

GLOSSARY

- AAAs** Area Agencies on Aging are organizations designated by the federal Administration on Aging (AoA) to receive federal grant funds to serve the needs of elders in the greatest social and economic need. Typically, they fund elder nutrition programs, transportation, day care, and legal services. In Massachusetts, most AAAs are ASAPs, that is, not-for-profit corporations set up to serve the elder population in their catchment areas. For a list of the ASAPs/AAAs, call 1-800-AGE-INFO.
- ADLs** Activities of daily living is a term used in the elder care network to describe normal everyday activities that frail or incapacitated persons may need assistance in performing. Those activities are: bathing, dressing, feeding, toileting, transferring (e.g., from bed to chair), ambulating. Medicaid uses this term in describing the criteria for placement in a nursing home, by mandating that a resident requires assistance with a specific number of ADLs as well as with skilled nursing care.
- affidavit of indigency** A sworn statement filed with the court that asserts under pains and penalties of perjury that the party is indigent and entitled to proceed without having to pay court costs or fees. Massachusetts law permits an indigent person to access the court pursuant to G.L. c. 261 §§ 27A - 27G . For a sample Affidavit of Indigency, see Appendix 6-B.
- annuity** The right to receive annual or other periodic payment as a result of having purchased an annuity contract with the payment of a lump sum. To understand why annuities may be important, see the answer to Question 24 in Chapter 7.
- anti-psychotic medication** Medications used to treat psychoses or the more severe symptoms of dementia. A Rogers guardianship is required when a patient lacks the capacity to give informed consent to the administration of such medications and has not designated in writing a healthcare proxy agent who can authorize such treatment. For a list of the current medications considered to be anti-psychotic, see Appendix 6-A1.
- appeal** The review of a decision at the request of a person aggrieved by that decision by an authority greater than the original decision maker. An applicant who is denied Medicaid coverage by a worker can appeal to the DMA Board of Hearings and appeal further to the

Superior Court for judicial review of the decision.

appellant	A person seeking the review of a decision by a greater authority.
assessment (medical)	An evaluation of the medical needs of a person who is about to be admitted or is already admitted to a nursing home, to determine whether Medicaid will contribute to the costs of that person's care. Currently, the medical criteria is that the person must require at least one skilled nursing care need and require assistance with at least two ADLs. This is the so-called "Score three" test.
assessment (spousal assets)	The determination by Medicaid, at the time of application for long-term care coverage, as to which of the marital assets are considered to be those of the community spouse and which are considered to be those of the institutionalized spouse. Any assets of the latter must be spent down for his/her care to the \$2000 allowable limit. See the answer to Question 9 in Chapter 7.
asset allowance	The amount of marital assets which Medicaid considers available either to the institutionalized spouse or to the community spouse.
assets (resources)	Real or personal property that will be part of the review of an applicant's eligibility for long-term care Medicaid. Assets can be countable or non-countable, depending on their nature and accessibility.
ASAP	A ging S ystems A ccess P oints are non-profit corporations that provide services, information, and referrals to elders residing in Massachusetts. There are 28 such organizations throughout the Commonwealth, and they are listed in the Resources section of this handbook. Many ASAPs are AAAs.
autonomy	Self-determination, free from the control of others.
bed hold	A term applied to Medicaid's payment to "hold" a nursing home bed when the resident is on "medical leave of absence," that is, hospitalized. Currently, Medicaid requires a nursing home to hold a Medicaid eligible resident's bed for up to 10 days while a nursing home resident is being treated for an acute illness in a hospital. There is no payment by Medicaid to the facility while the bed is being held.

