

LONG TERM CARE (LTC) E- NEWSLETTER – February 2015: Volume 13, Number 1

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[NYS Assembly to Hold Hearing on Use of Antipsychotic Meds](#)

New York Assembly member [Richard N. Gottfried](#), Chair of the Committee on Health, has announced that the Committee will be holding a hearing on the use of Antipsychotic medications on nursing home residents on February 18, 2015 in New York City.

According to the [hearing notice](#) [PDF]

Each day in New York State, nearly one in five nursing home residents is medicated with powerful and dangerous antipsychotic drugs as a form of chemical restraint, according to data from the federal Nursing Home Compare website.

A [recent report by the Long Term Care Community Coalition](#) (LTCCC), an advocacy group for the elderly and disabled, shows alarming above-average antipsychotic drug usage rates in some regions of the state and in many nursing homes. Some nursing homes were found to medicate 50% or more of their residents -- after adjusting the data to exclude residents with diagnoses for which the drug would be medically appropriate.

The purpose of this hearing is to give representatives of residents, families, advocates and providers the opportunity to voice their observations and recommendations in relation to the appropriate and inappropriate use of these drugs.

[Link in text added.]

[For more information on the hearing, including the hearing notice with registration information to attend or testify, go to www.ltccc.org. For more information on antipsychotic drugging and dementia care, visit LTCCC dedicated webpage at <http://www.nursinghome411.org/articles/?category=antipsychotic>.]

[CMS Issues New Tool for States to Calculate Nursing Home Penalties](#)

In December, the federal Centers for Medicare & Medicaid Services (CMS) issued a letter to the state agencies responsible for ensuring that nursing home care meets – or exceeds – federal minimum standards. This letter provides guidance on the use of fines (aka Civil Money Penalties, or CMPs) as an enforcement remedy.

The Center for Medicare Advocacy, a national nonprofit organization dedicated to protecting consumers, provides an excellent summary and analysis of the new guidance and what it means for nursing home residents and tax-payers, who pay for the majority of nursing home care. The Center's alert, entitled [CMS Tool for Assessing Civil Money Penalties Imposed Against Nursing Facilities Continues to Ensure that Penalties Will Remain Low](#), describes both the good and bad aspects of the tool. [Good aspects being those that will strengthen enforcement and bad aspects being those that will weaken it.]

The background to the CMS letter reiterates the agency's mission in respect to nursing homes:

The CMS ensures that nursing home residents receive appropriate care by setting health, safety and quality requirements that facilities must meet in order to participate in the Medicare and Medicaid programs. The CMS has agreements with States to routinely inspect nursing homes to ensure compliance with the requirements of participation. Congress has authorized CMS to impose certain enforcement remedies in order to promote a facility's compliance with these requirements. ...[T]he Social Security Act... provide[s] that sanctions should be designed to minimize the time between the identification of violations and the final imposition of sanctions.

This background is reprinted here as a reminder to our readers of the mission of the state and federal enforcement agencies. Under the Nursing Home Reform Law, every nursing home resident is entitled to receive the care he or she needs to attain, and maintain, his or her highest practicable physical, emotional and social well-being. When a facility fails to provide sufficient staff and appropriate services to achieve these outcomes, it has fallen below the minimum standards which it is paid to achieve. And when these failures are commonplace, from our perspective this signals a failure by the state and federal agencies to uphold the mission with which they have been entrusted.

[For the CMS letter: <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions-Items/Survey-and-Cert-Letter-15-16.html?DLPage=1&DLSort=2&DLSortDir=descending>. For the Center for Medicare Advocacy Alert: <http://www.medicareadvocacy.org/cms-tool-for-assessing-civil-money-penalties-imposed-against-nursing-facilities-continues-to-ensure-that-penalties-will-remain-low/>.]

NY State Begins Mandating Private Medicaid Managed Care Insurance for Nursing Home Residents

In possibly the most significant development in New York nursing home care since passage of the federal Nursing Home Reform Law in 1987, the state is transforming the way individuals access nursing homes. As of February 1, 2015, the state began implementing its plan to mandate that all Medicaid beneficiaries who needs nursing home care access this care through a private Managed Long Term Care (MLTC) insurance plan.

Implementation is being conducted in phases. As the NYS Department of Health's [policy paper](#) (PDF) notes,

Effective February 1, 2015, in NYC (Bronx, Kings, New York, Queens and Richmond counties) all eligible beneficiaries age 21 and over, in need of long term placement in a nursing facility... will be required to join a Medicaid Managed Care Plan (MMCP) or a Managed Long Term Care Plan (MLTCP). In April 1, 2015, the counties of Nassau, Suffolk, and Westchester will be phased in, and the rest of State is scheduled to transition beginning July 2015 for both dual and non-dual eligible populations.

