt transfers of property and Medicaid application, 14.5[2][b], 15.3, 15.5
  - expanded home and community-based services, Medicaid, DRA '05 provisions, 15.8[1]
  - extended look-back period, Medicaid, DRA '05 provisions, 15.2–15.2[2]
  - extension programs, financial eligibility rules, SSI and SSDI, 12.8[4]–12.8[4][c]
  - factors in selecting drug coverage plan, Medicare, 13.6[3]
  - financial eligibility
    - Medicaid, 14.5[2]–14.5[2][d], 15.1–15.5
    - SSI and SSDI, 12.8–12.8[4][c]
  - financial obligations of beneficiary, prescription drug coverage, Medicare, 13.6[1]
  - financial problems of Medicare program, Medicare, 13.9
  - five-step test, SSI and SSDI, 12.5[1]
  - hardship waivers, extended look-back period, Medicaid, DRA '05 provisions, 15.2[2]
  - health care, noninstitutional services, Medicaid, DRA '05 provisions, 15.8[3]
  - health care system, role of Medicaid before DRA '05, 14.3–14.3[2]
  - hearings, posteligibility, SSI and SSDI, 12.10, 12.10[1]
  - home care services
    - Medicaid, DRA '05 provisions, 15.8[1]
    - Medicare before DRA '05, 13.3[1]
  - home equity, Medicaid, DRA '05 provisions, 15.3[1]
  - homestead exemptions and Medicaid application before DRA '05, 14.5[2][c]
  - hospice services covered, Medicare, 13.3[4]
  - impairments listed, SSI and SSDI, 12.5[2]
  - income and financial eligibility rules, SSI and SSDI, 12.8[1]
  - insurance, long-term care insurance partnerships, Medicaid, DRA '05 provisions, 15.7
  - interaction with other programs, extension programs, SSI and SSDI, 12.8[4][c]
  - Katie Beckett waivers, 12.5[9], 14.2
  - liens and estate recovery, Medicaid before DRA '05, 14.7–14.7[2]
  - life-care contracts, Medicaid, DRA '05 provisions, 15.4
  - life estates
    - application for Medicaid before DRA '05, 14.5[4]
    - Medicaid, DRA '05 provisions, 15.3[4]
  - listed impairments, SSI and SSDI, 12.5[2]
  - loans, Medicaid, DRA '05 provisions, 15.3[3]
  - long-term care
    - insurance partnerships, Medicaid, DRA '05 provisions, 15.7
    - Medicaid before DRA '05, required services, 14.4[2]
  - low-income Medicare beneficiaries, subsidies for prescription drug coverage, Medicare, 13.6[4]

[References are to paragraphs (¶).]

- managed care
  - Medicaid before DRA '05, 14.4[5]
  - Medicare, 13.5
- Medicaid, DRA '05 provisions,
  - 15.1–15.10
  - adult day health care, 15.8[3]
  - annuities, 15.3[2]
  - assets, new rules for treatment of,
    - 15.3–15.3[4]
  - cash and counseling, 15.8[2]
  - children's services, 15.9
  - community-based services, 15.8[1]
  - continuing care retirement
    - community, 15.4
  - cost sharing, 15.6–15.6[2]
  - counseling, noninstitutional services,
    - 15.8[2]
  - early responses, 15.10
  - emergency rooms, cost sharing,
    - 15.6[2]
  - expanded home and community-based
    - services, 15.8[1]
  - extended look-back period,
    - 15.2–15.2[2]
  - hardship waivers, 15.2[2]
  - home equity, 15.3[1]
  - home services, 15.8[1]
  - insurance, long-term care insurance
    - partnerships, 15.7
  - life-care contracts, 15.4
  - life estates, 15.3[4]
  - loans, 15.3[3]
  - long-term care insurance partnerships,
    - 15.7
  - methodology, 15.5–15.5[3]
  - multiple transfers, 15.5[3]
  - new rules for treatment of assets,
    - 15.3–15.3[4]
  - noninstitutional services,
    - 15.8–15.8[3]
  - notes, 15.3[3]
  - partial months, 15.5[2]
  - prescription drugs, cost sharing,
    - 15.6[1]
  - “resources-first” rule, rejection of,
    - 15.5[1]
  - responses, 15.10
  - retirement communities, continuing
    - care, 15.4
  - time, 15.5[2]
  - transfers, multiple, 15.5[3]
  - waivers, hardship, extended look-back
    - period, 15.2[2]
- Medicaid before DRA '05, 14.1–14.10
  - ADA issues, 14.8
  - advocacy and fighting service cuts,
    - 14.10
  - annuities and application for
    - Medicaid, 14.5[4]
  - appeals, 14.9
  - application, 14.5–14.5[4]
  - asset transfer implications,
    - 14.5[2][a]–14.5[2][d]
  - children, required services for,
    - 14.4[1]
  - coverage groups, 14.2
  - cuts in service, fighting, 14.10
  - disabled persons and Medicaid,
    - 14.3[2]
  - eligibility, 14.5–14.5[4]
  - estate recovery, 14.7–14.7[2]
  - exempt transfers of property and
    - Medicaid application,
      - 14.5[2][b]
    - financial eligibility,
      - 14.5[2]–14.5[2][d]
    - groups, coverage, 14.2
    - health care system, role of Medicaid
      - in, 14.3–14.3[2]
    - homestead exemptions and Medicaid
      - application, 14.5[2][c]
    - liens and estate recovery,
      - 14.7–14.7[2]
    - life estates and Medicaid application,
      - 14.5[4]
    - long-term care, required services,
      - 14.4[2]
    - managed care, Medicaid, 14.4[5]
    - nonfinancial eligibility issues, 14.5[1]
    - OBRA '93 rules, trusts, 14.5[3][a]
    - policy issues about transfers and
      - Medicaid application,
        - 14.5[2][d]
    - posteligibility, 14.6
    - prescription drugs, required services,
      - 14.4[3]
    - recovery, estate, 14.7–14.7[2]
    - required services, 14.4–14.4[5]
    - state-by-state variations in role of
      - Medicaid in health care
        - system, 14.3[1]
      - state recovery practices, 14.7[2]