Brophy guardianship	Refers to a guardianship proceeding relative to a patient who is in a persistent vegetative state and where the court's inquiry considers whether the patient, if able to speak, would authorize or decline life supports.
case manager	One who coordinates the providers of medical and social services to an elder.
CFR	Code of Federal Regulations. These are regulations promulgated by federal agencies, like the Social Security Administration or the Center for Medicare and Medicaid Services (CMS), to implement their programs, outline their responsibilities, and set out the rights of any beneficiaries under their programs. For example, 42 C.F.R. § 483.12 describes what a nursing home must do when transferring or discharging a resident.
community spouse	A married person whose spouse is a nursing home resident or in a hospital when he or she is no longer acutely ill but awaiting a nursing home placement.
community spouse resource allowance	That portion of marital assets that Medicaid says the community spouse is allowed to keep for his or her financial needs in the process of determining whether a nursing home spouse is eligible for Medicaid coverage. See Questions 9 and 10 in Chapter 7.
CMR	Code of Massachusetts Regulations. These are regulations promulgated by state agencies to implement their programs, outline their responsibilities, and set out the rights of any beneficiaries under their programs. For example, 106 C.M.R. 520.026(E)(3) describes how the guardian of a nursing home resident may be reimbursed for expenses and compensated for the guardianship services provided. Because of this regulations's significance to the subject matters of this Handbook, the regulation is found in its entirety in Appendix 6-O.
CMS	Center for Medicare and Medicaid Services. The federal agency responsible for overseeing the operations of the Medicare and Medicaid programs. The CMS monitors the state's Medicaid operations as well as the medical providers who treat or care for Medicare- and Medicaid-eligible persons.
CNA	Certified Nursing Assistant, a term used to describe a particular nursing home staffer. DPH regulations at 105 C.M.R. 156.020 define a CNA as

“any individual who provides nursing care under the supervision of a nurse in a long-term care facility.”

- confidentiality** The right of an individual to have information kept privileged or secret and not released to anyone without the express consent of the individual.
- conflict of interest** This term describes a situation where a person in a fiduciary capacity has conflicting loyalties between two persons or entities. For example, a person who will benefit financially if a ward’s resources are saved rather than spent on his or her care may be in a conflict of interest sufficient to be disqualified to serve as a guardian.
- conservator** Sometimes referred to as “guardian of the estate,” a conservator is a Probate Court appointed fiduciary responsible for managing the financial affairs, but not the personal or medical affairs, of the ward.
- consumer price index** Statistics published by the U.S. Department of Labor that tracks such topics as consumer price increase and poverty levels based on the costs of living in the various regions of the nation. Poverty level figures are significant for a number of reasons, including the impact on a community spouse’s right to keep marital assets or a spouse’s income to bring his or her actual income up to meet 150% of the federal poverty level for two persons, in order to avoid impoverishment.
- convalescent home** Also referred to as a rest home, a residential facility that is distinguishable from a skilled nursing facility (nursing home) in that it does not have available to residents around the clock medical care, but rather supportive services (meals, cleaning, linen service, cuing for medications). Sometimes referred to as a Level IV facilities, they are considerably less expensive than nursing homes and are largely disappearing in the wake of newer (and more expensive) assisted living programs
- Council on Aging** Nearly every city and town in Massachusetts has a Council on Aging, whose primary function is to assist elderly persons with information about and referral to services available to that population. For a complete list of COA’s, call 1-800-AGE-INFO.
- countable assets** *See* “assets.”

