

LTCCC MONITOR

Working to improve long term care through research, education & advocacy

www.ltccc.org • SUMMER 2006



Which Nursing Homes Will Be Closed?: State Commission Continues on "Right-Sizing" Mission

The Commission on Health Care Facilities in the 21st Century (sometimes referred to as the "Closing Commission") was created by Governor Pataki and the NY State Legislature to review and assess the state's nursing home and hospital capacity and make recommendations for "rightsizing." The Commission consists of 18 statewide members and 36 regional members. In addition, the Commission works with six regional advisory committees from New York City, Long Island, Hudson Valley, and the northern, western and central regions.

“There are... significant concerns about whose interests are taking precedence.”

- The Commission's "recommendations" on nursing home & hospital closings go into effect *unless* the governor and state legislators take affirmative action to intervene.

- Though "right-sizing" implies both adding and subtracting, the focus of the Commission is on downsizing. "Possible consolidation, closure, conversion,

continued on page 4

New Report On CMPs/Fines Released: Focuses on Funding For Innovation To Improve Nursing Home Care

As readers of the Monitor know, over the past year, LTCCC has been conducting a research study collecting information on states' use of federal and state civil money penalties (CMPs) or fines. This study, funded by the Commonwealth Fund, has been conducted with Charlene Harrington (a nationally renowned researcher based at the University

of California, San Francisco) and the National Citizens Coalition for Nursing Home Reform (NCC-NHR). The goals of the project are to: 1) inform the public, consumer groups, government officials, ombudsmen and the nursing home industry about the practices and experiences of states' use of CMPs/fines; 2) encourage states to make greater use of CMPs/fines for innovative projects; and 3) identify the uses of funds from CMPs/fines for special projects that can be replicated to provide lasting and widespread improvements to resident quality of life.

In March, we released the results of the study. The findings indicate that although there are wide variations among states in issuing and collecting CMPs/fines, funds collected from CMPs/fines represent a substantial resource available to states for nursing home quality improvement projects. Forty six states reported having \$60 million overall available in accounts from CMPs/fines in 2005.

continued on page 2



In This Issue...

| | |
|--|----------------|
| Update On Assisted Living Law | 3 |
| Make A Bequest To LTCCC | 5 |
| Enforcements Against Nursing Homes | 6, 7 |
| Free Legal Assistance for Seniors | 8 |
| Successes in NY Legislature for Adult Home Residents | 9 |
| A Seed Worth Planting | 9 |
| Help Assisted Living Consumers | 10 |
| NY State EPIC and Medicare Part D | 11 |
| Action Alert Mailing List | Back Page / 12 |

New Report on CMPs/Fines...

continued from page 1

Funded Projects

A wide variety of types of nursing home special projects were funded. However, the funding in some cases appeared to be too small to have any measurable impacts. Most special projects funded by states appeared to be short-term or one-time funding and had neither formal evaluations nor outcomes reported.

Elusive Information

We also found that most states had difficulty obtaining current information about the number and the amount of federal CMPs issued and collected by the federal government. Ombudsman and citizen advocacy group respondents to our survey were largely aware of CMPs/fines but most did not know how much was collected or how the funds were used in their states. Most reporting state officials stated they do not have procedures in place to inform stakeholders about the availability of funds from CMPs/fines for special projects; do not involve stakeholders in decision-making about the use of the CMPs/fines; and almost 2/3 of state ombudsman respondents indicated a lack of participation in decision-making on the use of CMPs/fines.

Recommendations

Funds must be used for purposes directly related to nursing home residents and primarily for special projects and programs that stimulate resident quality of care and quality of life that can ultimately be replicated. Funds should be authorized for innovative projects that go beyond regulatory requirements and ordinary budget items, should encourage person

directed care, promote consumer advocacy and involvement, and stimulate and support the spread of "culture change."

In order to make sure that this is done, the report recommends that a wide range of knowledgeable stakeholders be involved in setting the criteria and guidelines for the use of funds. A public process, including public notice of fund availability with a clear annual timeline for applications for funding of innovative projects, and an objective review process should be established. In addition, the report advises that sufficient funds for projects/activities be allocated so that they can make a substantial, lasting and potentially widespread impact. It also urges states and the federal government to publish and make public annual summary reports on the amount of funds available from CMPs/fines, the specific uses of the funds by year, the organization receiving funds, and details on the project evaluations and to have an evaluation process for all projects.