[References are to paragraphs (¶).]

- Public benefits, Medicaid before DRA '05  
(*continued*)  
  supplemental needs trusts and  
    Medicaid application,  
    14.5[3][b]  
  transfers of assets and Medicaid  
    application,  
    14.5[2][a]–14.5[2][d]  
  trusts and application for Medicaid,  
    14.5[3]–14.5[3][b]  
  waiver programs, required services,  
    14.4[4]
- Medicare, 13.1–13.9  
  aides, home care, 13.3[1]  
  appeals, 13.7  
  benefit period, services covered,  
    13.3[5]  
  coinsurance, 13.4  
  coverage, 13.3–13.3[5]  
  drug formularies, prescription drug  
    coverage, 13.6, 13.6[2]  
  dual eligibles, 13.2[1]  
  durable medical equipment, 13.3[2]  
  early experience with Part D, 13.6[5]  
  eligibility, 13.2–13.2[1]  
  equipment, durable medical  
    equipment, 13.3[2]  
  factors in selecting drug coverage  
    plan, 13.6[3]  
  financial obligations of beneficiary,  
    prescription drug coverage,  
    13.6[1]  
  financial problems of Medicare  
    program, 13.9  
  formularies of drugs, prescription  
    drug coverage, 13.6, 13.6[2]  
  home care services covered, 13.3[1]  
  hospice services covered, 13.3[4]  
  low-income Medicare beneficiaries,  
    subsidies for prescription drug  
    coverage, 13.6[4]  
  managed care, 13.5  
  mental health services covered,  
    13.3[3]  
  nursing, home care, 13.3[1]  
  Part C, managed care, 13.5  
  Part D, prescription drug coverage  
    under, 13.6–13.6[5]  
  premiums, 13.4  
  prescription drug coverage under Part  
    D, 13.6–13.6[5]  
  secondary payor, Medicare as, 13.8  
  selection of plan, prescription drug  
    coverage, 13.6[3]  
  services covered, 13.3–13.3[5]  
  spell of illness, services covered,  
    13.3[5]  
  subsidies for prescription drug  
    coverage for low-income  
    Medicare beneficiaries,  
    13.6[4]  
  work-based eligibility, 13.2[1]  
  mental health services covered, 13.3[3]  
  mental impairments, SSI and SSDI,  
    12.5[6]  
  methodology, Medicaid, DRA '05  
    provisions, 15.5–15.5[3]  
  multiple transfers, Medicaid, DRA '05  
    provisions, 15.5[3]  
  new rules for treatment of assets,  
    Medicaid, DRA '05 provisions,  
    15.3–15.3[4]  
  noncitizens, eligibility of, SSI and SSDI,  
    12.5[10]  
  nonfinancial eligibility issues, Medicaid  
    before DRA '05, 14.5[1]  
  noninstitutional services, Medicaid, DRA  
    '05 provisions, 15.8–15.8[3]  
  nursing, home care, Medicare, 13.3[1]  
  OBRA '93 rules, trusts, Medicaid before  
    DRA '05, 14.5[3][a]  
  older workers, SSI and SSDI, 12.5[8]  
  *Olmstead*, ADA issues under, Medicaid  
    before DRA '05, 14.8  
  onset date, SSI and SSDI, 12.5[5]  
  overpayments, recovery of, SSI and  
    SSDI, 12.7[3]  
  pain, SSI and SSDI, 12.5[6]  
  Part C Medicare, managed care, 13.5  
  Part D Medicare, prescription drug  
    coverage, 13.6–13.6[5]  
  partial months, Medicaid, DRA '05  
    provisions, 15.5[2]  
  payment of benefits, SSI and SSDI,  
    12.7–12.7[3]  
  period of benefit period, Medicare,  
    13.3[5]  
  policy issues about transfers and  
    Medicaid application, before  
    DRA '05, 14.5[2][d]  
  posteligibility  
    Medicaid, 14.6, 15.5