CSIA	Community spouse income allowance is a Medicaid term that refers to the amount of the institutionalized spouse's monthly income that the community spouse is entitled to retain in order for him or her to avoid impoverishment. A CSIA will permit the community spouse to have income up to his or her MMMNA, which is 150% of the Federal Poverty Level for two persons, with an potential adjustment for excessive shelter costs. See Question 10 in Chapter 7 for a complete discussion.
CSRA	Community spouse resource allowance is a Medicaid term referring to the amount of marital assets that the community spouse is allowed to retain for his or her use. See answers to Questions 9 and 10 in Chapter 7.
<i>de facto</i> guardian	A person who acts or is treated by medical providers as if he or she has authority to act as the guardian of another person when no such authority exists in the law.
<i>de iure</i> guardian	A person who has the authority to act as the guardian of another person, by virtue of having been appointed by the Probate Court to exercise such authority.
dementia	Deterioration of mental faculties like memory and judgment, usually accompanied by emotional disturbance. Not a diagnosis, dementia can have many causes, and is not necessarily irreversible. A guardian should oblige the medical providers to perform tests to determine whether a ward's dementia is reversible.
determination of eligibility	An income program such as Social Security or SSI or a medical health coverage program like Medicare or Medicaid have rules of eligibility. The eligibility may be based on a work record (Social Security-Medicare) or financial need (SSI-Medicaid) but in every case an application must be filed to establish entitlement to benefits and the agency administering the program reviews the application and makes a determination of eligibility based on the rules of each program.
disability trust	There are special Medicaid and SSI rules relative to trusts established for disabled individuals. Any issue involving the rights of a ward under a trust or the right to establish a trust for the ward should be reviewed with a trust or elder law attorney.
discharges (and transfers)	A term referring to a nursing home's action to remove a resident from a facility. A transfer implies a temporary move where the nursing home is

not terminating its obligation to care for the resident but rather is recommending a move based on the need for care not available at the facility, most often a transfer to a hospital for treatment of an acute illness. A discharge implies that the nursing home seeks to terminate its obligation to care for the resident and does not want to re-admit the resident once removed. The nursing home's authority to transfer or discharge residents involuntarily is strictly monitored. See Question 17 in Chapter 2.

**discharge
of guardianship**

The process by which a ward who has recovered his or her capacity to manage him- or herself and his or her affairs can have the Probate Court discharge or dissolve the guardianship. A guardian may also be discharged or removed for cause.

DMA

Division of Medical Assistance (also known as Medicaid and Mass Health), the agency responsible for administering the state/federal partnership program for medical care for eligible persons known as Medicaid.

**DMA
enrolment centers**

The enrollment centers are where the DMA conducts its business, accepting and processing applications, reviews, hearings, and so on. For a complete list of the enrollment centers, see the Resources section.

DPH

Department of Public Health is a state agency responsible for licensing of long-term care facilities and for monitoring the quality of the care provided residents. Among its more significant functions are the periodic surveys (inspections) of facilities and its complaint investigation unit. DPH-related information can be found in the Resources section.

DTA

Department of Transitional Assistance, which provides income assistance to families whose income falls below the income standards for the program.

due process

This term applies to the exercise of power or authority as the laws dictate, with appropriate respect for the individual rights of parties seeking entitlements from those exercising that authority. So, officials of the DMA, for example, must follow their own rules and regulations as they process an individual's application for assistance throughout the administrative process. Any decision can be appealed, with the burden on the appellant to demonstrate that the decision being appealed is contrary to the governing rules.

durable power of attorney	A written document by which an individual (the principal) gives or grants to an “attorney in fact” (or agent) the legal authority to manage that individual’s personal, financial, or other matters in the event that the individual is absent, incapacitated, or otherwise unable to manage those affairs him- or herself. See Chapter 2, <i>Guide for Elders</i> , on the UMass Boston Gerontology Institute’s web site at www.geront.umb.edu , click on Literature . Then, click on Resources and Information for Older Persons , and then on Guide for Elders .
DVS	The Department of Veterans Affairs, which is a state-funded program for veterans and their dependents and survivors. For more information on the DVS, see the Resources section.
EAEDC	Emergency Assistance to Elders, Disabled, and Children is a state program of income assistance for very low-income persons who qualify financially for such assistance. The EAEDC program pays a subsidy to rest homes for any SSI- or EAEDC-eligible resident, since Medicaid does not subsidize rest home care.
eligibility	Entitlement to receive income, goods, or services, pursuant to the rules of an entitlement programs, for example, the Medicaid program.
EOEA	Executive Office of Elder Affairs. See the Resources section for more information.
estate recovery	In Medicaid parlance, estate recovery refers to the right of the Medicaid program to recover from the estate of a deceased Medicaid enrollee all of the costs incurred by Medicaid on behalf of that enrollee during his or her lifetime while receiving Medicaid coverage. In 2003, the definition of estate was expanded to include any property interest held by the deceased Medicaid recipient at the time of his or her death. See answer to Question 16 in Chapter 7.
extraordinary treatment	This term applies to a guardianship proceeding where the ward is alleged to need out-of-the-ordinary medical treatment, for example, life supports (<i>Brophy</i> cases) or anti-psychotic medications (<i>Rogers</i> cases). The guardian must request authority from the court to permit extraordinary treatment.
facility	See “ Levels of care. ”
fair hearing	The DMA is required by federal and state law to permit any person