The final report also includes an action plan for stakeholders (consumers and providers) to help implement these recommendations in their states. For more details, please download all of the project's products for free (www.ltccc.org). □

Correction: The nursing home enforcements in the Spring 2006 edition of The Monitor passed on an error in the information we received from the Department of Health. The location of Parkview Nursing Home, which was fined by the state for \$3000, is Massapequa, not the Bronx. We regret any confusion this might have caused. □

LTCCC

LONG TERM CARE COMMUNITY COALITION

Working to improve long term care through research, education & advocacy

Phone (212) 385-0355 • Fax (212) 239-2801

website: www.ltccc.org

Staff

Richard J. Mollot, Esq., *Executive Director*
Cynthia Rudder, PhD, *Director of Special Projects*
Sara Rosenberg, *Office Manager*
Meghan Shineman, *Public Policy Intern*

Board of Directors

Geoff Lieberman, *President*
Karen Manning, *Vice President*
Judy Brickman
Nora O'Brien
Alan Swerdloff
S. Deborah Majerovitz
Martin Petroff, Esq.
Deborah Truhowsky, Esq.

This newsletter is made possible through funding by the following foundations:

Robert Sterling Clark Foundation • Herman Goldman Foundation

Printing courtesy of Capital Printing, 140 East 45th Street, 45th Floor, New York, NY 10017

Layout and Design by www.pattiedesign.com

Update on New Assisted Living Law

Lawsuit

A powerful industry group sued the state to prevent the assisted living law from going into effect. The Empire State Association of Adult Homes and Assisted Living Facilities (now known as the Empire State Association of Assisted Living) along with eight individual homes, sued the New York State Department of Health (DOH) in December 2005 to stop the state from enforcing the assisted living guidelines and requirements developed by the Department with input from the state Task Force on Assisted Living. The suit argues against a number of protections fought for by consumers, such as professional staffing requirements in enhanced assisted living residences – those who will be taking in and keeping people who are more frail – and case manager requirements.

Although the lawsuit has, as of this writing, been withdrawn from the court calendar, it is still a matter of serious concern for consumers because it can be reinstated at any time. By hanging the possibility of a lawsuit over the head of DOH, it could be seen as a potential threat and a way to intimidate DOH from instituting the portions of the law that protect assisted living consumers, which LTCCC and other consumers groups fought so hard for.

The provider association's suit makes a number of assertions about the new assisted living law that consumers need to be concerned about. As we understand it, the suit states that the assisted living law affirms that the adult care facility (ACF) is the same care level or model as the newly-created assisted living residence (ALR). This would mean that there can be no regulations more stringent than those already in place for ACFs. Consumers and DOH maintain that the law did not affirm this; ALRs are a different model with a different population and new regulations can (and should) be implemented.

The suit also states that the law allows enhanced assisted living residences (EALRs) to select from the listed enhanced services rather than be required to provide all for certification. This would mean that a consumer expecting to "age-in" (remain if they become more dependent) when they choose to make their home in an EALR might not be able to do so if

the way in which he or she needs help is not "covered" by the particular EALR. We believe that this conflicts with the whole idea of enhanced assisted living, which is based on the idea that the residence has the ability to provide care for an individual as they become more frail. The law lists 5 resident conditions that EALRs can serve. It is our belief that any ALR receiving EALR certification must serve the needs of all residents with these conditions. It does not make sense – nor is it fair to the resident – for the residence to

take someone in with the promise of caring for them as they grow more frail, if it can pick and choose which conditions it wants to care for.

New Issues to Fight For

The last few meetings of the state Task Force have focused on the medical evaluation, the resident evaluation, individual service plans (ISPs) and the need for RN staffing in EALRs. We are urging DOH to:

- Make sure that the medical evaluation has enough information for the physician/nurse to recommend the correct assisted living placement;
- Require that physicians affiliated with the residence may not fill this out for the preadmission assessment (due to potential conflict of interest); and
- Require the use of the resident evaluation form for all assessments, not only pre-admissions.

The medical evaluator is the only independent clinician evaluating the consumer. He/she must have all the necessary information and must not be in conflict by having any affiliation with any residence. We must have a standardized form for all resident evaluations. This will facilitate state monitoring and oversight.