[References are to paragraphs (¶).]

- SSI and SSDI, 12.6, 12.9–12.10
- premiums, Medicare, 13.4
- prescription drugs
  - cost sharing, Medicaid, DRA '05 provisions, 15.6[1]
  - coverage under Part D, Medicare, 13.6–13.6[5]
  - required services, Medicaid before DRA '05, 14.4[3]
- procedural aspects, SSI and SSDI, 12.5[7]
- recovery
  - estate, Medicaid before DRA '05, 14.7–14.7[2]
  - overpayments, SSI and SSDI, 12.7[3]
- required services, Medicaid, 14.4–14.4[5], 15.8, 15.9
- “resources-first” rule, rejection of, Medicaid, DRA '05 provisions, 15.5[1]
- retirement communities, continuing care, Medicaid, DRA '05 provisions, 15.4
- review, posteligibility, SSI and SSDI, 12.6
- revocation of benefits, SSI and SSDI, 12.6
- secondary payor, Medicare as, Medicare, 13.8
- selection of plan, prescription drug coverage, Medicare, 13.6[3]
- services covered, Medicare, 13.3–13.3[5]
- Social Security Disability Income, described, SSI and SSDI, 12.2[1]
- spell of illness, services covered, Medicare, 13.3[5]
- SSDI hearings and appeals, posteligibility, SSI and SSDI, 12.10[1]
- SSI and SSDI, 12.1–12.11
  - ability to work, determination of, 12.5[3]
  - age, 12.5[8], 12.5[9]
  - amount of benefit, determination of, 12.7[1]
  - appeals, 12.10, 12.10[1]
  - application process, 12.3
  - assets and financial eligibility rules, 12.8[2]
  - attorneys’ fees, posteligibility, 12.10[5]
  - back payments, 12.7[2]
  - basic eligibility qualifications for benefits, 12.2
  - benefit payments, 12.7–12.7[3]
  - buy-ins and financial eligibility rules, 12.8[4][b]
  - case law examples, posteligibility, 12.10[3]–12.10[3][c]
  - children, disabilities of, 12.5[9]
  - date of onset, 12.5[5]
  - description, 12.2[1], 12.2[2]
  - determination of disability, 12.5–12.5[10]
  - disabling impairments, 12.5[2]
  - eligibility, 12.2, 12.5–12.5[10], 12.8–12.8[4][c]
  - experts, vocational, posteligibility, 12.10[3]
  - extension programs, financial eligibility rules, 12.8[4]–12.8[4][c]
  - financial eligibility rules, 12.8–12.8[4][c]
  - five-step test, 12.5[1]
  - hearings, posteligibility, 12.10, 12.10[1]
  - impairments listed, 12.5[2]
  - income and financial eligibility rules, 12.8[1]
  - interaction with other programs, extension programs, 12.8[4][c]
  - listed impairments, 12.5[2]
  - mental impairments, 12.5[6]
  - noncitizens, eligibility of, 12.5[10]
  - older workers, 12.5[8]
  - onset date, 12.5[5]
  - other Social Security Act benefits, 12.11
  - overpayments, recovery of, 12.7[3]
  - pain, 12.5[6]
  - payment of benefits, 12.7–12.7[3]
  - posteligibility, 12.6, 12.9–12.10
  - procedural aspects, 12.5[7]
  - recovery of overpayments, 12.7[3]
  - review, posteligibility, 12.6
  - revocation of benefits, 12.6
  - Sixth Circuit case law, posteligibility, 12.10[3][a]

[References are to paragraphs (¶).]