aggrieved of a decision by a worker to conduct a fair hearing to review the appeal filed by that aggrieved person. Appeals must be filed with the Board of Hearings within the time permitted (usually 30 days) and are conducted by independent hearing officers who take evidence and issue a written ruling that can be further appealed and reviewed by the Superior Court. See discussion at the end of Chapter 8.

**fiduciary
responsibility**

A fiduciary is one who holds a position of trust with respect to another person or his or her property, and the relationship is one of trust and requires scrupulous good faith, honesty, loyalty, and candor.

FPL

Federal Poverty Level.

**guardian
ad litem**

Guardian ad litem (GAL) is an individual appointed by the Probate Court to investigate the circumstances of a case, interview parties and witnesses, review relevant documents such as medical records, and make a report back to the court. GALs are used largely to expedite court proceedings; such appointments may result in parties' not having to wait a long period of time for the always busy courts to conduct full hearings when a GAL may be able to resolve the matter between the parties or at least narrow the issues in dispute.

**geriatric care
specialist**

A professional advocate who has extensive knowledge and experience in the elder care and healthcare systems and is available to assist in planning for the healthcare needs of elders.

guardian

An individual appointed by the Probate Court to manage the affairs of another, called a Ward.

guardianship

The state of one's having another person in control of one's affairs.

HCP law

The healthcare proxy law establishes the guidelines by which every adult person may sign a written document granting authority to a person of their choice to make healthcare decisions when the grantor is incapable of giving informed consent to any proposed medical treatment. The law, found at M.G.L. c. 201D, is discussed in the *Guide for Elders*, available on the UMass Gerontology website at www.geront.umb.edu. Then, click on **Literature** and then on **Resources and Information for Older Persons**, then on **Guide for Elders**.

healthcare proxy agent	A person appointed in a written document signed by the principal and witnessed by two persons, who will exercise authority to make health care and medical decisions for the principal when the treating physician and the agent agree that the principal no longer has the capacity to make such decisions.
healthcare proxy document	The document by which the person signing grants authority to a person of their choice to make health care decisions when the grantor is incapable of giving informed consent to any proposed medical treatment.
HMO	Health Maintenance Organizations, which manage the healthcare of its enrollees and have been touted as being more efficient vehicles for providing healthcare.
home care services	Medical, health, or social services furnished in one's home by nurses, home health aides, housekeepers, personal care attendants, etc.
hospice care	Hospice care describes the kind of medical care and treatment to be furnished to terminally ill patients. Generally, the care is palliative, designed to make the patient as comfortable as possible, rather than curative.
inaccessible asset	A Medicaid term referring to an asset that would ordinarily be counted as a resource for an applicant or recipient in determining eligibility, but is not counted because the resource is unavailable and cannot be used for the person's healthcare needs.
incapacitated	Lacking the ability or capacity to do or perform certain activities.
income first rule	A Medicaid term describing one manner in which Medicaid can treat the income and assets of a married couple when one spouse is in a nursing home. Unlike the assets first rule, the income first rule greatly disadvantages low-income community spouses by reducing the availability of marital asset to avoid the impoverishment of community spouses. See answers to Questions 10 in Chapter 7.
incompetent	A term still applied in guardianship proceedings to describe a ward's inability to manage him- or herself or his or her affairs. A legal rather than medical term, it is largely criticized for its vagueness, with

many legal and medical professionals preferring to use the term “incapacitated.”

