The Medicaid Home Care Application Process:

A road map to helping your clients navigate and
survive the application process

Practising Law Institute

29th Elder law Institute

March 22, 2017

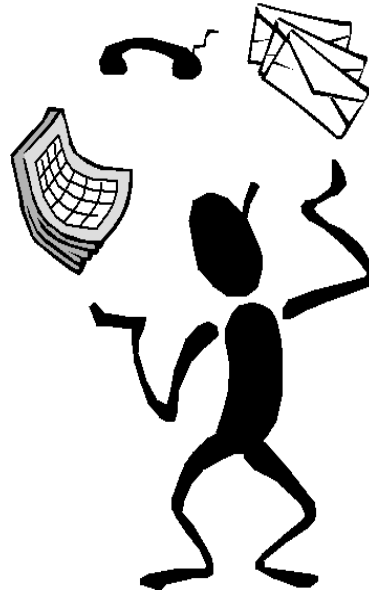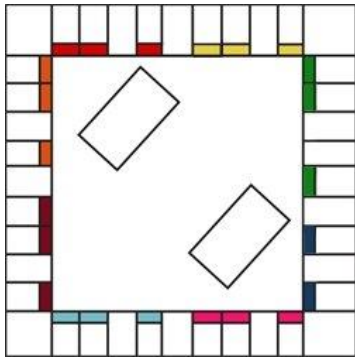Presenter: Douglas J. Chu, Esq.

475 Park Avenue South

26th Floor

New York, NY 10016

Tel. # 212-643-1112

www.elderlawny.net

Medicaid Home Care:
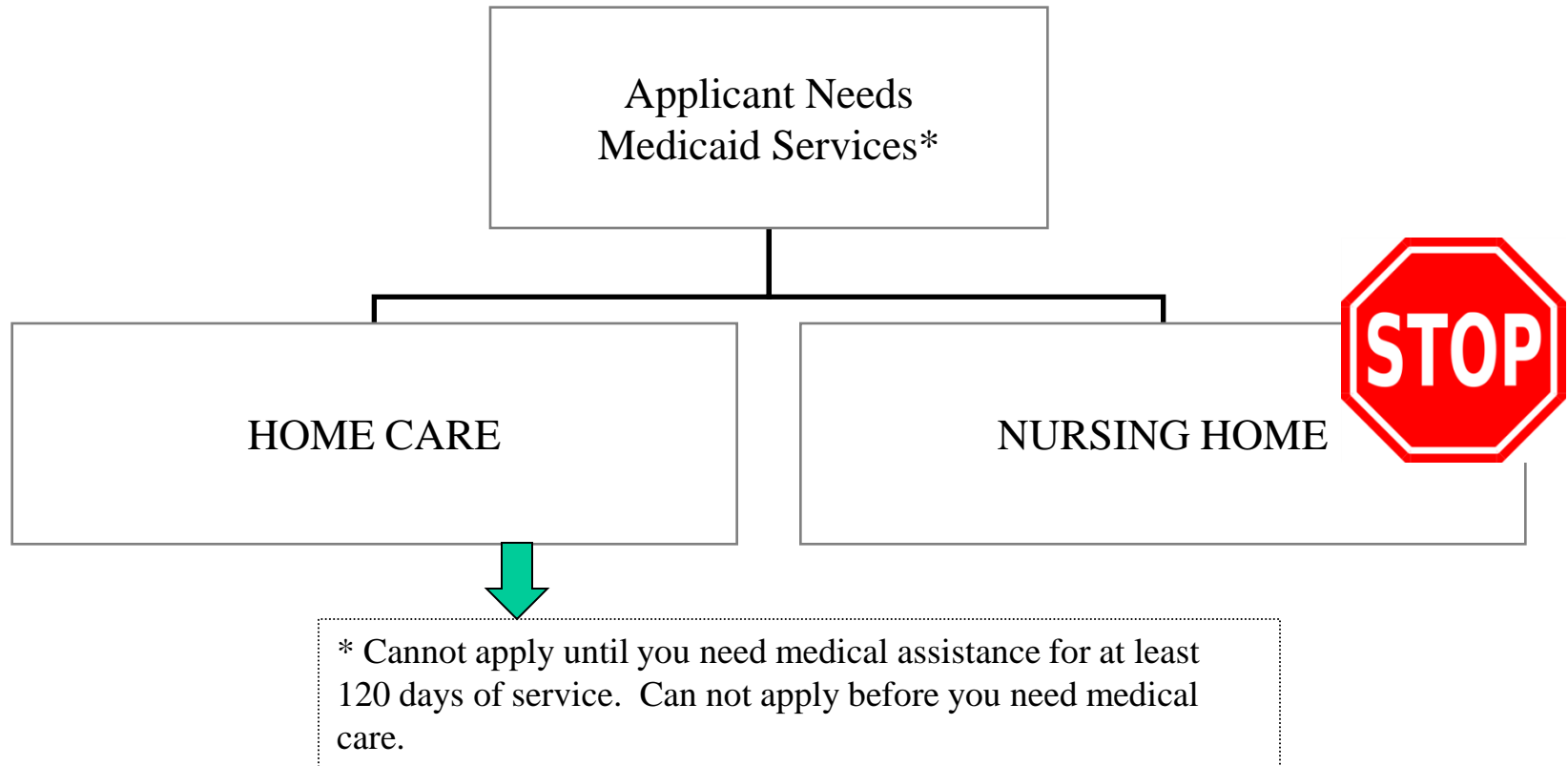## A road map to help your clients get from application to approval for home care services

You can only help if you know how it works.

Medicaid Services

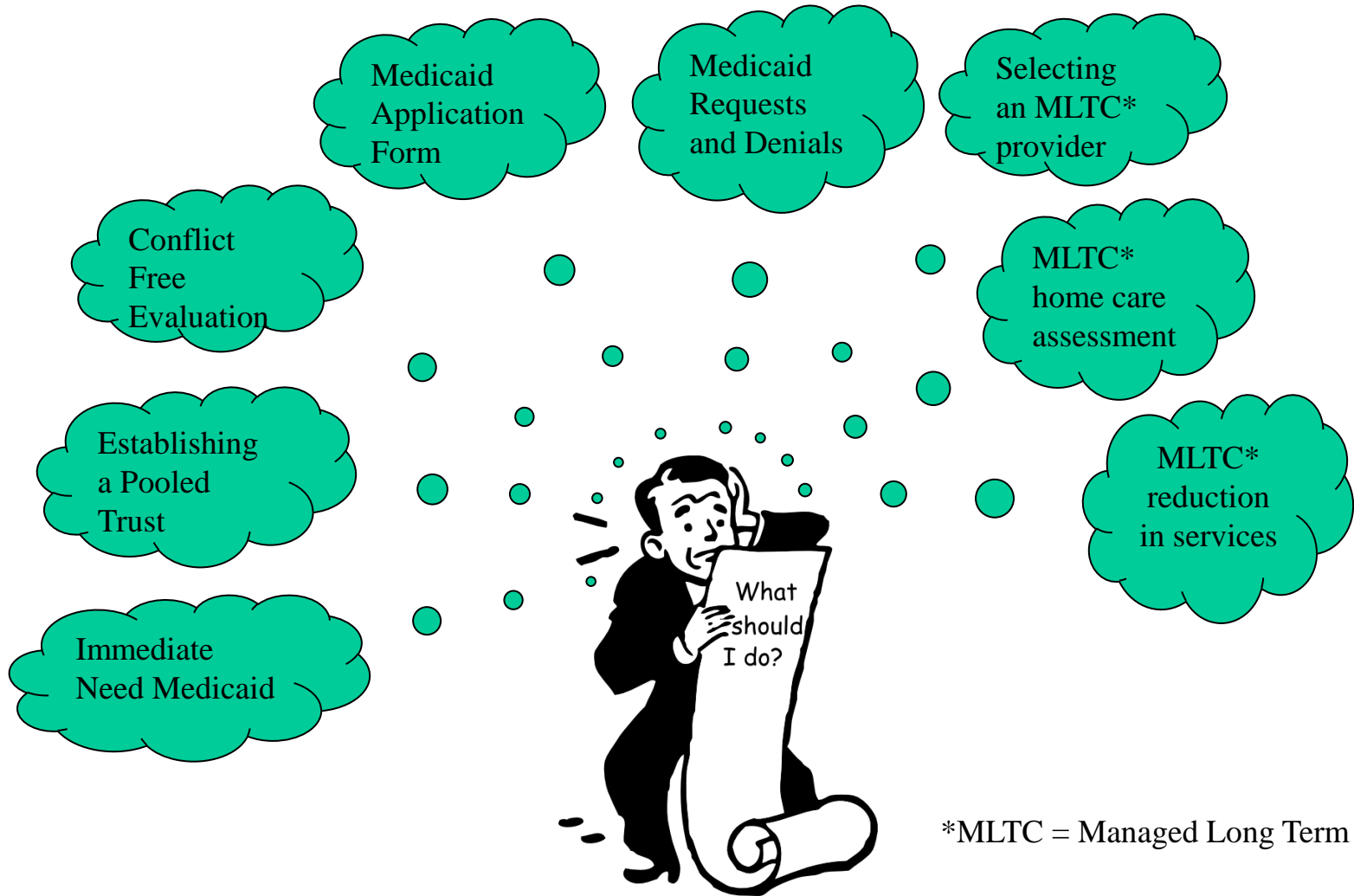## (New York State Rules – your State will have similar rules)

Applicant Needs
Medicaid Services*

HOME CARE

NURSING HOME

STOP

* Cannot apply until you need medical assistance for at least 120 days of service. Can not apply before you need medical care.

This is what an applicant must confront.

Medicaid Application Form

Medicaid Requests and Denials

Selecting an MLTC* provider

Conflict Free Evaluation

MLTC* home care assessment

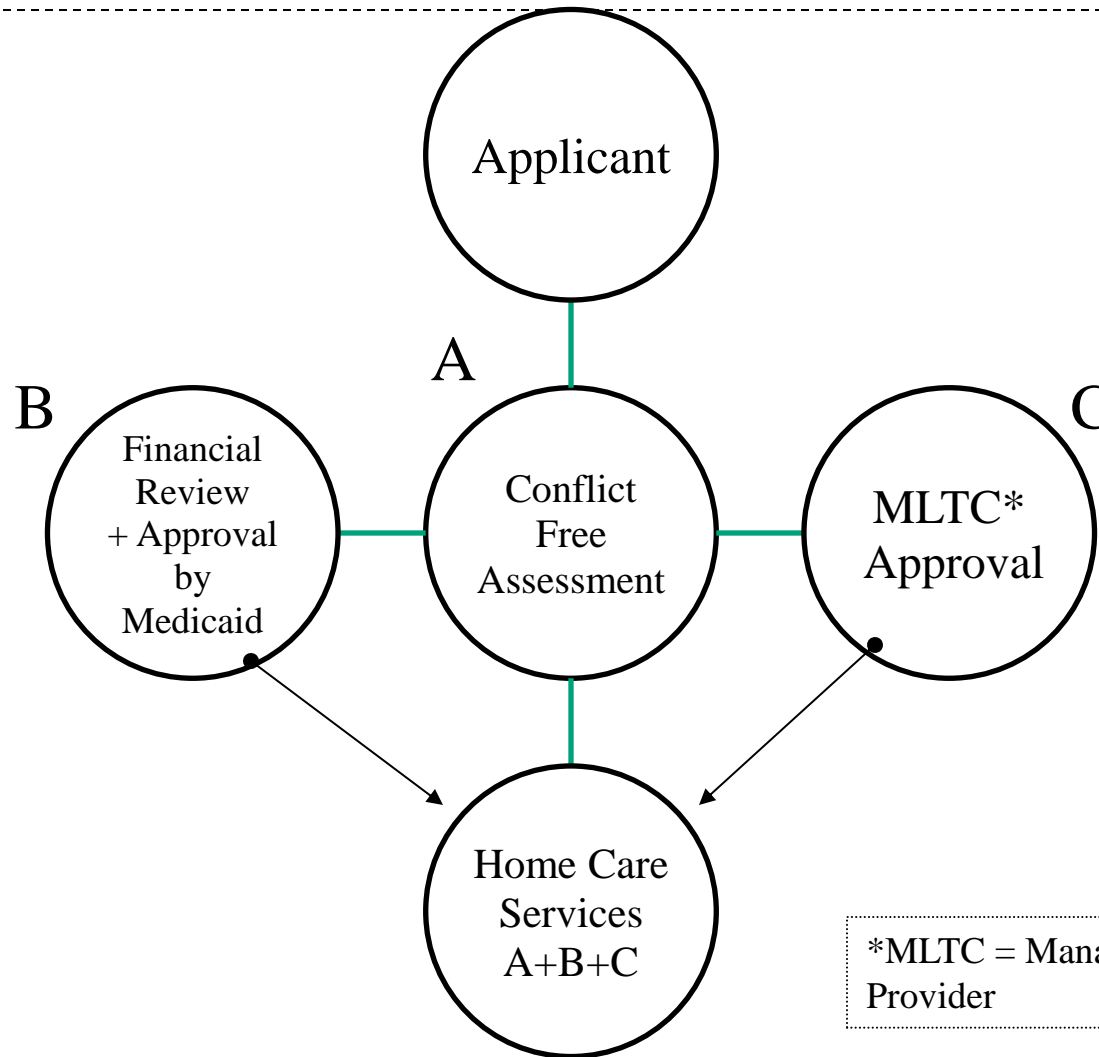Establishing a Pooled Trust

MLTC* reduction in services

Immediate Need Medicaid

What should I do?

*MLTC = Managed Long Term Care

It takes 3 approvals to obtain Medicaid home care

Really like 3 applications being assessed (A+B+C = approval)

Applicant

A

B

Financial Review + Approval by Medicaid

Conflict Free Assessment

C

MLTC* Approval

Home Care Services A+B+C

*MLTC = Managed Long Term Care Provider

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You need to be Eligible : financially and medically

- 2 - 3 months before home care is in the home
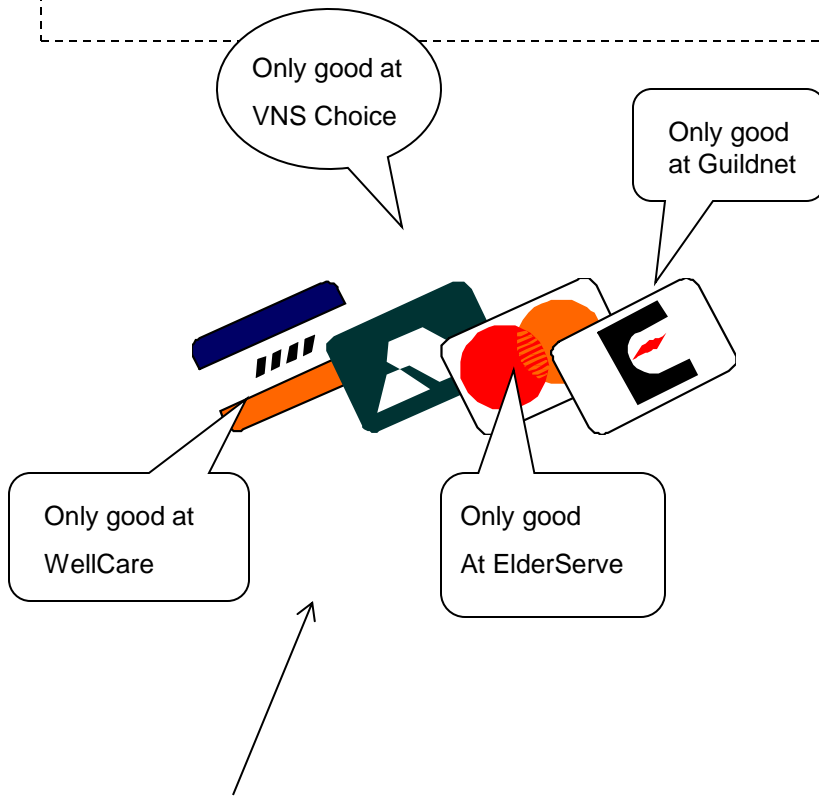
What are Medicaid Home Care Services?
The home care provider must provide these services within their network,
if they are deemed medically necessary

- Home Care: personal care, light housekeeping, home health aide, visiting nurse, visiting pt/ot , private duty nurse, consumer directed personal assistance program.

- Adult Day Care

- Personal Emergency Response System (PERS)

- Nutrition -meals

- Medical equipment (wheelchairs, medical supplies)

- Physical, speech and OT outside of house

- Hearing Aids and Eyeglasses

- Podiatry, Audiology, Dental and Optometry

- Non-emergency transport to doctor offices

- Everything else is covered by Medicare – Medicare remains the applicant's primary coverage ahead of MLTC Medicaid. Medicaid always secondary.

Who provides the home care services: MLTC Medicaid
(MLTC =managed long term care providers : works like an HMO)

Only good at
VNS Choice

Only good
at Guildnet

Only good at
WellCare

Only good
At ElderServe

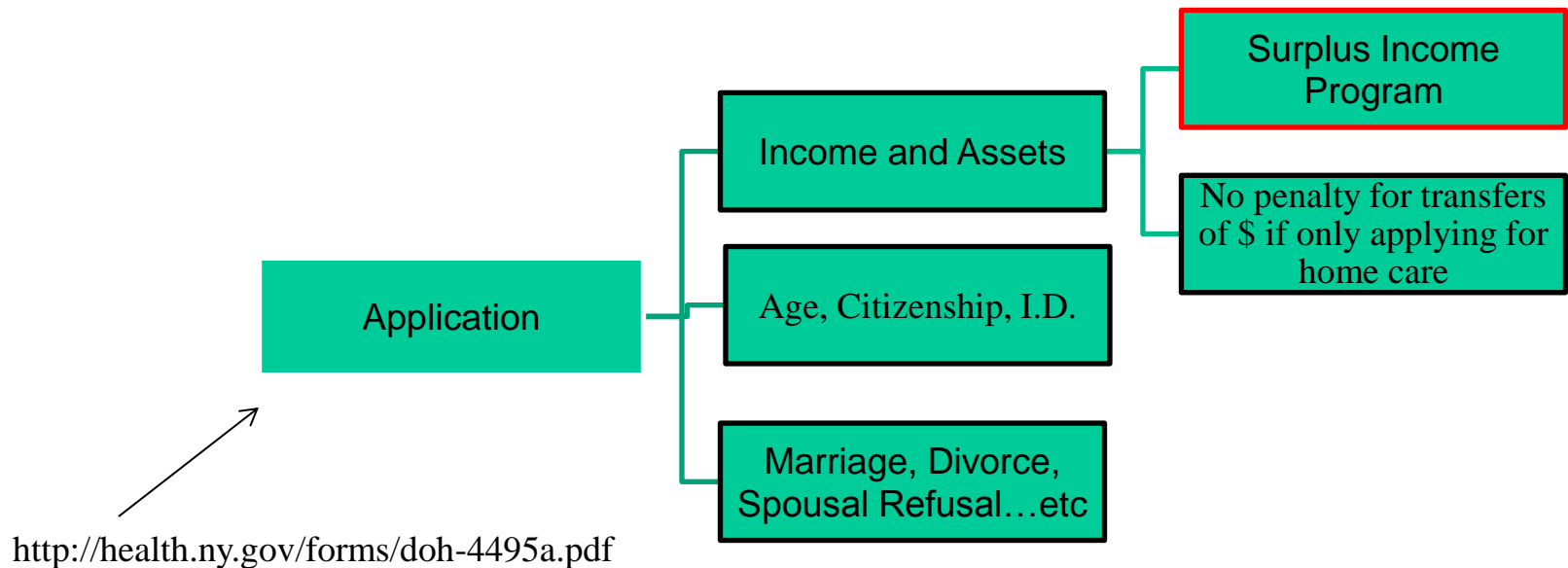http://www.wnylc.com/health/entry/114/#List%20of%20Plans

- You must chose an MLTC plan
- Medicaid will pay a fixed fee each month to the MLTC plan to provide all home care services.
- The MLTC plan will arrange for or provide all Medicaid covered home care services (care manager)
- All services are provided by or paid for by the MLTC plan network– not Medicaid
- Services provided out of network may not be paid
- In a small way this is similar to the proposed "Block Grant" or "capitated" Medicaid plan proposed by the current Federal administration.

The Application for Medicaid Community Based Home Care
STEP #1

Application

Income and Assets

Surplus Income Program

No penalty for transfers of $ if only applying for home care

Age, Citizenship, I.D.

Marriage, Divorce, Spousal Refusal…etc

http://health.ny.gov/forms/doh-4495a.pdf

The Mystery of Gifting Assets Without Penalty

Transfer

Penalty Imposed?

Family/Friend

No Penalty wait

Yes, penalty wait

Home Sweet Home

Nursing Home

Home care services permitted during a penalty period

No nursing home coverage during a penalty period
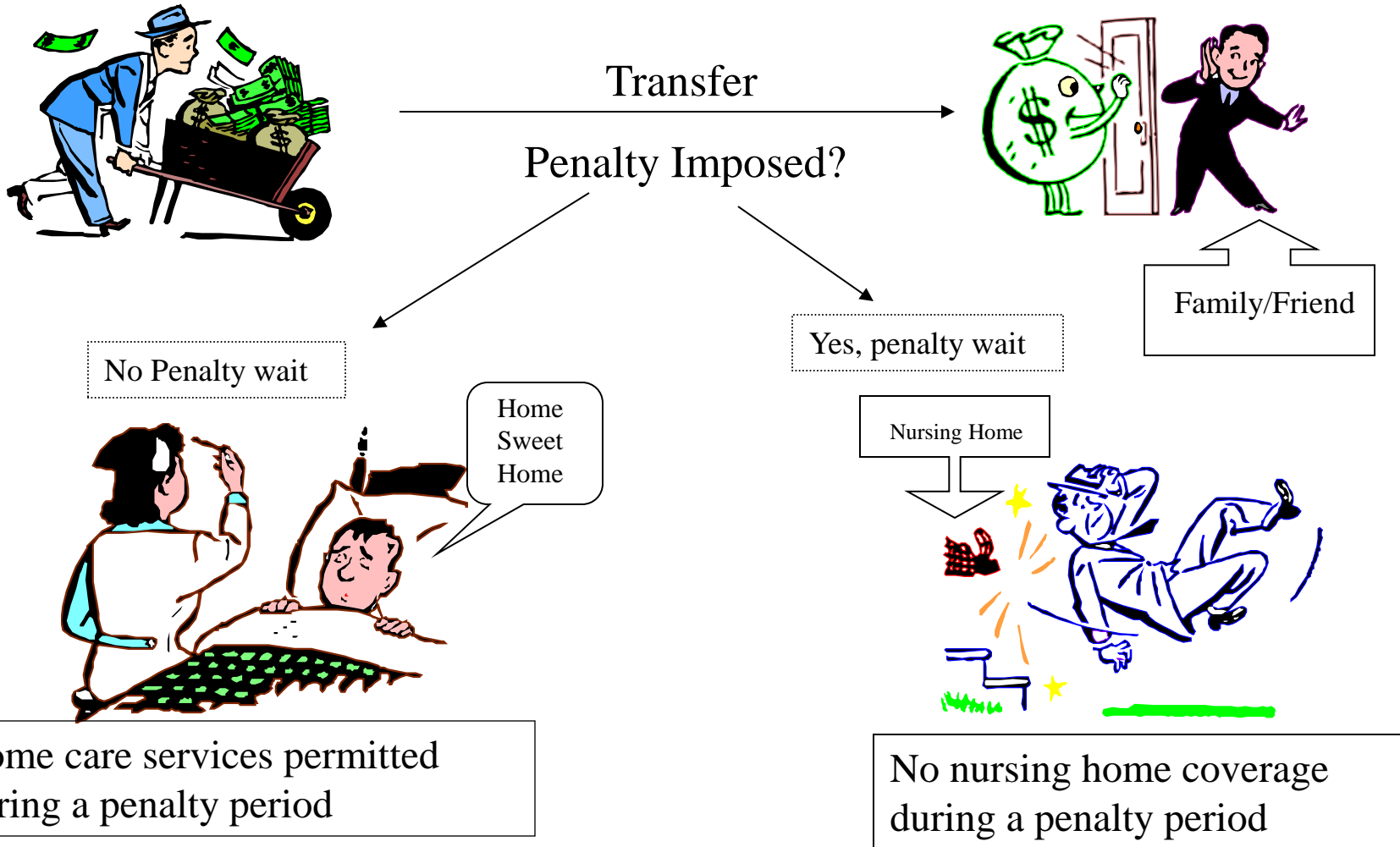
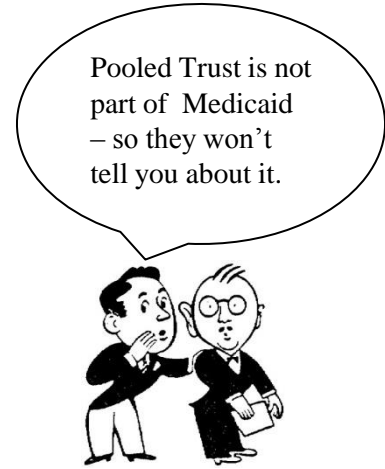# Surplus Income and Pooled Trust:

Income over $845/month must be contributed like a monthly deductible, unless………..

Income over $845

~Three Possible Options~

Give the surplus to Medicaid and live on $845 per month

Put surplus in a *POOLED TRUST*

TOP SECRET CONFIDENTIAL TOP SECRET

Show incurred out of pocket medical bills equal to surplus

Pooled Trust $ can be spent on things not covered by Medicaid

Pooled Trust is not part of Medicaid – so they won't tell you about it.
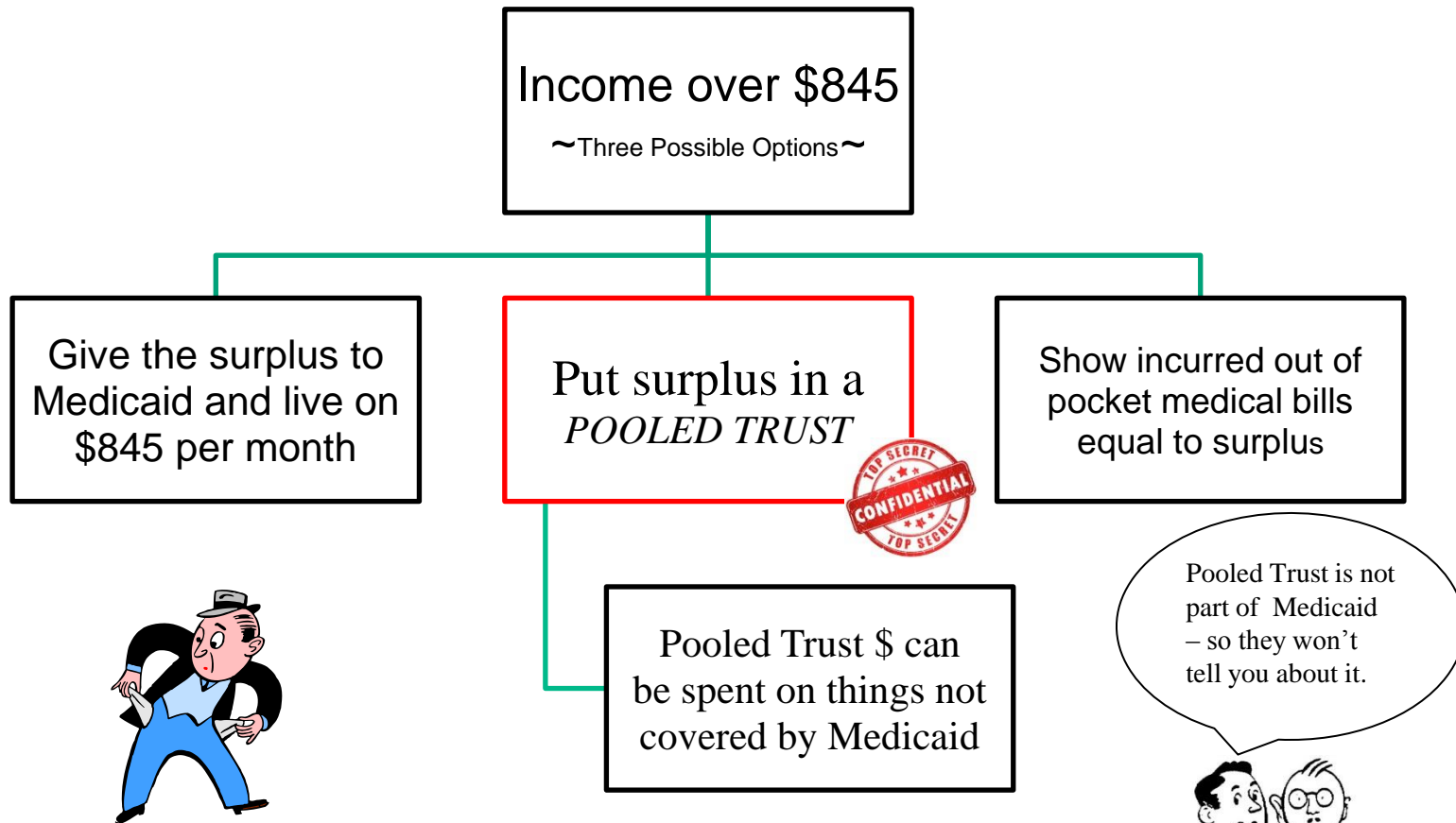
Pooled Trust Approval process

Surplus Income

Chose a Pooled Trust

The Trust Joinder Agreement

Trust acceptance letter

Verification of deposits to Trust

Form 1151 Disability Questionnaire

Form 751E HIPPA Release

Form 486T Determination of Disability

Doctor's File Notes

Medicaid Approval and Budget Letter

Submit to Medicaid legal dept. review

REVIEW

Zero surplus

www.nylc.com/health/entry/4/

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When to submit the Pooled Trust for Medicaid approval?

- Medicaid suggests the Pooled Trust should be submitted with the initial application

- However, experience tells us that the necessary legal review and approval process adds processing time to the over-all approval process

- Therefore, it is now common practice to submit a Medicaid application without the Pooled Trust. Once the application is approved, then the Pooled Trust is submitted to Medicaid for approval and a correction to the surplus income budget will be made.

Origins of STEP #2: MLTC providers were left in charge of determining who they would accept for home care and how much care they would provide

Fox = MLTCP
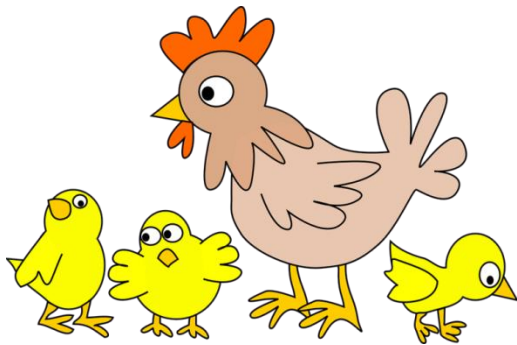
- Raised fears of the Fox in-charge of the hen house
- Self interest in taking healthier clients who require less care would mean more $ for the MLTC
- MLTC's are paid the same monthly fee by Medicaid, no matter how many hours of care they provide to a client
- Solution = Conflict-Free Evaluation and Enrollment Center (CFEEC)

Conflict Free Evaluation

Conflict-Free Evaluation and Enrollment Center (CFEEC)