- Public benefits, SSI and SSDI (*continued*)
- Social Security Disability Income, described, 12.2[1]
  - SSDI hearings and appeals, posteligibility, 12.10[1]
  - standard of review, posteligibility, 12.10[2]
  - substantial gainful activity, 12.4
  - Supplemental Security Income, described, 12.2[2]
  - Ticket to Work Act, 7.3[2], 12.6, 12.8[4][a]
  - transferable skills, 12.5[4]
  - transfers and financial eligibility rules, 12.8[3]
  - vocational experts, posteligibility, 12.10[3]
  - work, ability to, 12.5[3]
  - standard of review, posteligibility, SSI and SSDI, 12.10[2]
  - state Medicaid recovery practices, 14.7[2]
  - subsidies for prescription drug coverage for low-income Medicare beneficiaries, 13.6[4]
  - substantial gainful activity, SSI and SSDI, 12.4
  - Supplemental Security Income, described, SSI and SSDI, 12.2[2]
  - Ticket to Work Act, SSI and SSDI, 7.3[2], 12.6, 12.8[4][a]
  - transferable skills, SSI and SSDI, 12.5[4]
  - transfers of assets
    - financial eligibility rules, SSI and SSDI, 12.8[3]
    - Medicaid before DRA '05, 14.5[2][a]–14.5[2][d]
    - multiple transfers, Medicaid, DRA '05 provisions, 15.5[3]
  - trusts and application for Medicaid before DRA '05, 14.5[3]–14.5[3][b]
  - vocational experts, posteligibility, SSI and SSDI, 12.10[3]
  - waiver programs, Medicaid before DRA '05, required services, 14.4[4]
  - waivers, hardship, extended look-back period, Medicaid, DRA '05 provisions, 15.2[2]
  - work, ability to, SSI and SSDI, 12.5[3]
  - work-based eligibility, Medicare, 13.2[1]
  - Public guardianship, 8.13
  - Public school placement
    - children and IDEA, 6.7[1]
    - Medicaid, 14.2, 14.5, 14.6, 15.1–15.5
- Q**
- Qualification
  - children and IDEA, 6.2
  - Medicare, 13.2
  - other social security benefits, 12.11
  - SSI, 12.1, 12.4, 12.5, 12.8
- R**
- Recovery
  - Medicaid before DRA '05, recovery of estate, 14.7–14.7[2]
  - SSI and SSDI overpayments, 12.7[3]
- Refusal of blood transfusions, 3.3[3], 5.8[3][b]
- Registries
  - abuse of vulnerable adults, mandatory reporting of abuse, 7.4[1]
  - child abuse, 4.5[2]
- Reimbursement, excess as income, 10.2[1]
- Religious matters, children and rejection of health care, 5.8[3][b]
- Remedies, on behalf of dependent children, 5.1–5.9
- Removal, of guardian, 8.8
- Reporting
  - abuse of vulnerable adults, mandatory reporting of abuse, 7.4–7.4[2]
  - child abuse, 4.1–4.5[4]
- Representative payment, guardianship, 8.9[1]
- Residents' rights, vulnerable adults, abuse of, 7.3[1]
- “Resources-first” rule, rejection of, Medicaid, DRA '05 provisions, 15.5[1]
- Retirement communities, continuing care, Medicaid, DRA '05 provisions, 15.4
- Returns
  - final tax return, 10.4
- Review. *See* Appeal and review
- Revocation, SSI and SSDI benefits, 12.6
- Rights of persons
  - See also* Dependency of children
  - abuse of vulnerable adults, rights of residents, 7.3[1]

[References are to paragraphs (¶).]

- child abuse, rights of persons named in abuse reports vs. duty to report, 4.5[1]
- health issues, rights to treatment and services, 1.2[2]
- involuntarily institutionalized persons, civil commitment for mental illness, 2.2[2]
- Right-to-die, 3.3
- Risk factors, abuse of vulnerable adults, facility abuse, 7.3[3]
  
- S**
- Schiavo, Terri, 3.3[1]
- School placement, children and IDEA, 6.7[1]
- Secondary payor, Medicare, 9.5–9.5[2], 13.8 § 2503 issues, trusts, 11.4[1]
- Self-neglect, elderly persons, 7.1[2], 7.4[2]
- Settlements. *See* Tort settlements
- Short-term guardianship, 5.7
- Sick days, unused, as income, 10.2[1]
- SNT. *See* Special Needs Trust (SNT)
- Social Security, tax issues, 10.2[2]
- Social Security Act benefits. *See*
  - Supplemental Security Income (SSI) and Social Security Disability Income (SSDI)
- Social Security Disability Income (SSDI)
  - See also* Supplemental Security Income (SSI) and Social Security Disability Income (SSDI)
  - posteligibility, hearings and appeals, 12.10[1]
- Special education
  - definition of, children and IDEA, 6.1[1]
  - tax deductions for, 10.3[7]
- Special guardianship, health issues, 1.4
- Special Needs Trust (SNT), 9.1, 11.1, 11.4[4], 12.8[2], 14.5[3][b]
- Spell of illness, Medicare, services covered, 13.3[5]
- Spousal impoverishment, eligibility for public benefits, 14.5[2]
- Springing powers, durable powers of attorney, 11.3[2]
- SSDI. *See* Supplemental Security Income (SSI) and Social Security Disability Income (SSDI)
- SSI. *See* Supplemental Security Income (SSI) and Social Security Disability Income (SSDI)
- Income (SSDI)
  - Standard of proof, termination of parental rights, 5.3[2]
  - Standard of review, SSI and SSDI, posteligibility, 12.10[2]
- Standards, fiduciary investment, guardian's, 8.4[3]
- Standby adoption, 5.7
- Standby guardianship, 5.7
  - children, 5.4[4]–5.4[4][c]
- State-appointed guardianship, children, 5.4[3]
- States
  - children, state-appointed guardianship, 5.4[3]
  - health issues, state programs, 1.3
  - recovery practices, Medicaid before DRA '05, 14.7[2]
  - variations in role of Medicaid in health care system, before DRA '05, 14.3[1]
- Stay-put provision (IDEA), 6.7[2]
- Sterilization, consent to health care for children, 5.8[3][a]
- Structured settlements, SSI treatment of, 9.3[2]
- Subrogation, Medicaid and tort settlements, 9.3–9.3[2]
- Subsidies, prescription drug coverage for low-income Medicare beneficiaries, 13.6[4]
- “Substantial gainful activity,” SSI and SSDI, 12.4
- Suicide
  - assisted suicide, 3.6
  - Federal Assisted Suicide Funding Restriction Act of 1997, 3.3 n.18
- Supervision, failure of supervision as grounds for dependency, 5.2[1][d]
- Supplemental needs trusts, 8.4[1]
  - estate planning, 11.4[4]
  - Medicaid application before DRA '05, 14.5[3][b]
- Supplemental Security Income (SSI) and Social Security Disability Income (SSDI), 12.1–12.11
  - ability to work, determination of, 12.5[3]
  - age, 12.5[8], 12.5[9]
  - amount of benefit, determination of, 12.7[1]
  - appeal and review, 12.10, 12.10[1]

[References are to paragraphs (¶).]

- Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) (*continued*)
- application process, 12.3
  - assets and financial eligibility rules, 12.8[2]
  - attorneys' fees, posteligibility, 12.10[5]
  - back payments, 12.7[2]
  - benefit payments, 12.7–12.7[3]
  - buy-ins and financial eligibility rules, 12.8[4][b]
  - case law examples, posteligibility, 12.10[3]–12.10[3][c]
  - children, disabilities of, 12.5[9]
  - chiropractor, 12.10[1]
  - Continued Payment Under Vocational Rehabilitation Program, 12.8[4]
  - date of onset of disability, 12.5[5]
  - deeming, 12.8[1]
  - description
    - SSDI, 12.2[1]
    - SSI, 12.2[2]
  - determination of disability, 12.5–12.5[10]
  - disabling impairments, 12.5[2]
  - eligibility, 12.5–12.5[10]
    - basic qualifications for benefits, 12.2
    - rules for financial eligibility, 12.8–12.8[4][c]
  - experts, vocational, posteligibility, 12.10[3]
  - extended period of eligibility, 12.8[4]
  - extension programs, financial eligibility rules, 12.8[4]–12.8[4][c]
  - financial eligibility rules, 12.8–12.8[4][c]
    - assets, 12.8[2]
    - buy-ins, 12.8[4][b]
    - extension programs, 12.8[4]–12.8[4][c]
    - income, 12.8[1]
    - interaction with other programs, 12.8[4][c]
    - other programs, interaction with, 12.8[4][c]
    - Ticket to Work Act, 7.3[2], 12.6, 12.8[4][a]
    - transfers, 12.8[3]
  - five-step test, 12.5[1]
  - hearings, posteligibility, 12.10, 12.10[1]
  - homestead, 12.8[2]
  - income and financial eligibility rules, 12.8[1]
  - interaction with other programs, extension programs, 12.8[4][c]
  - listed impairments, 12.5[2]
  - Medicaid While Working, 12.8[4]
  - mental impairments, 12.5[6]
  - noncitizens, eligibility of, 12.5[10]
  - older workers, 12.5[8]
  - onset date, 12.5[5]
  - overpayments, recovery of, 12.7[3]
  - pain, 12.5[6]
  - payment of benefits, 12.7–12.7[3]
  - posteligibility, 12.9–12.10
    - appeals, 12.10, 12.10[1]
    - attorneys' fees, 12.10[5]
    - case law examples, 12.10[3]–12.10[3][c]
    - experts, vocational, 12.10[3]
    - hearings, 12.10, 12.10[1]
    - SSDI hearings and appeals, 12.10[1]
    - standard of review, 12.10[2]
    - vocational experts, 12.10[3]
  - posteligibility review, 12.6
  - procedural aspects, 12.5[7]
  - recovery of overpayments, 12.7[3]
  - review, posteligibility, 12.6
  - revocation of benefits, 12.6
  - SSDI, described, 12.2[1]
  - SSDI hearings and appeals, posteligibility, 12.10[1]
  - SSI, described, 12.2[2]
  - standard of review, posteligibility, 12.10[2]
  - structured settlements and, 9.3[2]
  - substantial gainful activity, 12.4
  - Ticket to Work Act, 7.3[2], 12.6, 12.8[4][a]
  - transferable skills, 12.5[4]
  - transfers and financial eligibility rules, 12.8[3]
  - vocational experts, posteligibility, 12.10[3]
  - work, ability to, 12.5[3]
  - Support agreements, tax deductions, 10.3[8]
  - Support trusts, 11.4[3]
  - Surrogate health care, guardianship, decision making, 8.5[2]
  - Suspensions, children and IDEA, 6.8
- T**
- TANF. *See* Temporary Assistance for Needy Families (TANF)

[References are to paragraphs (¶).]

- Tax credits, 10.6–10.6[4]
- Tax issues, 10.1–10.7
  - aides, employment of, 10.5
  - capitalized amounts, deductions, 10.3[1]
  - child care tax credit, 10.6[2]
  - counseling expense deductions, 10.3[5]
  - credits, 10.6–10.6[4]
  - deductions for medical expenses, 10.3–10.3[10]
  - dependent care tax credit, 10.6[2]
  - disability benefits as income items, 10.2[2]
  - disabled persons, tax credits for, 10.6[1]
  - durable powers of attorney and, 11.3[3]
  - earned income tax credit, 10.6[3]
  - education, deductions for, 10.3[7]
  - elderly, tax credits for, 10.6[1]
  - final return, 10.4
  - health and long-term care insurance premiums, deductions, 10.3[4]
  - health coverage tax credit, 10.6[4]
  - health insurance premiums, deductions, 10.3[4]
  - household workers, employment of, 10.5
  - impairment-related work expenses deductions, 10.3[6]
  - incapacity-related tax issues, 10.7
  - income items, 10.2–10.2[2]
  - insurance, tax credits, 10.6[4]
  - insurance premiums, deductions, 10.3[4]
  - long-term care, 10.3[2], 10.3[4], 10.5
  - medical expense deductions, 10.3–10.3[10]
  - mental health expense deductions, 10.3[5]
  - mileage deductions, 10.3[9]
  - miscellaneous benefits as income items, 10.2[1]
  - multiple support agreements, deductions, 10.3[8]
  - nondeductible items, 10.3[10]
  - nursing service, 10.3[3], 10.5
  - powers of attorney and, 11.3[3]
  - return, final, 10.4
  - Social Security as income item, 10.2[2]
  - special education, deductions for, 10.3[7]
  - support agreements, deductions, 10.3[8]
  - tax credits, 10.6–10.6[4]
  - training, deductions for, 10.3[7]
  - transportation issues related to medical care, deductions, 10.3[9]
  - travel expense deductions, 10.3[9]
  - work expenses, impairment-related, deductions for, 10.3[6]
- Temporary Assistance for Needy Families (TANF), 5.5
- Terminally ill persons, end-life issues involving, 3.5
- Termination
  - guardianship, 8.8
  - parental rights, 5.3–5.3[5]
- Terri's Law, 3.3[1]
- Testamentary guardianship, 11.7
- Testation, estate planning and, 11.2[1]
- Ticket to Work Act, 7.3[2], 12.6, 12.8[4][a]
- Tort litigation
  - abuse of vulnerable adults, nursing home abuse, 7.6–7.6[2]
  - settlements. *See* Tort settlements
- Tort settlements, 9.1–9.5[2]
  - case law
    - Medicaid subrogation, 9.3[1]
    - Medicare secondary-payor rules, 9.5[2]
  - Medicaid subrogation, 9.3–9.3[2]
  - Medicare secondary-payor rules, 9.5–9.5[2]
  - minors' claims, 9.2
  - offset, worker's compensation, 9.4
  - SSI treatment of structured settlements, 9.3[2]
  - subrogation, Medicaid, 9.3–9.3[2]
  - wards' claims, 9.2
  - worker's compensation offset, 9.4
- Totten trusts, 11.5
- Training
  - See also* Education
  - tax deductions for, 10.3[7]
- Transferable skills, SSI and SSDI, 12.5[4]
- Transfers of assets
  - by guardian, 8.4[2]
  - Medicaid before DRA '05, 14.5[2][a]–14.5[2][d]
  - multiple transfers, Medicaid, DRA '05 provisions, 15.5[3]
  - SSI and SSDI, financial eligibility rules, 12.8[3]
- Transfusions, life support and, 3.3[3]
- Transportation, tax deductions, issues related to medical care, 10.3[9]

[References are to paragraphs (¶).]

- Travel expenses, tax deductions, 10.3[9]  
 “Trigger trusts,” 11.4[4]  
 Truancy, grounds for dependency,  
   5.2[1][e]  
 Trusts, 11.4–11.4[5]  
   *See also* Special Needs Trust (SNT)  
   bankbook trusts, 11.5  
   discretionary trusts, 11.4[3]  
   financial planning, 11.4–11.4[5],  
     14.5[3]–14.5[3][b]  
   hybrid forms, 11.4[3]  
   Medicaid planning with trusts before  
     DRA '05, 11.4[2],  
     14.5[3]–14.5[3][b]  
   Miller trusts, 11.4[2]  
   payback trusts, 11.4[4]  
   § 2503 issues, trusts, 11.4[1]  
   supplemental needs trusts. *See*  
     Supplemental needs trusts  
   support trusts, 11.4[3]  
   Totten trusts, 11.5  
   “trigger trusts,” 11.4[4]
- U**  
 UCCJA. *See* Uniform Child Custody  
   Jurisdiction Act (UCCJA)  
 UDPA. *See* Uniform Durable Power of  
   Attorney Act (UDPA)  
 UGPPA. *See* Uniform Guardianship and  
   Protective Proceedings Act (UGPPA)  
 Uniform acts  
   *See also specific act names*  
   advance directives and, 3.4[1]  
   durable powers of attorney, 11.3[1]  
   end-life issues, 3.4[1]  
   estate planning  
     durable powers of attorney, 11.3[1]  
     Uniform Gifts to Minors Act/Uniform  
       Transfers to Minors Act,  
       11.8  
     guardianship, 8.2  
 Uniform Child Custody Jurisdiction Act  
   (UCCJA), 5.2[2]  
 Uniform Custodial Trust Act, 11.3  
 Uniform Durable Power of Attorney Act  
   (UDPA), 11.3[1]  
 Uniform Gifts to Minors Act, 11.8  
 Uniform Guardianship and Protective  
   Proceedings Act (UGPPA), 5.4[1],  
   5.4[2], 11.7  
 Uniform Health Care Decisions Act, 3.4,  
   3.4[1], 3.4[2]
- Uniform Probate Code, 8.2  
   *See also* Uniform Guardianship and  
     Protective Proceedings Act  
     (UGPPA)  
 Uniform Prudent Investor Act of 1994,  
   8.4[3]  
 Uniform Rights of the Terminally Ill Act,  
   3.4[1]  
 Uniform Transfers to Minors Act, 11.8  
 Unused sick days, as income, 10.2[1]
- V**  
 Visiting nurses  
   *See also* Home care services; Nursing  
     services  
   tax issues, 10.5  
 Vocational experts, SSI and SSDI,  
   posteligibility, 12.10[3]  
 Voluntary mental health placements,  
   termination of parental rights, 5.3[5]  
 Vulnerable adults  
   abuse, 7.1–7.8  
     adult protective services, 7.2  
     available legal responses, 7.3[2]  
     case law examples, nursing home tort  
       litigation, 7.6[2]  
     central registries, mandatory  
       reporting, 7.4[1]  
     elements of damage, nursing home  
       tort litigation, 7.6[1]  
     facility abuse, 7.3–7.3[3]  
     financial exploitation, 7.7  
     mandatory reporting, 7.4–7.4[2]  
     National Center for Elder Abuse  
       agenda, 7.8  
     neglect, signs of, 7.1[2]  
     nursing home tort litigation,  
       7.6–7.6[2]  
     ombudsman programs, 7.5  
     registries, mandatory reporting, 7.4[1]  
     reporting, mandatory, 7.4–7.4[2]  
     residents’ rights, 7.3[1]  
     risk factors, facility abuse, 7.3[3]  
     signs of abuse, 7.1[1], 7.1[2]  
     signs of neglect, 7.1[2]  
     tort litigation, nursing home,  
       7.6–7.6[2]  
   adult protective services, abuse, 7.2  
   alternatives to guardianship, 8.9–8.9[2]  
   choice of guardian, litigation, 8.3[4]  
   commencement of guardianship process,  
     8.1[2]

[References are to paragraphs (¶).]