On-going Issues

We are still fighting for three important protections:

- An RN must conduct the evaluation for any individual needing enhanced or special needs care;
- There must be an RN on-site for at least one shift a day in an EALR; and
- Any resident of an EALR, who becomes more frail and needs enhanced care, must be permitted to remain in his or her room/apartment. It is important to remember that the core purpose of assisted living is to

continued on page 8

“Assisted living residents who need more care must not be moved to another room or apartment in the residence.”

Which Nursing Homes Will Be Closed?...

continued from page 1

and restructuring of institutions, and reallocation of local and statewide resources” are discussed on the Commission’s Website, www.nyhealthcarecommission.org.

- Implementation of the recommendations can begin as early as January 1, 2007 and will likely be completed by June 30, 2008, when the law establishing the Commission effectively expires.

Currently, the Commission is holding meetings approximately once a month and the regional advisory committees are holding public hearings in every region of the state. Information on upcoming meetings is posted on the Commission’s Website. [Members of LTCCC’s POE/Access to Care Committee receive notification of these meetings as they are announced. All members of the Coalition are welcome to join this committee.]

By establishing the Commission and giving it broad decision-making powers, New York’s elected leaders have evaded two of their most sacred responsibilities: to make sure that important policy debates such as this one take place in the public view and to represent their constituents’ interests in those debates. Though the Commission holds public meetings, significant issues are discussed in “executive sessions” behind closed doors. Fundamentally, vesting decision-making powers with those who have no political accountability raises serious concerns.

The proceedings of the March Commission meeting, which focused on the issue of nursing homes, raised significant concerns for consumers. This meeting featured testimony by NY DOH’s liaisons to the Commission, who presented a report on the future of nursing home care. This report focused on several important and laudable goals, including helping those who can be safely cared for outside of a nursing home and making nursing homes healthier and more homelike environments for those who need or choose nursing home care. This presentation raised key issues and discussed both innovative and proven ways in which these goals can be accomplished. It was thus disappointing to hear the response of several Commission members, who dismissed many of the ideas because of their perceived impact on providers’ bottom line. The remainder of the day’s discussion

focused on protecting providers from antitrust lawsuits if there is industry consolidation and other financial issues.

This exposes another serious issue regarding the Commission’s work: not only is it removed from public accountability, there are also significant concerns about whose interests are taking precedence - New York citizens who need care or the businesses providing the care? While it is important to have a healthy, financially-sustainable provider industry, it is crucial to remember that the fundamental purpose of a healthcare system is to provide care for people, not to be a profitable business sector.

Both New York State and federal laws mandate minimum levels of care and protections. All too often these minimum standards are not met by nursing home providers. For instance, the law requires that nursing home residents be cared for in a way that enables them to maintain the highest functioning that they are capable of as individuals. The U.S. Supreme Court’s landmark decision in the *Olmstead* case mandated that people who need long term care must receive that care in the least restrictive environment possible. Unfortunately, too few people experience the benefits of those laws. For many (if not most), those laws might as well not exist at all.

Shouldn’t the first priority of the Commission on Healthcare Facilities in the 21st Century be to make sure that all New Yorkers receive the care that the law requires?

WHAT YOU CAN DO!

- Attend Commission meetings and public hearings when they are held in your community.
- Provide testimony about the needs in your community, in person at a public hearing or in writing by email (cjc08@health.state.ny.us), fax ((518) 474-4669) or mail (addressed to Carla Cocca, Commission on Health Care Facilities in the 21st Century, Corning Tower, Room 2580, Albany, NY 12237). If you give testimony, send a copy to LTCCC and we will maintain a record of citizen concerns. If possible, send a copy to your state legislators too. □

Make a Bequest to LTCCC

An Enduring Legacy of Your Compassion & Generosity



Bequests are an important source of funds for the Long Term Care Community Coalition. Throughout the Coalition's history of service to the community, supporters have remembered the Long Term Care Community Coalition in their wills. Many people find that it is a special and meaningful way to leave behind something lasting that will benefit the vulnerable elderly and disabled for many years to come.

Why are Bequests Often the Most Generous Gifts One Can Make?

- Bequests can have certain tax advantages that benefit both the donor and the organization.
- Bequests to the Long Term Care Community Coalition are deductible under the federal income, estate and gift laws.
- Bequests come from assets accumulated during a lifetime.
- Bequests are revocable, so people may feel more comfortable making larger gifts in their will. If they need to use their assets themselves during their lifetime, they can still do so.