informed consent Informed consent is the legal requirement that a patient must authorize any medical treatment being proposed and is based on the patient’s understanding of the medical condition being treated and of the risks and benefits of the proposed treatment.

institutionalized spouse The member of a married couple admitted to or about to be admitted to a skilled nursing care facility.

institutionalized spouse resource allowance The amount of marital assets considered by Medicaid to be available for the use of the institutionalized spouse and which must be spent down to the permissible level of \$2000 before eligibility for long-term care Medicaid can be established.

intestate The legal term used to describe a person who dies without leaving a valid last will and testament. In such cases, state law determines who shares in the estate. See Appendix 6-A1 (Law of Intestate Succession).

insurance: cash surrender value The value that can be obtained from a whole life insurance policy if it were to be returned to the insurer for its current or cash value, the insured still being alive.

insurance: face value The value obtained from a life insurance policy by the beneficiary from the insurer upon the death of the insured

irrevocable funeral trust A pre-need funeral contract and trust that is established with a funeral director and that is permitted by Medicaid to the extent that funds in such a trust are not countable assets. Medicaid even permits the funding of such a trust from assets that have been held countable as a permissible use of the funds.

irrevocable trust	A trust established by a trustor (sometimes called a settlor), the terms of which may not be changed or revoked.
judicial review	Review by the Superior Court of any action taken by state agencies, like the DMA, pursuant to M.G.L. c. 30A. A plaintiff appellant does not get a full trial hearing on such an appeal but rather must show to the court that the DMA hearing officer committed an error of law or otherwise abused his or her authority
levels of care	This term refers to the nature of long-term care facilities licensed by the DPH. Although the terms are outdated, their use persists. Level I refers to medical care of the highest (long-term care) level where the resident requires daily skilled nursing care; it is often used to describe care paid for by Medicare. Levels II and III refer to daily skilled nursing care not paid for by Medicare (II) and care involving some nursing care but not delivered daily and also care in the form of assistance with ADLs (III). Level IV refers to rest homes that are medical facilities in that nurses are not available full time, and Medicaid does not pay for such care. See answer to Question 12 in Chapter 4 for a discussion of rest home reimbursement.
liens	A security interest in real estate, filed in the County Registry of Deeds and by which the lien holder assures payment of a debt. A mortgage is the typical lien. The DMA may place a notice lien on real estate of a recipient to ensure estate recovery or earlier payment if the real estate is sold while the recipient is still alive. See answer to Question 23 in Chapter 7 for a discussion of DMA liens.
limited guardianship	A guardianship established by the Probate Court that is not “plenary,” or full, but rather has limits established on the guardian’s authority. A court has extensive authority to set guidelines or limits for the guardian. For example, a court may order that the ward may not be admitted to a mental health facility or a nursing home without the prior approval of the court.
living trust	A trust which is revocable. Assets in such a trust avoid probate, but not the creditors of a deceased person who has established such a trust. Medicaid will consider assets in a revocable trust as available (countable) for an applicant who created the trust even if the trust asset in the trust is an ordinarily non-countable asset like the applicant’s principal residence. In such a case, the trust will have to be revoked before eligibility can be established.

living will	A document by which an individual indicates his or her wishes with respect to extraordinary medical care, such as life support systems like the use of an artificial respirator or feeding tubes, for the guidance of medical providers in the event that the individual is unable to express such wishes. Living wills are not recognized in Massachusetts, and even a living will lawfully executed in a state outside Massachusetts will not necessarily avoid the need for a Brophy guardianship. Healthcare proxy documents executed pursuant to M.G.L. c. 201D permit the writer to give instructions to his or her agent regarding how to deal with such issues. See healthcare proxy, above.
long-term care	Care furnished to a person with chronic illness or medical conditions, provided in a variety of environments, from the individual's home through the spectrum of elder housing, foster care, congregate living, assisted living, rest home, nursing home, and chronic care hospitals.
LTC insurance	Long-term care insurance covers the insured for some of the costs of long-term care. Historically, it has been criticized for being either too costly for good coverage or lacking good coverage to the extent of its affordability. A significant advantage to buying long-term care insurance is that a person who has long-term care insurance (of particular coverage amounts) on the day of admission to a nursing home avoids any Medicaid estate recovery, regardless of how long his or her stay is covered by a Medicaid subsidy.
MassHealth	<i>See "Medicaid."</i>
MCCA	The Medicare Catastrophic Coverage Act of 1988, a federal law that made significant changes to how Medicare and Medicaid pay for long-term care expenses.
MEDEX	The most common form of MediGap insurance, that is, health insurance that covers gaps in Medicare insurance coverage.
Medicaid	A program that pays for healthcare and medical costs for low-income individuals who qualify under all rules of the program. Medicaid subsidizes the costs of care of some 75% of all nursing home residents in Massachusetts.
Medicaid-eligible	A Medicaid-eligible person is one who has been approved for coverage of the costs of all covered services furnished by medical providers who participate in the Medicaid system.

Medicare	Federal health and medical insurance that accompanies eligibility for regular (not early) Social Security retirement or Social Security disability benefits after the insured has been receiving such benefits for two years.
Medication (anti-psychotic)	<i>See</i> “ anti-psychotic medications. ”
MediGap insurance	Health insurance that covers gaps in Medicare insurance coverage.
MMMNA	Minimum Monthly Maintenance Needs Allowance is a Medicaid term referring to the right of a community spouse to retain sufficient income to avoid impoverishment by virtue of the nursing home placement of the institutionalized spouse. See answers to Questions 10 and 11 in Chapter 7.
MQT	Medicaid Qualifying Trust refers to a Medicaid rule that says that a recipient who established a trust, or whose spouse established a trust, and is entitled, as a beneficiary, to get any income or assets from that trust, is considered to be receiving the maximum payable to him or her as beneficiary, without regard to whether the trustee is actually making any such distributions.
Nominee trust	A trust “in name only” in that the person establishing the trust maintains significant control over any property in the trust.
OASDI	Old Age Survivors and Disability Insurance, the Social Security income benefits insurance program, funded by payroll deductions, which provides monthly benefits to all who qualify in any of the categories of the title.
OBRA of 1987	The Nursing Home Reform Law, which gave rise to significant protections for nursing home residents, provisions of which are found in various sections of federal statutes.
ombudsman	The State Long Term Care Ombudsman Program is operated by the Executive Office of Elder Affairs (E.O.E.A.) and supervises area or local nursing home ombudsman programs that recruit, train, and supervise volunteers who visit nursing homes to ensure quality of life in such facilities by taking and investigating complaints and trying to resolve such problems promptly within the facility.
patient paid amount (PPA)	A Medicaid term that refers to the amount of a nursing home resident’s

monthly income that he or she must contribute towards the cost of his or her care. See answer to Question 11 in Chapter 7.

personal needs account

An account either maintained at the nursing home or in a bank or financial institution, which represents the accumulated savings of a nursing home resident derived from his personal needs allowance.

personal needs allowance

The amount of a nursing home resident's monthly income that a nursing home resident is permitted to retain for personal needs, haircuts, slippers, magazines, and the like. The amount is currently \$65.00 and for veterans and veterans' surviving spouses, \$90.00.

petition to partition

A Probate Court proceeding wherein a joint owner of real estate petitions the court to appoint commissioners with authority to sell such real estate and distribute the sale proceeds appropriately.