- conduct of the proceeding, guardianship, 8.3[3]
- definition of incapacity, guardianship, 8.3[1]
- developmentally disabled, guardianship of, 8.7
- divorce, guardianship and, 8.11
- duties of guardian, 8.4[1]
- elements of damage, nursing home tort litigation on abuse, 7.6[1]
- evaluation for litigation, guardianship, 8.3[2]
- facility abuse, 7.3–7.3[3]
- fiduciary investment standards, guardianship, 8.4[3]
- financial exploitation, 7.7
- guardianship, 8.1–8.13
  - alternatives to, 8.9–8.9[2]
  - assessment for litigation, 8.3[2]
  - choice of guardian, litigation, 8.3[4]
  - commencement of guardianship process, 8.1[2]
  - conduct of the proceeding, 8.3[3]
  - definition of incapacity, 8.3[1]
  - of developmentally disabled, 8.7 and divorce, 8.11
  - duties of guardian, 8.4[1]
  - evaluation for litigation, 8.3[2]
  - fiduciary investment standards, 8.4[3]
  - functions of guardian, generally, 8.4–8.4[3]
  - health care powers of guardian, 8.5–8.5[2]
  - hearing, 8.3[3]
  - incapacity, defined, 8.3[1]
  - interaction of guardianship with alternative measures, 8.9[2]
  - interstate issues, 8.12
  - investment standards, fiduciary, 8.4[3]
  - life support, guardian’s health care powers over, 8.5[1]
  - litigation, 8.3–8.3[4]
  - Medicaid planning by guardians, 8.10
  - payment, representative, 8.9[1]
  - of the person, 8.1[1]
  - planning by guardian, 8.6
  - of property, 8.1[2]
  - property transfers by guardian, 8.4[2]
  - public guardianship, 8.13
  - removal of guardian, 8.8
  - reporting by guardian, 8.6
  - representative payment, 8.9[1]
  - standards, fiduciary investment, 8.4[3]
  - surrogate health care decision making, 8.5[2]
  - termination of guardianship, 8.8
  - transfer of property by guardian, 8.4[2]
  - Uniform Acts, 8.2
- health care powers of guardian, 8.5–8.5[2]
- hearing, guardianship, 8.3[3]
- incapacity, defined, guardianship, 8.3[1]
- interstate issues, guardianship, 8.12
- investment standards, fiduciary, 8.4[3]
- legislation, mandatory reporting of abuse, 7.4[2]
- life support, guardian’s health care powers over, 8.5[1]
- litigation, guardianship, 8.3–8.3[4]
- mandatory reporting of abuse, 7.4–7.4[2]
- Medicaid planning by guardians, 8.10
- National Center for Elder Abuse agenda, 7.8
- neglect, signs of, 7.1[2]
- nursing home tort litigation on abuse, 7.6–7.6[2]
- ombudsman programs, abuse, 7.5
- payment, representative, guardianship, 8.9[1]
- property, guardianship, 8.1[2], 8.4[2]
- protection of, 7.1–8.13
- public guardianship, 8.13
- removal of guardian, 8.8
- reporting
  - of abuse, mandatory, 7.4–7.4[2]
  - by guardian, 8.6
- representative payment, guardianship, 8.9[1]
- residents’ rights, abuse, 7.3[1]
- rights of residents, abuse, 7.3[1]
- risk factors, facility abuse, 7.3[3]
- signs of abuse, 7.1[1], 7.1[2]
- signs of neglect, 7.1[2]
- standards, fiduciary investment, 8.4[3]
- surrogate health care decision making, 8.5[2]
- termination of guardianship, 8.8
- tort litigation on abuse, nursing home, 7.6–7.6[2]



[References are to paragraphs (¶).]

- Vulnerable adults (*continued*)
  - transfer of property by guardian, 8.4[2]
  - Uniform Acts, guardianship, 8.2
- Vulnerable children
  - protection of, 4.1–6.11
- W**
- Waiver programs, Medicaid, 14.4[4], 15.8
- Waivers, hardship waivers, extended look-back period, Medicaid, DRA '05 provisions, 15.2[2]
  - Katie Beckett waivers, 12.5[9], 14.2
- Ward
  - See* Guardianship
- Wills, 11.2–11.2[2]
  - See also* Advance directives; Living wills
- Witnesses
  - children as, 5.2[4]
  - SSI and SSDI, posteligibility, vocational experts, 12.10[3]
- Work ability
  - impairment-related work expenses, 12.4
  - SSI and SSDI, 12.5[3]
- Work-based eligibility
  - Medicare, 13.2[1]
- Worker's compensation
  - offset by tort settlements, 9.4
- Work expenses, tax deductions for
  - impairment-related expenses, 10.3[6]
- Work Incentives Improvement Act of 1999, 7.3[2]