How You Can Include a Bequest to LTCCC in Your Will?

If you wish to make a bequest to the Coalition, please be sure to use the formal corporate name: "Long Term Care Community Coalition." We recommend that you consider the following language:

"I give, devise and bequeath (dollar amount, percentage or description of property) to the Long Term Care Community Coalition, a New York Corporation which has its principal offices at 242 West 30th Street, Suite 306, New York, NY 10001, to be used for general purposes." LTCCC is a not-for-profit corporation incorporated under the laws of the State of New York.

Your Generosity is Acknowledged in the LTCCC Silver Lifeline Society

If you advise us that you have included a bequest to the Long Term Care Community Coalition in your will, you will become a member of the LTCCC Silver Lifeline Society. The Silver Lifeline Society is an honorary organization that recognizes during their lifetimes those individuals who have generously included the Long Term Care Community Coalition in their estate plans. Members of the Silver Lifeline Society are invited to an annual recognition reception and are listed with other major donors in our publications.

If you or your attorney would like to discuss a gift or bequest with a member of the Long Term Care Coalition's staff, please call our Executive Director, Richard Mollot at (212) 385-0355, email Richard@ltccc.org or write to him at the following address: Long Term Care Community Coalition, 242 West 30th Street, Suite 306, New York, NY 10001. □





Enforcement Actions Against Nursing Homes¹

CIVIL MONEY PENALTIES² AGAINST NURSING HOMES: 11/21/05-3/15/06

| NAME OF HOME | LOCATION | SURVEY DATE | AMOUNT |
|---|-----------------|-------------|-------------|
| Beth Abraham Health Services | Bronx | 8/31/05 | \$56,940.00 |
| Brunswick Nursing Home | Amityville | 8/16/05 | \$81,282.50 |
| Gowanda Nursing Home | Gowanda | 12/2/05 | \$59,247.50 |
| The Hurlbut | Rochester | 9/16/05 | \$29,152.50 |
| Luthern Augustana Center | Brooklyn | 6/7/05 | \$50,000.00 |
| Julie Blair Nursing and Rehabilitation Center | Albany | 8/4/05 | \$98,897.50 |
| McAuley Manor at Mercycare | Hornell | 9/22/05 | \$1,982.50 |
| Montgomery Meadows Residential Health Care Facility | Amsterdam | 8/14/05 | \$37,765.00 |
| North Gate Health Care Facility | North Tonawanda | 8/14/05 | \$14,625.00 |
| St. Elizabeth Ann Health Care and Rehab Center | Staten Island | 9/29/05 | \$33,085.00 |
| St. Joseph's Home | Ogdensburg | 8/14/05 | \$3,250.00 |
| United Odd Fellow and Rebekah Home | Bronx | 12/15/05 | \$27,060.00 |
| Vivian Teal Howard RHCF | Syracuse | 5/18/05 | \$15,405.00 |
| The Waters of Allegany | Allegany | 12/15/05 | \$650.00 |

¹ These lists will be posted on LTCCC's Website every three months.

² As reported by Centers for Medicare and Medicaid Services (CMS). For more detailed information contact the FOIA Officer at CMS at 212-616-2345.

STATE FINES AGAINST NURSING HOMES: 12/16/05-3/15/06³

| NAME OF HOME | LOCATION | DATE OF SURVEY | AMOUNT ⁴ |
|---|--------------------|--------------------|---------------------|
| The Center for Nursing and Rehab at Birchwood | Huntington Station | 1/18/05 | \$2,000.00 |
| Concord Nursing Home, Inc. | Brooklyn | 10/20/03, 10/18/02 | \$2,000.00 |
| Garden Care Center | Franklin Square | 6/17/03 | \$2,000.00 |
| Heritage Health Care Center | Utica | 6/28/04 | \$6,000.00 |
| Heritage Health Care Center | Utica | 3/24/05 | \$2,000.00 |
| Jewish Home and Hospital for Aged | Manhattan | 10/30/03 | \$2,500.00 |
| Little Falls Hospital ECF | Little Falls | 2/4/05 | \$2,000.00 |
| Loeb Center-Montefiore Medical Center | Bronx | 12/7/01 | \$1,000.00 |
| Michael Malotz Skilled Nursing Pavillion | