

Voices for Quality Care

Post Office Box 2251, Leonardtown, Maryland 20650
<http://voicesforqualitycare.org> (888)600-2375

Maryland, Maine, Florida, & Washington, D.C.

October 3, 2011

The Honorable Jeb Hensarling, Co-Chair
Joint Select Committee on Deficit Reduction

The Honorable Patty Murray, Co-Chair
Joint Select Committee on Deficit Reduction

The Honorable Max Baucus
The Honorable Dave Camp
The Honorable John Kerry
The Honorable Rob Portman
The Honorable Fred Upton

The Honorable Xavier Becerra
The Honorable James Clyburn
The Honorable John Kyl
The Honorable Pat Toomey
The Honorable Chris Van Hollen

We write to you today to ask you to be very certain that in balancing the budget, you do not inadvertently injure us. Voices for Quality Care (LTC), Inc. is a regional, non-profit, all-volunteer long-term care citizen advocacy organization of people who need long-term care services, their friends and families, resident and family councils, advocates, and concerned citizens working for quality long-term care services in all settings in Maine, Maryland, Washington DC, and Florida. We do not speak for the people who need long-term care services and their friends and families, we are the people who need long-term care and their friends and families.

Voices for Quality Care runs a 24/7 helpline for people with long-term care issues. Because our (888) toll-free phone number is nationwide, and because it is featured on our web site, we receive calls for assistance from people in states other than the 4 in which we have volunteer members. We are constantly and continually in touch with what is happening "on the floors" and "in the beds" in long-term care situations. Our perspective is not one of in theory and from a distance. Our work is up close and in practice.

In the process of balancing the budget, there is a potential for great harm to people in need of long-term care support and services. At this time, those of us living in nursing homes and our families have a Bill of Rights guaranteed by the federal government that, while not fully implemented even 25 years after its passage in 1987, does give us a reasonable degree of dignity and protection from neglect and abuse. The Center for Medicare and Medicaid Services (CMS) oversees survey agencies in every state whose purpose is to enforce these rights. All in all, considering the critical job that the staffs of these agencies do for the millions of U. S. citizens needing long-term care services, the program itself is relatively small so far as the amount of funding it currently receives. In fact, in most states, the staffs of the long-term care survey agencies have been decimated by the recent economic downturn to the point where they are no longer fully able to fulfill their mandate to protect the individuals who must live in our nursing homes and to ensure for them a reasonable quality of life.

Any further cuts in the Centers for Medicare and Medicaid Services' long-term care survey agencies' budgets will most likely result in both injury and premature death.

While some states go to great lengths to ensure that people needing long-term care services are properly cared for, others do not. Through our work, we have become acutely aware of how these programs vary in both philosophy and effectiveness from state to state. To resort to funding Medicaid with block grants, most likely freeing the states to govern these programs as they see fit, would open a wide door for potential abuse. It very likely might also totally destroy the federal Nursing Home Resident's Bill of Rights, leaving people who live in these facilities and their friends and families without these very necessary protections. In the block grant scenario, states could possibly decide not to fund long-term care at all leaving potentially millions of people with few options and the real possibility of painful, unnecessary deaths.

The other critical program for people who need long-term support & services is the Ombudsman Program. Whereas the nursing homes and assisted living facilities have ample legal assistance and lobbyists looking out for their interests, people living in these facilities and their families have few of these resources. What's more, they come into the long-term care system as novices with little understanding of their rights, what quality care looks like, or what they are entitled to. Without the help and guidance from a long-term care Ombudsman, they generally don't learn these critical bits of information until they no longer need them. Nor are many nursing home residents really able to advocate for themselves, particularly those who do not have strong families to back them up. While the survey and licensing agencies provide enforcement for federal and state regulations, it is the Ombudsmen who are in the facilities most often. It is the Ombudsmen who meet each resident and advocate for their care and quality of life needs.

The National Ombudsman Program was created by the Older American's Act in 1965 and has proven itself critical to the people who need long-term care and to those who advocate for them. If anything, this Program and this Act need considerably more funding than they currently receive, and more support in carrying out their mission.

In recent years, we've seen a great move away from the small stand alone non-profit and individually owned for-profit nursing homes where those who own, run, and are responsible for the quality of care and quality of life they provide are both local and personally engaged in the daily operations of those facilities. We are seeing an increasing number of these homes swallowed up by multistate or national private equity funds and REITs and run by large often publicly owned multi-state management companies with little or no connection, obligation, or visibility to the communities in which they own nursing homes or assisted living facilities. The practices of some of these chains have been identified by the Inspector General as having skilled nursing facilities engaged in "a shift toward higher paying RUGS (Resource Utilization Groups) [that] did not appear to be the result of changes in beneficiary characteristics, such as age and diagnosis. Additionally we found that for-profit SNFs (Skilled Nursing Facilities) particularly those owned by large chains, were more likely to bill for higher paying RUGS than non-profit and government SNFs. Furthermore, we identified a number of SNFs with questionable billing, which indicates that some SNFs may be routinely placing beneficiaries into higher paying RUGS regardless of the beneficiary's care and resource needs or keeping beneficiaries in Part A stays longer than necessary."1

There are ways, however, to cut Long-Term Care Medicaid expenses without endangering the people who need this level of care. Encourage states to be aggressive in their searches for Medicaid fraud by health care providers. Require that staffing levels be maintained and increased but cut the funding funneling up to the stock holding companies. Require information coming from nursing homes and assisted living facilities with Medicaid residents to provide proof that services paid for are actually needed, delivered, and accurately billed.

These chains are responsible only to Wall Street. Their bottom lines are not good care but good profits. Across the country, Medicaid dollars are paying for the care of 60%-80% of the people living in long-term care facilities today. Where, we wonder, are the profits coming from? Regardless, the facility owners and managers are blessed with multiple lawyers, lobbyists, and ample funds for large campaign contributions. In some states Medicaid even pays for lawyers to defend nursing homes cited or sued for poor practices even when they are found guilty.

Joint Select Committee on Deficit Reduction
October ,2011
Page three

Our side, however, was best described by a very honest politician who once told us, "You are advocating for a hidden population. Your people do not vote, they do not write letters to the editor, they do not call their legislators to complain, and what's more, they live behind closed doors. No one really remembers they are there." He was right in all but the voting part. "They" do vote and so do we who love them. We do not have funding for lobbyists. We do not have funding for large campaign contributions. We do not have the influence to operate behind the closed doors of Washington. But, we are Americans and the American Government is our Government. We are hoping that you will begin balancing our needs with the needs of the industry.

Sincerely,

Kate Ricks: Chair
Voices for Quality Care (LTC), Inc.
P. O. Box 2251
Leonardtown, MD 20650
888-600-2375
<http://voicesforcare.org>

1 Questionable Billing By Skilled Nursing Facilities, Office of the Inspector General of the Department of Health & Human Services, December 2010