plenary authority

Full and "unlimited" authority, usually applied to the authority of a guardian and distinguished from that of a limited guardianship.

presumption of capacity

The law in Massachusetts is that every person is presumed competent until a court of law rules him or her to be incompetent. It is a court and not medical authorities that adjudge lack of competence, since it is a legal, not a medical, term.

primary residence

The principal home of a nursing home resident, significant because it is not a countable assets when determining eligibility for Medicaid.

private pay

This term describes how a nursing home resident who is not Medicaid- or Medicare-eligible pays for the nursing home care. The average private pay rate is calculated annually (\$244 per day as of November 2003) and is used to compute the period of ineligibility where a Medicaid applicant has made a forbidden transfer of assets.

Probate Court

The court seated in every county of Massachusetts, which has jurisdiction to hear and decide, among other cases, guardianship matters.

pro bono

Pro bono publico is a term applied to the historical practice and tradition

of attorneys' providing services without charge to clients who are indigent.

pro se

This term refers to a person who is representing him- or herself in court proceedings.

**public guardianship
commission**

In many states, there is a public guardianship commission responsible for establishing guardianships for indigent persons who are in need of such services and protection. There is no public guardianship commission law in Massachusetts.

**reasonable medical
accommodation**

Persons with disabilities are entitled to reasonable medical accommodation of those disabilities from anyone providing services, such as landlords, restaurateurs, and nursing homes.

**redetermination
of eligibility**

Once a person is found eligible for Medicaid long-term care coverage, there may be an annual redetermination of eligibility, whereby forms and documentation are submitted in which the recipient must show that he or she continues to meet the financial and medical criteria for eligibility.

**removal of
guardian**

A guardian may be removed by the Probate Court, either acting on its own or on the motion of an interested party, when there is a showing that the guardian is guilty of misconduct, neglect of duty, bad character, maladministration of a trust, physical or mental incapacity or other good cause. See M.G.L. c. 210 § 13A, and Appendix 6-R.

resident

One who lives in a nursing home is referred to as a resident, not a patient, because the setting is primarily considered to be the persons's home, and not a medical facility like a hospital.

respondent

The person who is obliged to respond to the petition filed in the Probate Court (in guardianships, sometimes referred to as the "proposed ward").

restraint

A device, whether physical or chemical, which is designed to restrict movement. Long-term care facilities have been required to be "restraint free" since the federal Nursing Home Reform Act of 1987.

rest home

See "Levels of Care."

retroactive eligibility	Public benefits programs like Medicaid may provide coverage or benefits for a period of time even prior to an application, referred to as “retroactive” coverage. A Medicaid applicant may request that eligibility be established for the three-month period prior to the date on which the application is filed. See first page of Chapter 8.
reverse mortgage	A devise by which an elder who is land poor, that is, has substantial equity in his or her home but is having difficulty meeting living expenses, can make an agreement with a lending institution to draw down monthly amounts (loans) that are not repayable until a date certain, upon the sale of the real estate, or after the death of the elder. See answer to Question 6 in Chapter 7.
revocable trust	A written trust under the terms of which the settlor retained or granted another individual authority to amend, revise, or revoke the terms of the trust. See “ Living trust ” above.
Rogers guardianship	A Rogers guardianship refers to Probate Court proceedings where the ward is alleged to be mentally ill and in need of anti-psychotic medications in the context of a proposed treatment plan.
Rogers monitor	The Rogers guardian is the monitor of the treatment plan and must report to the court periodically when changes occur in the ward’s/patient’s condition.
Rudow guardianship	A Rudow guardianship refers to the appointment of a guardian for a nursing home resident, when the guardian’s expenses and costs are to be paid for out of the income of the resident.
SC-1 form	A document issued by a nursing home to the Medicaid program, which documents the resident’s admission and medical screening. See a sample at Appendix 8-I.
score 3	See “ Medical assessment. ”
settlor	A person who creates a trust.

skilled nursing facility	See “Levels of Care.”
spend down	A Medicaid term describing how income or assets greater than what is permissible must be used or depleted in order for an individual to become eligible for coverage.
springing power of attorney	A durable power of attorney document that provides that the agent’s authority is established, not when the document is signed but rather when the principal becomes incapacitated. For a good discussion of the topic of durable power of attorney documents, see the <i>Guide for Elders</i> , available on the UMass Gerontology Institute’s website at www.geront.umb.edu . Then, click on Literature and then on Resources and Information for Older Persons , then on Guide for Elders .
spousal waiver	This term describes the Medicaid procedure that permits an at-home frail spouse age 60 years or older to become Medicaid-eligible without regard to the income or assets of the other spouse in the same household. The applicant must be appropriate to a nursing home placement and be receiving services from the local ASAP. See the answer to Question 15 in Chapter 7.
snapshot date	The date of the most recent nursing home admission of one spouse, at which point in time the Medicaid program determines the marital assets to assess which assets are attributed to which spouse.
SSI	A needs-based income program administered by the Social Security Administration to provide an income “floor” to disabled, blind, or elderly persons who qualify financially and otherwise meet the rules of eligibility.
substituted judgment	A determination by the court in a guardianship in which the court substitutes itself for the incapacitated person and finds, with as much precision as possible, based on testimony and other evidence, the desires and needs of that person, were they able to communicate their wishes. The court considers factors like the ward’s expressed preferences regarding treatment (like healthcare proxy documents or other prior written or oral expression of such preferences), the ward’s religious values, the impact of the ward’s decision on the ward’s family, the possibility of adverse side effects, and the prognosis with or without the proposed treatment. See <u>Superintendent of Belchertown State School v. Saikewicz</u> , 373 Mass 728,

370 N.E.2d 417 (1977)

sureties	Persons who express confidence in the integrity of a guardian by guaranteeing to the court that the guardian will be an honest steward.
survey results	Nursing homes are monitored by Department of Public Health surveyors who make a comprehensive report of their findings; survey results are public record.
temporary guardian	A guardian who has been appointed by the Probate Court for a ninety day period, which can be extended, usually to deal with some emergency or critical need of the ward.
testate	The legal term used to describe a person who dies leaving a valid last will and testament. In such cases, the will controls how assets are to be distributed to beneficiaries after creditors are satisfied.
transfer	<i>See “discharges (and transfers).”</i>
transfer of assets	A gift or transfer of title of assets without receiving fair value in return. Some transfers of assets may disqualify an individual from eligibility for Medicaid or SSI benefits.
transfer of assets penalty	A Medicaid term referring to a situation where an applicant has made transfers, that is, given away assets, which triggers a period of ineligibility. The period of ineligibility is computed by dividing the value of the assets transferred by the average cost of one month private pay (Currently the average daily cost is \$244, or \$7,320) to arrive at the number of months, beginning with the month in which the forbidden transfer occurred, during which the applicant is disqualified from eligibility. Such transfers can be “cured” if the assets are returned to the applicant.
Uniform Health Decisions Act	A uniform law that includes an option for the lawful exercise of authority by a “surrogate” of a medical patient who lacks the capacity to give informed consent to proposed medical treatment and has no healthcare proxy agent or medical guardian. The UHDA has not been enacted in Massachusetts.
UPC	The Uniform Probate Code has been enacted in most states, and Section V

has been brought significant, welcome, and long-overdue reform to guardianship laws and procedures. The Legislature in Massachusetts has been considering a version of the UPC for the past several years but has not acted on the bill.

USC United State Codes are the statutes of the United States as enacted by the Congress and signed into law by the President.

VA Federal Department of Veterans Affairs.

ward An individual over whom the Probate Court has appointed a guardian after a showing that the individual lacks the ability to manage him- or herself or his or her affairs because of a mental illness or inability to communicate because of physical incapacity.