STEP #2

CFFEC APPROVED
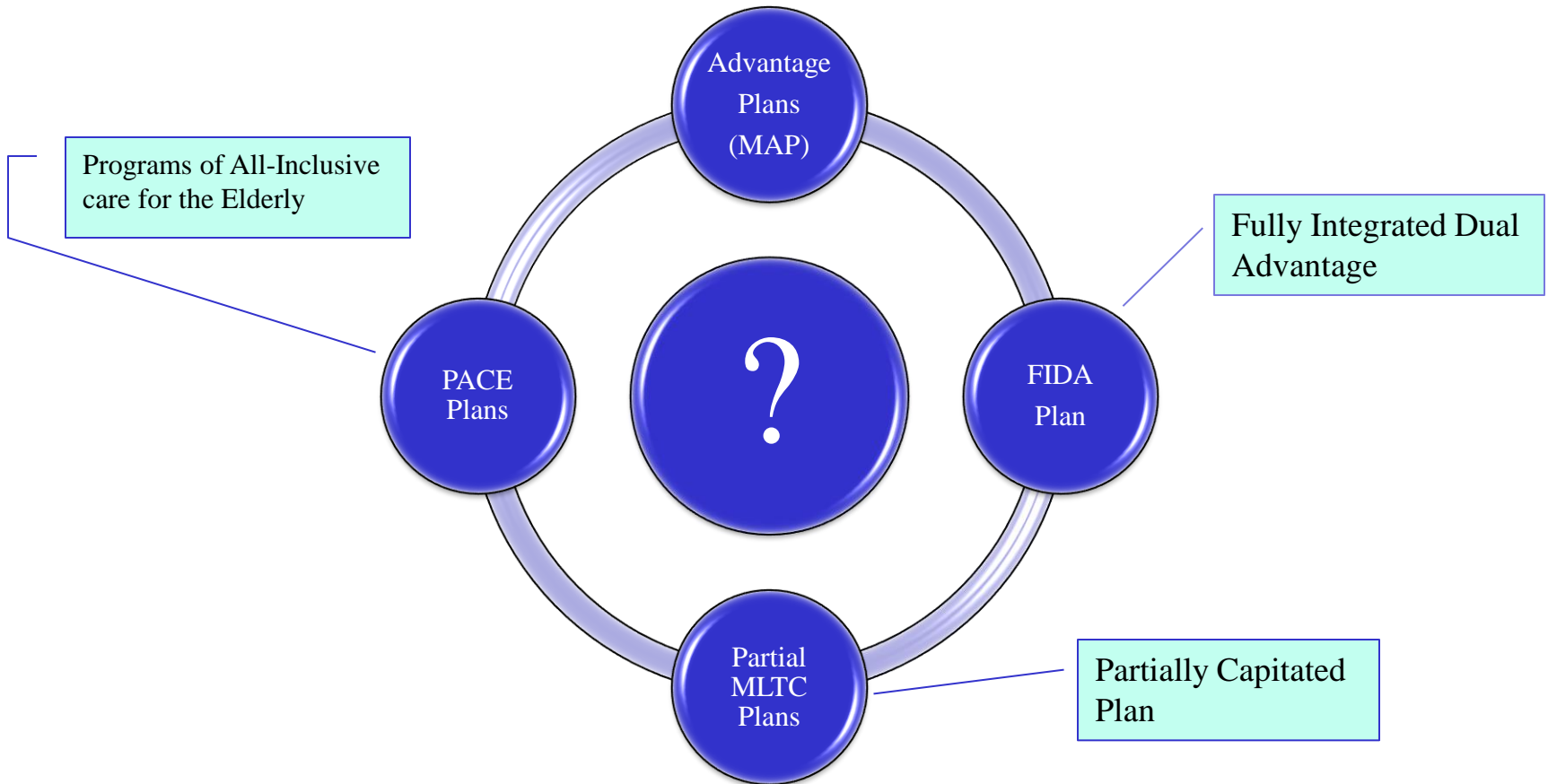

http://wnylc.com/health/download/573

- Contracted out to MAXIMUS – an independent corporate contractor
- Determines "eligibility" for Medicaid home care services (120 days+) – they do not determine number of hours of home care – the MLTC will determine hours
- In-home assessment takes about 2+ hours
- Evaluation is only good for 60 days
- Appointment should be approved within 5 – 7 days of calling
- The MLTC will not take a case until the CFFEC is completed and Medicaid has approved the application.

Selecting an MLTC

You may change your MLTC plan at any time – once a month

Advantage Plans (MAP)

PACE Plans

Programs of All-Inclusive care for the Elderly

?

FIDA Plan

Fully Integrated Dual Advantage

Partial MLTC Plans

Partially Capitated Plan

Which Plan to Choose?

(Two Categories of plans)

Provides only Medicaid Home Care

- **Partial MLTC**:
- No effect on Medicare services. You keep your original Medicare or Medicare Advantage card.
- Keep your current "Medicare" doctors – No change to your Medicare services
- Medicare remains "primary" health insurance

Provides both Medicaid and "Medicare" services

- **MAP**
- **PACE**
- **FIDA**
- Provides all services covered by both Medicaid and Medicare. Must go to doctors and medical providers within their network.
- May need to change your doctors, unless your doctor is in their network

Tool for selecting an MLTC = www.wnylc.com/health/entry/169

MLTC Evaluation for Services
STEP #3

- Contact the MLTC
- Supply Medicaid approval letter + CFFEC approval
- Home visit is made and hours determined
- You may apply to different MLTC's
- Different MLTC may give more hours
- You may change MLTC when you like, but it will add a month to the process each time you apply to another MLTC plan

- ## 2+ hour assessment

MLTC Increasing or Reductions of hours

www.wnylc/health/entry/184/

- MLTC must give 'written' notice of any decrease or change in hours
- Request increases in writing to the MLTC
- Any change in hours or denials of service increase may be appealed
- State Fair Hearing may be requested with current services maintained pending outcome ("aide continuing") – anytime before effective date of the change.
- Not required to file internal appeal before requesting a Fair Hearing
- Suggestion: First request a Fair Hearing, then file an internal appeal. If internal appeal is successful (30 day decision), withdraw the FH request.
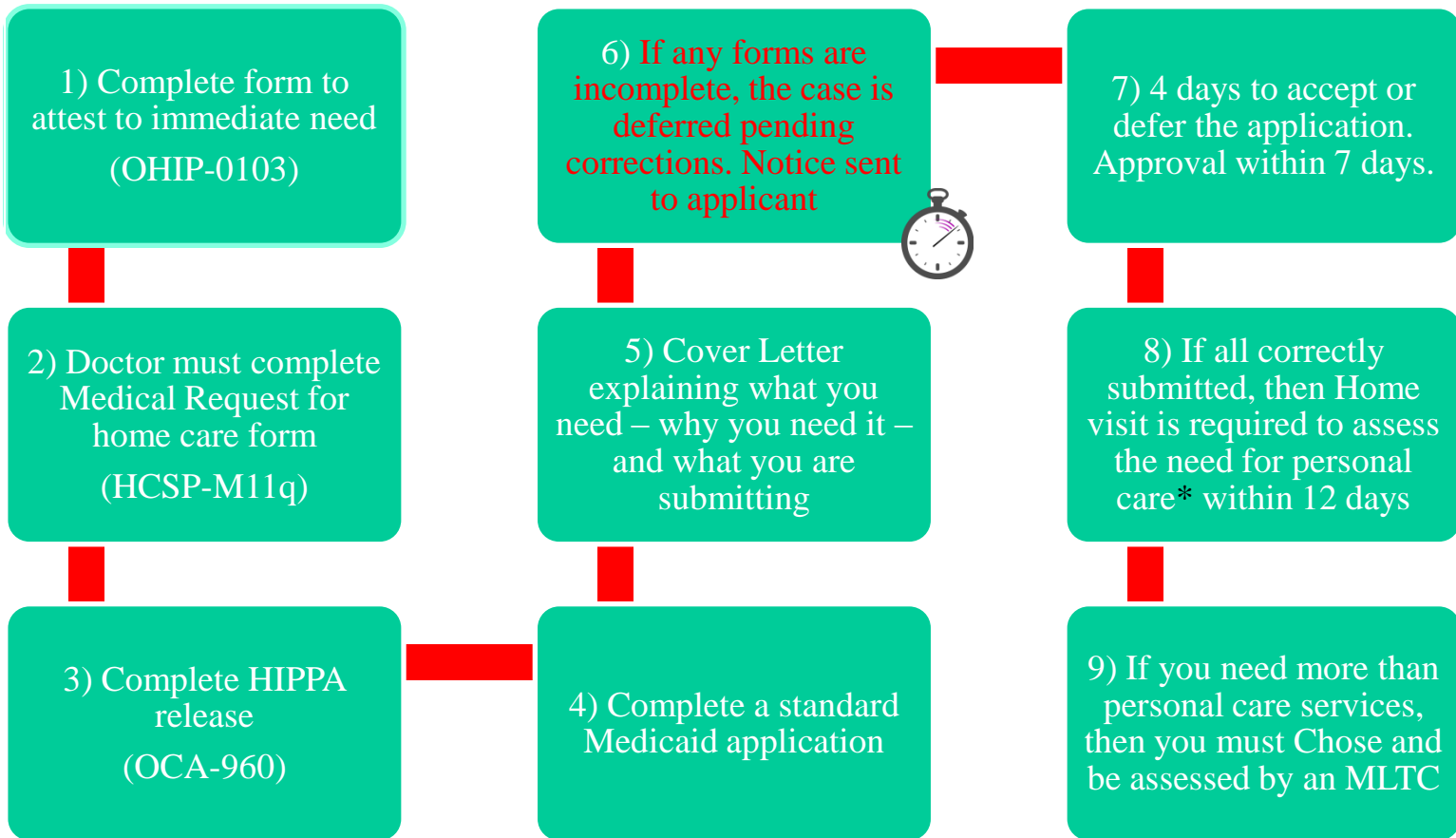
Immediate Need Process

Does it really get you services faster?
www.nylc.com/health/print/203/ + Medicaid Alert

- Medicaid approval in 7 days

- Medicaid home care in 12 days

- Normal Process takes 45 to 90 days on average

- This is a short cut?

1) Complete form to attest to immediate need (OHIP-0103)

2) Doctor must complete Medical Request for home care form (HCSP-M11q)

3) Complete HIPPA release (OCA-960)

4) Complete a standard Medicaid application

5) Cover Letter explaining what you need – why you need it – and what you are submitting

6) If any forms are incomplete, the case is deferred pending corrections. Notice sent to applicant

7) 4 days to accept or defer the application. Approval within 7 days.

8) If all correctly submitted, then Home visit is required to assess the need for personal care* within 12 days

9) If you need more than personal care services, then you must Chose and be assessed by an MLTC

*Personal Care Services = housekeeping, cooking, bathing and toileting

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Who would use the 'Immediate Need' process?

- Needs personal care from day 1 of discharge from a hospital
- Has nobody who can provide care pending normal application processing time
- Has no current home care in place
- Has no other insurance or Medicare coverage for what they currently need if they go home
- Has urgent immediate need
- Has someone (hospital discharge) helping they submit an Immediate Need application.