As of October 1, 2015, the State will allow any eligible individual residing in a nursing home to enroll in a MCO on a voluntary basis. This population will no longer be excluded, but exempt from mandatory enrollment into mainstream Medicaid managed care and MLTC.

In addition, beneficiaries currently enrolled in a MMCP will not be disenrolled if they need long term placement. Effective February 1, 2015, the MMCP will be responsible for covering this benefit in the

Phase I counties. MLTCs are currently responsible for covering this benefit and will continue to do so. No individual will be required to change nursing homes resulting from this transition; however, new placements will be based upon the MCO's contractual arrangements and the needs of the individual. MCOs must evaluate and ensure that individuals are placed in the least restrictive setting with needed community supports.

It is important to note, as the second paragraph above states, current residents are not required to enroll in a managed care plan. However, beginning in October 2015, they may *voluntarily* enroll. As with other aspects of the transition, this rule has potential costs and benefits for residents. Plans are supposed to help residents access care in the least restrictive setting possible, and if the resident desires to move back to the community a plan may be able to help him or her accomplish this. However, this is contingent on the plan's dedication to this goal and its ability to help residents accomplish it. In other circumstance, it is unlikely to be beneficial to a resident to sign-up for managed care, since this could limit their choices in the future, should they need care from a provider outside of their MCO's network. In addition, LTCCC and other advocates have long been concerned that allowing current residents to "voluntarily" enroll might leave them prey to inappropriate marketing of managed care plans in their own homes.

In October 2013, LTCCC issued a report on managed care in New York State that highlights the significant quality and access issues that are at stake in this transition. The [report and its webpage](#) also provide quality data on all nursing homes which, at that time, had contracted with managed care plans.

[For NYS materials, go to http://www.health.ny.gov/health_care/medicaid/redesign/mrt_1458.htm (scroll down page to section title "February 1, 2015 (*) Population Transition – Nursing Home ("New" Duals and Non-Duals)...." For LTCCC's 2013 report, "Mandatory Managed Care in New York State Nursing Homes: A Review and Assessment of Current Access & Quality," go to <http://www.nursinghome411.org/?articleid=10076>.]

CMS Releases 2014 Statistics Reference Booklet

CMS has released the latest data on Medicare and Medicaid beneficiaries and providers. The tables on the CMS website provide a variety of data, including demographics (such as current and projected life expectancies for US citizens), provider information (including for hospitals, nursing homes and home health agencies) and program characteristics and utilization.

Following are a few of the numerous "highlights" provided:

- In 2010, 22% of the population was enrolled in the Medicaid program at some point.
- The number of Medicare-certified hospital beds in the US dropped from 32.8 beds per 1,000 enrolled in 1990 to 18.1 in 2013, a decrease of 45%.

- The number of skilled nursing facilities (SNFs) increased rapidly during the 1960s, decreased during the first half of the 1970s, generally increased thereafter to over 15,000 in the late 1990s, and remains currently at this level.
- Over 1.8 million people received care in a nursing home covered by Medicare during 2012.
- There are substantial differences between percentages of for-profit vs. non-profit providers by category. Close to 60% of hospitals are non-profits, while only about 25% of nursing homes are owned by non-profits. Only 15% of home health agencies are non-profit.

[\[http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/CMS-Statistics-Reference-Booklet/2014.html\]](http://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/CMS-Statistics-Reference-Booklet/2014.html)

We're on the Web!

www.ltccc.org: Our main website, with access to all of our issues, policy briefs and research.

www.assisted-living411.org: For information on assisted living, including consumer issues and policies.

www.nursinghome411.org: For information on developments in nursing home care, regulation and policy issues.

LTCCC Links of Interest

[View](#) the latest enforcement actions against nursing homes in New York State.

[Read](#) the latest edition of LTCCC's quarterly newsletter, *The Monitor*.

LTCCC's dedicated [webpage on antipsychotic drugs and dementia care](#).

LTCCC Reports & Resources

[***Left Behind: The Impact Of The Failure To Fulfill The Promise of The National Campaign To Improve Dementia Care***](#)

[***Improving Nursing Home Care: Consumer Priorities for CMS***](#) (Policy brief of the [Coalition for Quality Care](#), written by LTCCC's executive director, Richard Mollot)

[*Antipsychotic Drug Use in NY State Nursing Homes: An Assessment of Progress in the National Campaign to Reduce Drugs and Improve Dementia Care*](#)

[*NY State Nursing Homes in Managed Long Term Care*](#)

[*The New York State Long Term Care Ombudsman Program: An Assessment of Current Performance, Issues & Obstacles*](#)

[*Piecing Together Quality Long-Term Care: A Consumer's Guide to Choices & Advocacy in NY*](#)

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