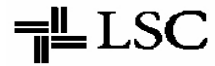




Law Services News

(also available online at www.nslawservices.org)



JUNE/JULY 2009

INSIDE THIS ISSUE:

Settlement Reached Ending Lengthy Delays	2
House Saved From Foreclosure	3
Appeals Council Reversal	3
Updates on Benefit Rules & Thresholds	6
Easier Access to Child Support Info	8
More Children Eligible for Child Health Plus	8
Greater Protection for Tenants of Foreclosed Properties	8
More Rely on Wireless	9
Medicaid Buy-In for Working People with Disabilities	9
Utility Shutoffs on the Rise	11
Welfare News	12

SAVE THE DATE!

Meet us at the Bourne Mansion for fine wine and good food!

Fall Wine Tasting Reception

September 16, 2009



Mark your calendars now and tell your friends! See inside (page 10) for more details!

Battling Insurance Denials May Require "External Appeal"

Recently, one of Law Services' specialized units was assisting a client who was denied coverage by her private insurance for a critical medical treatment, which was unaffordable for her without the coverage. Collaborating with our PLAN Project, which serves cancer patients and often deals with insurance coverage disputes, the two units worked together to appeal the denial.

For many treatments and diagnostic exams, an insured must first obtain preauthorization which is often initiated by the physician's office. Sometimes, the insurer will not approve for coverage a diagnostic

exam or the medication that the physician has prescribed because they determine that it is not medically necessary for that patient. There is no statutory definition of "medical necessity" in New York as there is in other states. Therefore, to dispute a "medical necessity" denial, one must rely on the definition as described in the benefits plan contract. To successfully appeal the denial, the insured must show that the treatment is medically necessary in a particular case for a particular patient.

(Continued on page 2)

"Equal Justice Under Law"

SPECIAL POINTS OF INTEREST:

- *Thanks to Donors*
- *We Hear From Our Clients*
- *Services You Should Know About*
- *Legislative Update*
- *2009 Fall Wine Tasting Sponsorship Form*
- *Pro Bono Project Bankruptcy Attorney's Recognition Luncheon*
- *Law Services in the Community*
- *Message from the Executive Director*



Thanks to Suffolk County Presiding Officer **Bill Lindsay** for supporting the *Law Services News* with a Community Support Initiative Grant.



Settlement Reached Ending Lengthy Delays in Processing of Food Stamp and Medicaid Applications

Application delays at the Department of Social Services prompted recent litigation in an attempt to correct issues that have long plagued the application process, causing hardship to many low income Long Islanders. In 2008, Maryann C. v. DeMarzo was filed challenging the failure of the Suffolk County Department of Social Services SCDSS to process applications for Food Stamps and Medicaid in a timely manner. Empire Justice Center and the National Center for Law and Economic Justice announced a settlement with SCDSS that will ensure that needy families and individuals, including those who have recently lost their jobs and those whose wages are insufficient to meet their needs, will have their applications for Food Stamps and Medicaid processed within the time frames required by state and federal law. The settlement also provides expedited processing to those families in immediate need of food or medical care. This agreement will end the County's long standing practice of processing applications for weeks longer than permitted by law.



The basic terms of the settlement are as follows:

- **Timely Processing.** SCDSS will process applications for Food Stamps and Medicaid and decide whether applicants are eligible within the number of days that the law requires (usually between 30-45 days). If SCDSS decides an applicant is not eligible, it will give the applicant information about how to request a fair hearing.
- **Special Processing.** SCDSS will take steps to make sure persons receive Expedited Food Stamps if eligible while waiting for a decision on their eligibility for regular Food Stamps. SCDSS will expedite the processing of Medicaid applications for people who show they have emergency medical needs and will provide prescription vouchers to those who are qualified pursuant to the current

(Continued on page 8)

External Appeals

(Continued from page 1)

The insurer can also deny authorization of a medication by determining it is “investigational or experimental.” This can occur when a drug has FDA approval but not necessarily for a certain use. To dispute such a denial, it must be shown there is medical evidence supporting such a use.

Our client had lung cancer as well as other health conditions. The medication that the medical team prescribed our client was Avastin, approved as a “first line” therapy for non-small cell lung cancer but not “second line” therapy for this condition. The insurance company therefore denied authorization. Over several months time, the physician’s office appealed this decision through numerous calls and requests and through an internal review, but the insurance company’s medical director repeatedly determined the use was experimental or investigational.

Most health insurance plans are governed by New York Insurance Law (with the exception of self insured plans). The law provides for an appeal of the denial through an independent external review board. These “external appeals” must be made within 45 days of the denial notice and are pursued through the New York State Department of Insurance. A successful appeal of a denial requires the assistance from the treating medical team for records and other important documents. It also requires research regarding the medical evidence supporting the use of the drug for a particular condition.

One member of the Law Services attorney “team” was able to secure the assistance of the client’s medical providers while the other completed the medical research. The appeal was expedited and within three days a notice of a favorable decision was issued authorizing coverage of the drug for our client. Unfortunately, despite the expedited approval, too much time had elapsed and tragically our client died within 2 days of the approval.

Despite the sad result caused by the delay, the external appeals process has proved successful in many other cases and should be considered an important tool in challenging insurance denials of health care.



Please share a copy of this newsletter with your colleagues – Better yet, tell them

Disabled Client's House Saved From Foreclosure

Our client, Ms. B, is a disabled adult who was living in a loving, committed relationship with a long-term partner. They were living in the client's home and, sadly, after many years, her partner became financially exploitive. Ms. B moved out of her family home to get away from her partner with the understanding that her partner would continue to pay the mortgage. Unfortunately, her former partner failed to make the mortgage payments and also took out credit cards in the client's name. Shortly thereafter, the client's credit rating was destroyed and the mortgagor started sending overdue payment notices to her at the address of the family home (where she no longer resided). Since she wasn't living there anymore and her partner failed to forward her mail, the mortgagor obtained a judgment of foreclosure upon default because our client had no notice of the foreclosure action and failed to appear on the court date.

Our Mental Health Law Project staff initiated a landlord tenant court proceeding and was successful in having the client's former partner removed from the client's family home. The attorney also began negotiating with the attorney for the mortgagor to resolve the debt owed by our client. An agreement was ultimately reached with the mortgagor to renegotiate the existing mortgage without charging her many of the usual closing costs. Thanks to currently low interest rates, the hard work by the attorney for the mortgagor, and a cooperative bank, the housing was saved. Congratulations to **Barbara Liese** and **Carolyn McQuade** on this important victory enabling our disabled client to save her house.



Social Security Appeals Council Reversal

Law Services' Disability Advocacy Project (DAP) continues a long tradition of providing valuable and expert representation in SSI and Social Security appeals for disabled Long Islanders. In a recent case, DAP Unit attorney **Andrea Sasala** enjoyed an unusual victory at the Appeals Council. Whereas these appeals are often remanded (referred back to the original Judge to be reconsidered), she won her case in an outright reversal.

Her client had applied for Social Security benefits in 2001 and had his first hearing in March, 2004. At that time he was represented by a private attorney. Because criminal charges were pending against him which were to result in a month or two of incarceration, the private attorney advised him to settle for a *closed period* (a time-limited eligibility period) rather than argue for a full win which was supported by the evidence in the record. With a full win, the client's benefits would have only been suspended during the brief imprisonment and then automatically reinstated upon his release. The client stated that the attorney advised him to accept a *closed period* of eligibility and that he would merely have to go back into the Social Security office to reinstate benefits. Upon release from jail, he learned otherwise: his benefits had stopped and his only redress was to reapply and wait another two to three years!

Luckily, he learned this in adequate time to contact the DAP Unit and receive representation before the Appeals Council. Initially the Appeals Council remanded the matter to the same Administrative Law Judge. The Judge issued a decision upholding the closed period and cessation of disability as of 2003. The Law Services attorney appealed once again to the Appeals Council outlining the strong evidence in the record that the client's disabilities had persisted from 2001 to the present and should have been time-limited. In April, 2009, the Appeals Council agreed, reversing the ALJ's decision outright. The attorney's perseverance paid off.





We Hear from Our Clients...

Law Services staff work diligently on various legal issues for clients who are in desperate straits and/or stressful circumstances. Many of these clients are often too overwhelmed to follow up with their attorneys after the resolution of their cases. But every now and then an appreciative client makes it a point to contact their Law Services attorney or legal advocate to give them an update and thank them for their role in an appeal, fighting an eviction, or gaining access to health care. The following are excerpts from recent client letters:

To the Pro Bono Project—Inez Lopez, Paralegal

Thank you for helping me in my family guardianship case. Your services are priceless to those in need, and much appreciated. Thank God for agencies such as yours. The professionalism and courtesy shown to me was above and beyond my expectations.

Dear Rose Caputo (Staff Attorney in our Senior Citizens Unit)

I cannot thank you enough for your help with everything. You might well have saved my mother's life. Too many people at the hospital didn't seem to care about the impact of their actions and inactions on my parents' well being, and they would have gotten away with it if my dad and I hadn't had you to advise us and fight for us.

My dad and I would have been lost without you help. I will always be grateful to you on behalf of both my parents. People like you make this world a much better place for all of us to live.

Dear Marcia Vogel (Paralegal in our PADD Unit)

I thank God for you and wonder where we would be without you. I remember when we were in DSS and they said we would have to leave at 7 pm walk the street all day and come back at 6 or 7. I remember you called DSS and within 15 minutes they gave us a check to go to any motel.

Again, thanks for everything. You will never be forgotten.

We Can't Thank You Enough



Thank you to **New York State Assemblyman Marc S. Alessi** for the generous grant to support our **PLAN Project**, which will help provide free legal services to cancer patients. Recently, the attorneys in the PLAN Project have experienced a growing demand as the community reaches out for much-needed legal services in such difficult times, and this funding will help to meet the demand for services.

Thanks to **Suffolk County Presiding Officer Bill Lindsay** who secured CSI funding to support the printing and mailing of the *Law Services News*. This publication receives overwhelmingly positive feedback from the Long Island community as it provides practical legal information and updates on issues of relevance and import to advocates and clients alike.

Among our consistently generous donors is the **We Care Fund** of the Nassau County Bar Association. This charity, supported overwhelmingly by attorneys, is an important source of funding for Law Services and contributes funds to our agency every year enabling us to provide fee legal services to an increasing desperate population of Long Island. This year, again, the Fund supported Law Services by contributing \$20,000. Thanks for all you support!

The **New York State Bar Foundation** presented a generous check of \$7500 which will support our Consumer Debt Project. As Long Islanders face increasing financial pressures in these troubled times, the Project has received an overwhelming number of calls. This financial support will insure that the Project continues its important work.



Emily Franchina, Esq. representing the **NY State Bar Foundation**, and also recently installed as President of the Nassau County Bar Association, presents a generous donation to Jeffrey Seigel, Executive Director of Nassau Suffolk Law Services at the June, 2009 annual meeting of the Law Services' Advisory Council

SERVICES YOU SHOULD KNOW ABOUT

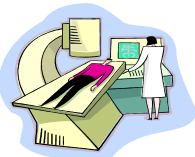
Free Dental Services

Family Service League is offering free pediatric dental services for children up to 18 residing in the Bay Shore, Islip and Brentwood communities. A mobile dental van, sponsored by the North Shore-Long Island Jewish Health Center, offers a wide range of free pediatric dental services to children who do not have insurance. Services include cleanings, fillings, oral home care instruction and dental education. This service is offered at Family Service League's Iovino South Shore Family Center, 1444 Fifth Avenue in Bay Shore. Parents and guardians can call 866 733-8316 for an appointment.



Free Radiology Services

Starting Sunday, April 19, 2009 Zwanger Pesiri Radiology began offering free radiological services to uninsured Long Island residents.



One Sunday each month, they are open and staffed by volunteers, including radiologists, technologists and receptionists offering a full array of exams, including MRI, MRA, Breast MRI,

CTA, Nuclear Medicine, PET/CT, Digital X-Ray, Digital Mammography, Barium Enema, Upper GI Series, Bone Density, Ultrasound and Biopsy. To be eligible, patients must be uninsured, have a doctor referral and live in Nassau or Suffolk. To schedule an appointment, please call the Volunteer Give Back Sunday line at 631 930-9460. For more information, visit: www.ZPgivebacksundays.org.

Wireless Services Provide Lifeline Discount Telephone Service in NY

With growing reliance on wireless phone service (see article p. 9) Verizon Wireless and SafeLink Wireless are offering **Lifeline** discount telephone service to low income customers in New York. The companies join Sprint, Frontier, Windstream and TracFone in providing this important service. Income-eligible applicants will be able to activate the service for free, and get substantial savings on their wireless service. The Public Utility Law Project (PULP) has updated its comparison chart of Lifeline offerings in New York. For more information visit the Public Utility Law Project Website's comparison chart:

<http://pulpnetwork.blogspot.com/2009/05/verizon-wireless-is-latest-provider-to.html>

Social Work Staff Play an Important Role

Nassau/Suffolk Law Services has historically and consistently maintained a social work unit. The social work component is a unique feature of the program and is based on the recognition that some of our clients may need special support and services to manage effectively with the legal system. Currently, our social work staff consists of two social workers in Nassau County and two social workers in Suffolk County. In addition, each year we have social work interns from the graduate and undergraduate programs of the local schools of Social Work.

Social workers at Law Services provide multi-faceted services to our clients. Crisis intervention, advice, guidance, support, referrals, and advocacy offered by our social workers are vital accompaniments to the legal services provided by the attorneys.

At this time we have two social workers in our David Project, one in each county, working with clients and families infected and affected by HIV. Their focus is to assist these families with maintaining family stabilization and plan for the future by providing a wide variety of supportive services.

We also have two social workers (again, one in each county) working primarily with clients at risk of homelessness. These are clients facing legal problems addressed by the civil and welfare units of our agency. Their role is to help keep the more vulnerable engaged in the legal process as well as to offer support to encourage planning for self-sufficiency and family stabilization. These social workers work with clients for at least one year after their initial legal problem is resolved.

Our social workers provide a broad range of support services necessary to help stabilize clients and their families. These services also aid clients in developing the ability to navigate the various systems they must in order to help themselves.

Liz Wolf, Director of Social Work

Wednesday Evening Hours At Suffolk DSS

In order to provide easier access for working families and those who have difficulty getting to a DSS office during the workday, each Suffolk DSS Center is open one Wednesday evening per month from 12:00 pm to 8:00 pm on a rotating basis. The following schedule will apply:

South West Center 2 South 2nd Street Deer Park, NY 11729	First Wednesday of the Month
Coram Center 80 Middle Country Road Coram, NY 11727	Second Wednesday of the Month
Smithtown Center 200 Wireless Blvd Hauppauge, NY 11788	Third Wednesday of the Month
Riverhead Center 893 E. Main Street Riverhead, NY 11901	Fourth Wednesday of the Month

UPDATES ON BENEFIT RULES & THRESHOLDS



Annual 2009 Social Security Cost of Living Increases

The 2009 SSI rates and related SSD work incentive thresholds are as follows:

SSI living alone	\$ 761
SSI living with others	\$ 697
SSI living in the household of others	\$ 472
SGA Substantial Gainful Activity	\$ 980
(blind beneficiaries)	\$1,640
Trial Work Period amount	\$ 700

Public Assistance Grant Levels Increased!

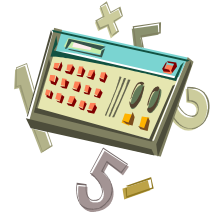
For the first time in 18 years, New York State will be increasing public assistance grant levels! Effective July 1, 2009, the basic needs portion of the public assistance grant goes up by approximately 12%. As the public assistance grant increases, the standard of need threshold also increases, resulting in more families qualifying for public assistance benefits. This comes at a time when unemployed and underemployed families are feeling the economic pinch more than ever.

Furthermore, it is expected that it won't take another 18 years to see an upward adjustment. This is the first of three scheduled increases. The next increase is scheduled for July 1, 2010 and the final increase is scheduled for July 1, 2011.

For a complete public assistance/Medicaid eligibility chart, go to our website: www.nslawservices.org and click on Self Help and Info, Public Assistance.

Good News for Working Public Assistance Families

Effective June 1, 2009, the earned income disregard for public assistance recipients receiving temporary assistance (TANF) increased from 50% to 52%. Safety Net Assistance (SNA) households containing a pregnant woman or dependent child are also eligible to receive the earned income disregard.*

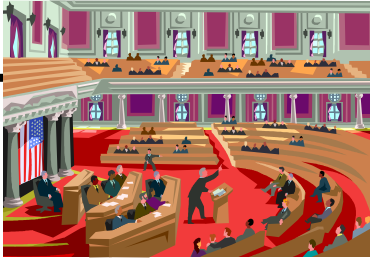


Also effective June 1, 2009, the Poverty Level Income Test limits will change. The total of gross earned and unearned income of applicants and recipients of temporary assistance cannot exceed the 2009 Federal Poverty Guidelines.

2009 Federal Poverty Guidelines

Size of Family Unit	Annual Poverty Guidelines
1	\$10,830
2	\$14,570
3	\$18,310
4	\$22,050
5	\$25,790
6	\$29,530
7	\$33,270
8	\$37,010
Each Additional	+ 3,740

*An applicant's eligibility for temporary assistance must be determined **without applying the 52% earned income disregard unless the applicant has received temporary assistance for any one of the four months preceding the date of the current application.**



Legislative Update

By Sheila Johnson, Director of Government Affairs

As the legislative year ends, without knowing how the bizarre developments in the New York State government will resolve themselves, Nassau Suffolk Law Services has so far survived this economic onslaught relatively unscathed.

- **Nassau County Housing Preservation Project**

Any cuts to this grant would have a devastating effect on low income families who face eviction in Nassau. The current situation of homeowners and renters is even more dire now than in previous years. We learned that funding for the Project was in the proposed 2009 Executive Budget but unfortunately, with the state budget in and the deteriorating economic conditions, many programs were cut on the county level. As this goes to print, the current confusion in the New York Senate thwarts the revenue enhancements that Nassau County was relying on to continue the funding of many county programs. As a result, the Project faces serious uncertainties for funding beyond June 2009. We will continue to advocate for funds for the Project.

- **Senior Project Law Project**

In Nassau County we are also facing a 10% cut to the Senior Citizen Project. Again, the uncertainty on the state level and no resolution to Nassau County revenue enhancements put the Project in jeopardy.

- **Domestic Violence Project**

After learning earlier this year that our Domestic Violence Project's funding would be cut, we worked very hard, through visits, letters and phone calls, to advocate with our state legislators to restore the funding (COPS Community Optional Preventive Services) which is passed on to Suffolk for the County's administration. Thanks to the overwhelming support from our local state delegation, the state COPS piece was restored. However, we were then notified by Suffolk County that it would not be using the COPS funding to support the Project as it had in prior years, and despite all our efforts, we were forced to notify the domestic violence community of the necessity of shutting down intake as of May 1, 2009. In another turn of events the County reconsidered its decision and has decided to rededicate the tenuous state funding to the Domestic Violence Project. We are currently waiting to hear whether a new, more secure funding source is forthcoming to support the Project in the longterm.

Though the battle is not yet over, we are appreciative to all those who have made it possible so far to continue these vital services to victims of domestic violence. Assemblyman Englebright's office, and the counsel for Assembly Judiciary Chair Helene Weinstein were extremely helpful in giving us information on the status of support for COPS funding, and helping us track the progress of the vote. Assemblyman Sweeney also wrote a letter of support as Chair of the Suffolk County delegation. Finally, and just as importantly, the domestic violence community spoke out on our behalf and is also responsible for the survival of this valuable service. Thanks to all!

- **Mental Health Law Project**

Our Mental Health Law Project, supported wholly by state Office of Mental Health funding, administered by Suffolk County government, was swept up in a recent Suffolk omnibus bill which cut funding for many contract services at 10% across the board. Believing this cut was in error (as the funds did not originate with the county) we sought the assistance of Legislator Rick Montano, who successfully introduced a resolution to have the erroneous cut restored. Thanks to Legislator Montano, and the support of Legislators Kennedy, Gregory and others for helping to unravel the glitch.

- **Civil Legal Services Coalition**

We are a member of a statewide advocacy effort for civil legal services. We strategize with coalition members to secure funding for civil legal services. We did receive a modest increase provided by the New York state Assembly. At this time the New York Senate is deliberating the issue of additional funding for civil legal services. We will keep you posted.

(Continued from page 2)

procedure (See March 2009 issue).

- **Reporting and Training.** SCDSS will provide monthly reports to the plaintiffs' attorneys indicating processing time on applications. SCDSS will also review sample cases every three months to insure timely processing and will report to plaintiffs' attorneys. The local agency will provide training for employees on its procedure.
- **Enforcement.** If plaintiffs' attorneys do not believe SCDSS has complied with the Settlement, they may ask the Court to take further action.

You can see the entire settlement at Empire Justice Center's website at www.empirejustice.org and at the National Center for Law and Economic Justice at www.nclej.org.

Advocates Gain Easier Access Child Support Info for Clients

A recent policy change may make it easier for third party callers (family members, attorneys or other advocates) to get child support information from OTDA on behalf of their clients. This is especially important for disabled clients who require assistance from an advocate regarding child support.

Now when calling the Child Support Helpline at 888-208-4485, the Helpline staff must communicate with third parties acting on behalf of custodial or non-custodial parents as long as the parent is also on the phone and can verify permission to disclose information to the advocate. If due to a disability, the parent is unable to verify, the call must be referred to an ADA specialist. If the call must be referred to a local office, the new policy requires local offices to return the call by close of business the next business day.

These important changes resulted from advocacy by the National Center for Law and Economic Justice, the NY Legal Assistance Group and the Empire Justice Center, who are interested in hearing from advocates about their experience with the new system. Contact: lacheen@nclej.org, santos@empirejustice.org, or jmagida@nylag.org

More Children Eligible for Child Health Plus

The Governor proposed and the legislature passed legislation that will increase income eligibility level for subsidized Child Health Plus (C.H.P., which is the New York State expanded program to cover children) coverage up to 400% of the federal poverty level. There are ways to obtain more information about current eligibility and what you can expect in September. The State Health Department maintains a CHP HelpLine – 1-800-698-4543. Long Island's facilitated enrollers are: Nassau Suffolk Hospital Council 516 435-3000, 631 656-9783 and the Health and Welfare Council 516 483-1110 x 428, 475-8946



New Federal Law Offers Greater Protection to Tenants of Foreclosed Properties.

Effective May 2009, a new federal law, Pub.L 111-32, called the Protecting Tenants at Foreclosure Act, requires a new 90-day notice prior to eviction for all tenants in foreclosed properties, including Section 8 tenants. The law requires that the immediate successor in interest to a foreclosed property provide tenants of the property with a 90 day notice prior to eviction. Those tenants with leases will be allowed to occupy the property until the end of the lease term. An exception applies if the purchaser intends to occupy the property. In that case a 90- day notice prior to the eviction is sufficient.

For more information on the new law go to: <http://www.nlihc.org/template/page.cfm?id=227>



More Rely only on Wireless Telephone

(excerpt reprinted with permission, *PULP Network*)

On May 6 the Centers for Disease Control and Prevention Released preliminary results from the July-December 2008 National Health Interview Survey (NHIS) which indicate that the number of American homes with only wireless telephones continues to grow. More than one of every five American homes (20.2 percent) had only wireless telephones – not landline – during the second half of 2008, an increase of 2.7 percentage points since the first half of 2008. This is the largest six-month increase observed since NHIS began collecting data on wireless-only households in 2003.

In addition, one of every seven American homes (14.5 percent) received all or almost all calls on wireless telephones, despite having a landline telephone in the home. While state specific statistics were not included in the report, the percentage of wireless-only households in the Northeast trails most of the rest of the country, but still grew from 9.8 percent in the previous survey to 11.4 percent. *In addition, nationwide, the percentage of households deemed “poor” (below the federal poverty level) or “near poor” (incomes of 100 percent to less than 200 percent of the poverty threshold) which are wireless-only jumped from 26 percent to 30.9 percent and 22.6 percent to 23.8 percent, respectively. (italics added)*

Keep in mind that important consumer protections for telephone customers, such as New York’s Telephone Fair Practices Act, do not apply to wireless users, because PSC jurisdiction over wireless service was conditionally suspended in 1997.

Voluntary wireless consumer protection guidelines have been created by the industry, but they have no teeth and are not enforceable. Utility regulators in other states have begun to exercise jurisdiction over terms and conditions of wireless telephone service as it has evolved from being a luxury extra phone to being the only phone relied upon by more and more customers.

Lou Manuta

For more information on the significance of growing dependence on wireless phones by consumers, visit PULP’s webpage at:

<http://pulpnetwork.blogspot.com/search?q=20%25+of+americans>



Medicaid Buy-In for Working People with Disabilities—Documentation

The Medicaid Buy-In for Working People with Disabilities (MBI-WPD) eliminates the spenddown cost for certified disabled people (e.g. SSD recipients) who work and receive wages. To be eligible for MBI-WPD Program, work activity is a requirement. An applicant/recipient must be engaged in a work activity for which they receive financial compensation.

Pursuant to a new General Information System Message GIS (09 MA/015), local districts can **no longer require** the applicant/recipient to provide documentation of payment of applicable taxes in order to demonstrate work activity.

Acceptable proof of work may include current paystubs, pay check, income tax return, W-2 form, or records of bank deposits. According to the GIS, if none of these documents are available, a written statement from the employer stating the hours worked and wages paid may be accepted as proof of work. If the applicant/recipient presents a personal check as a “paycheck,” a statement from the employer is needed to document that the check is for work activity. This is a significant change and will make it easier for many disabled people to establish eligibility for this valuable Medicaid coverage.

GRAVES V DOAR— Food Stamps in CRs

In this recent class action lawsuit, the Food Stamps budgeting methodology in community residences was challenged. SSI recipients in group homes who received less than 50% of the monthly amount for Food Stamps issued to public assistance recipients in the same homes claimed disparate treatment and a violation of equal protection. As a result of the favorable decision, an estimated 20,000 mentally ill group home residents statewide may be eligible for retroactive food stamps benefits to compensate for their lost benefits, and a higher ongoing food stamps benefit level. John Castellano of Mercy Residence represented the plaintiffs.



NASSAU SUFFOLK LAW SERVICES

INVITES YOU TO SPONSOR OUR

2009 FALL WINE TASTING RECEPTION **TICKETS ARE \$50**



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We hope you will support us this year and sponsor this fun and exciting event at the elegant Bourne Mansion, an evening of wine tasting, hors d'oeuvres/buffet, and entertainment. Consider a corporate package and treat your clients to a social evening as well as a wine seminar taught by a popular sommelier! All proceeds benefit Nassau Suffolk Law Services making it possible to continue providing free civil legal services to the Long Island community. September 16, 2009 6:00-9:00 P.M. at The Bourne Mansion, Oakdale, New York.



****CHAMPAGNE SPONSOR** **\$5,000**

(includes 12 tickets, 6 wine seminar admissions, and prominently featured acknowledgment on invitation and program)

****PINOT NOIR SPONSOR** **\$3,000**

(includes 8 tickets, 4 wine seminar admissions and prominently featured acknowledgment on invitation and program)

***CABERNET SAUVIGNON SPONSOR** **\$1,500**

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***BORDEAUX SPONSOR** **\$ 500**

(includes 3 tickets and acknowledgement on program)

***BEAUJOLAIS SPONSOR** **\$ 250**

(includes 2 tickets and acknowledgement on program)

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****Sponsorship pledge due by September 1, 2009**

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mdosso@wnylc.com 631 232-2400 x 3369**

Special thanks to David Taub

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Address: _____

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Please mail pledge to: Nassau Suffolk Law Services One Helen Keller Way, 5thFloor
Hempstead, NY 11550 Attn: Maureen Marmero



It's Summer and Utility Shutoffs Are on the Rise

With the heat of summer months, we typically notice an increase in utility-related calls. Although we usually associate utility cases with an interruption in heating service, shutoffs obviously affect electricity and cooling service as well. After the HEAP season closes in mid-May and Project Warmth moneys are exhausted, many people who receive utility termination notices in the summer turn again to DSS for emergency assistance.

While DSS repayment requirements were suspended for the 2008-9 heating season, they have once again been reinstated, which precludes DSS assistance for those with outstanding DSS repayment agreements. (Note: SSI-eligible persons are not required to sign repayment agreements and receive a guarantee for 6 months of utility payments.) If it is not possible to bring the DSS repayment current (the agreement does not have to be paid off, only in favorable payment status), options are severely limited.

One important option is to renegotiate a deferred payment agreement (DPA) with LIPA that is reasonable and affordable. This may take some doing, especially if the client has already reneged on a prior DPA. Upon further investigation, it is often the case that a client simply signed a prior DPA in desperation as a condition of keeping the lights on. The payment plans can be unaffordable and doomed from the start.

If LIPA is reluctant to enter into a new DPA due to the customer's failure to repay on the prior agreement, it may be worth it to review the terms of the prior DPA and, if necessary, appeal the denial of a successive DPA with

new, reasonable terms. It is important that a client request a financial need statement from LIPA to complete. If the client's financial situation warrants, they may be eligible for a DPA with as little as \$0 downpayment and \$10 a month towards arrears (however, they must also stay CURRENT with ongoing LIPA bills).

If a household member has a disability, a medical letter from the treating doctor certifying the nature of the illness and that "lack of utility service would aggravate the condition," can restore or keep utility service.

Of course, there are customers who have money management issues and for whom this is not an option. Their only solution may be to move to housing that includes utilities.

WE NEED YOUR SUPPORT!

You now have the ability to support Nassau Suffolk Law Services by making a donation online! Go to our website www.nslawservices.org/donation.shtml and show your support for the critical legal services we provide. You can also use the online donation form to email your friends and family directly and invite them to join us as a supporter! Thank you!



And don't forget to support our
WINE TASTING ON
SEPTEMBER 16, 2009 AT THE
BOURNE MANSION!

Welfare Unit News

It's All About the Notice!

A recipient of Medicaid failed to submit the necessary documentation as part of a recertification process, within the time period allowed. She was notified that DSS intended to terminate her eligibility as a result. In response, the woman sent a letter explaining that she was hospitalized and suffering from several ailments which had made it difficult to comply with the documentation request in a timely matter. DSS initially accepted her reasons for the delay and began a reconsideration process, however did not complete the process and decided that her excuse was not credible. A notice was not issued to this effect and instead DSS proceeded with the Medicaid termination.



The client came to our office seeking assistance with the fair hearing. Douglas Ruff, Senior Staff Attorney for the Welfare Unit asserted, on behalf of his client, that DSS could not implement the Medicaid termination because it had failed to issue a notice to the client and therefore had denied her due process. The Administrative Law Judge agreed and DSS was ordered to restore the lost benefits and assist the client to obtain the required documentation.

Doug received Empire Justice Center's Fair Hearing of the Month acknowledgment for his success in reminding the agency that issuing notices regarding administrative action is an essential step in insuring due process.

Medicaid Coverage is Retro Although Facilitated Enroller Failed to Forward Application

A mother filed an application for health care coverage on behalf of her child with a *Facilitated Enroller (FE)*. In the weeks before filing the application, the child had incurred medical expenses and did not have any health coverage. The applicant later found out that the application she had filed with the FE was only screened for CHP-B eligibility and had not been forwarded to the Department of Social Services (DSS) so that eligibility for Medicaid could be determined.

The child was accepted for Child Health Plus B only, but the outstanding medical bills would not be covered. (CHP-B is only effective prospectively from the date of eligibility; Medicaid has a 90-day retroactive coverage period from the date of the submitted application). The client sought the assistance of our Welfare Unit and appealed at a Fair Hearing in an attempt to have the original application considered for Medicaid eligibility and retroactive coverage since the child would have been eligible.

At the Fair Hearing, DSS contended that it had never received an application from the FE and therefore was not obligated to consider the applicant child's eligibility for Medicaid. The Law Services advocate contended that an application submitted to an FE should be screened by DSS for Medicaid eligibility as well. After reconsideration, the Administrative Law Judge (ALJ) agreed that DSS' failure to make an eligibility determination on an application for Medicaid that it never received, was correct when made. But the ALJ determined that in a case such as this where the appellant is seeking a determination of Medicaid eligibility for a period prior to the date that CHP-B eligibility is established, the original application date will be preserved for purposes of Medicaid eligibility review. Despite some omission or miscommunication by the FE in failing to forward the application, DSS was now required to evaluate the child's eligibility for Medicaid retroactive coverage from the date of the applications.



*(Facilitated enrollers are designated agencies that are authorized to accept, screen and process applications for Medicaid and Child Health Plus A, B. See p. 8 for contact info. In cases of Medicaid, the applications are forwarded to DSS for final processing.)



Pro Bono Project's Bankruptcy Attorneys' Recognition Luncheon



On April 29, 2009, the staff of the Suffolk office gathered in the Islandia office library for a luncheon and reception to honor eight Bankruptcy Clinic volunteers and one staff member.

The Clinic is held bimonthly and is dedicated to advising and screening income eligible clients who are candidates for Chapter 7 bankruptcies. Given the current economy, it is no surprise that the Clinic receives a "standing room only" crowd every other month. The stalwarts of the bimonthly legal Clinic were recognized for their loyal service to clients in need of bankruptcies and were honored for their commitment with Certificates of Appreciation:

Richard Stern, who has for years been co-chair of the Bankruptcy Clinic and rarely misses a Clinic day, has handled 510 pro bono cases since June 1990.

Stewart Gelberg concluded 371 cases since April 2003.

Robin Abramowitz concluded 258 cases since November 1993.

Leif Rubinstein concluded 329 cases since September 1994.

Karen Napolitano concluded 125 cases since October 1990.

Edward Zinker has concluded 159 cases since August 1992.

Susan O'Grady as an in-house volunteer since July 2007, has served more than 485 hours assisting in the administration of the Pro Bono Project.

Rhoda Selvin came to the Pro Bono Project in November 1995, and works mainly as the "writer in residence," dedicating thousands of hours to the Project since that time.

Inez Lopez, long-time paralegal for the Pro Bono Project, coordinates the Clinic, schedules appointments and oversees the smooth operation of the Clinic.

Law Services' Volunteer Lawyers Project in Nassau County operates a similar Bankruptcy Clinic out of the Nassau Bar Association. The Nassau Clinic is also very popular and its attorneys just as dedicated. These attorneys will be similarly honored in the Fall.

For more information regarding the Bankruptcy Clinics please call the Pro Bono Project in Suffolk (631 232-2400) or the Volunteer Lawyers Project in Nassau (516 292-8100).



Left to right: Leif Rubinstein, Stewart Gelberg, Edward Zinker, Jeffrey Seigel, E.D. Law Services, Karen Napolitano, Robin Abramowitz, Susan O'Grady, Rhoda Selvin, Miriam Pismeny, Sr. Staff Pro Bono Project. Not in photo: Richard Stern, Inez Lopez



LAW SERVICES IN OUR COMMUNITY



Law Services continues its strong ties within the community in an effort to collaborate with various agencies and insure that low income Long Islanders receive the services they so desperately need. If you happen to see any of our Law Services' staff at a community event, please stop by to introduce yourself and say hello. We'd love to meet you, and as always we thank you for your support!

On March 23, 2009 **Candace Appleton**, Senior Staff Attorney of the Disability Advocacy Project & Child Support Units, and **Rose Caputo**, Staff Attorney, Senior Citizens Unit attended Hofstra Law School's Career Fair. They spoke to many students about Nassau Suffolk Law Services and careers in legal services. Candace, who also serves as the coordinator of student placement at Law Services, recruited several law students who were interested in internships and/or careers in nonprofit legal services.

On March 24th and 25th, **Lisa Levy**, Staff Attorney in Nassau's Mental Health Law Project, participated as a judge in the Nassau County Bar Association's Moot Court Competition. The competition gives law students from various law schools the opportunity to compete in a realistic court setting and argue their client's case.



On April 10, 2009, **Lisa Levy** also gave a presentation on Trusts to Nassau County FECS caseworkers. She discussed the ways that a supplemental needs trust and/or a pooled trust can eliminate a Medicaid spend-down/overage for disabled individuals.

(For more information regarding trusts please contact the Legal Support Center for Advocates. 631 232-2400 x 3369, 3324)

In May and June, 2009 **Maria Dosso**, Esq., Director of Communications, trained mental health case managers on Medicaid and Public Assistance issues at Pilgrim Psychiatric Center.



In June, 2009 **Maria Dosso** and **Cathy Lucidi**, paralegal in the Legal Support Center for Advocates, hosted an information table at two Senior Fairs sponsored by Congressman Tim Bishop and held at senior citizen centers in Smithtown and Centereach. The events gave seniors an opportunity to browse information tables, ask questions, and learn about community services.

To commemorate the 200th birthday of Abraham Lincoln, our very own **Roberta Scoll**, Staff Attorney of our Volunteer Lawyers In-Court Landlord/Tenant performed at the Nassau County Bar Association's Annual Law Day celebration held on April 30, 2009. The professionally staged reading of works by and about the 16th US President in "A Penny for Your Thoughts," an original production conceived and directed by Bob Spiotto, Executive Producer for Hofstra Entertainment.



Roberta Scoll is pictured seated in the front row.

Congratulations to Law Services' **PLAN Project** on the recent award given to them by The Susan G. Komen for the Cure, Greater New York City Affiliate, in recognition of the legal assistance the Project provides to hundreds of individuals affected by cancer. Staff attorneys **Denise Snow** and **Kelly Murray** of the PLAN Project accepted the award at the ceremony held on May 13, 2009 at the Hilton in New York.



The purpose of the PLAN Project is to provide legal and support services to assist individuals and families affected by cancer to cope with legal, financial and medical issues, and to plan for the future of the family through the course of the illness and afterwards.

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 (631) 369-1112

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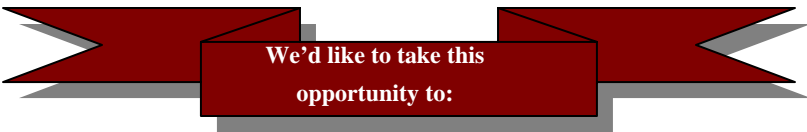
This year, **two** of our newsletters (March and November) will be sent **by e-mail only**, in order to conserve paper and save mailing costs. Please register your e-mail address with us by going to our website: www.nslawservices.org to ensure you receive your electronic delivery of these two Editions of the *Law Services News*. Thank You!



*“Equal Justice
 Under Law”*

We're on the Web
www.nslawservices.org

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 electronic delivery of this newsletter!*



- Welcome **Kelly Murray**, Staff Attorney recently hired to work with Law Service's PLAN Project
- Welcome **Jack Evans, Jr**, Staff Attorney recently hired to represent people with special disabilities in Nassau County
- Welcome **Linda Raphan**, Staff Attorney/Pro Bono Coordinator Suffolk County.
- Law Services said goodbye last month to **Robert Halpern**. Robert's committed service for over 10 years to clients and their families in need will always be remembered. We wish him luck in his private practice in NYC where he will be focusing on unemployment hearings and employment-related law.
- Congratulations to the new officers of **Law Services' Advisory Council**: Victoria Roberts, Chair, Barbara Mehrman Vice Chair, and Carole Burns, Secretary. Also we welcome our newest Advisory Council members: Beth Polner Abrahams, Heather Sullivan, Pamela Green, Marie Michel, and Lola Quesada. Our Advisory Council's mission is to "develop community awareness of and support for the vital programs offered by Nassau/Suffolk Law Services." The great work of this group is behind the successful fund-raising and public awareness campaigns promoted throughout the year. Thank you!

On June 25, 2009, the staff celebrated **Cathy Lucidi's 25th anniversary at Law Services!** Cathy is the paralegal in the Legal Support Center for Advocates, providing technical assistance by phone to community advocates, assisting with all LSCA publications, including this newsletter, and lending general support to the Unit's projects. At a luncheon in her honor the staff celebrated her tenure at Law Services where she starting as a secretary in the late 80's. Law Services presented her with a plaque in recognition of her contagious enthusiasm and steadfast commitment to the work of legal services for the poor.



Message from the Executive Director



We hope to see you many of you at our **September 16, 2009 Winetasting at the Bourne Mansion**. After our successful fundraiser last November, 2008, hosted at the Nassau Bar Association, we received many suggestions to repeat the event at a Suffolk location. The generous offer by our friends at **St. Johns University**

and Law School have enabled us to host the reception at this stunning location, which will make it another truly exclusive affair.



Bourne Mansion

The Bourne Mansion, located in Oakdale, N.Y. boasts a breathtaking view of the Great South Bay, and its elegant rooms will be a perfect venue for the delicious fare catered by **Lessings** and fine wines donated by **Palm Bay International and David Taub**. Returning again this year by popular demand is **James Dunne of VinoU**, who impressed all the participants last year at his wine tasting seminar.

We are truly fortunate to have so many generous and committed sponsors. We hope you will be able to support us this year in spite of the struggling economy. We have intentionally kept our ticket price affordable to enable as many of our friends and supporters to attend as possible. Sponsorships are therefore very important in making this affair a financial success, and we invite you to refer to the sponsorship form on p. 10 of our newsletter. Please help in any way you can. Thanks again for all you do to insure that Law Services is able to be true to its mission to serve low income and disabled Long Islanders.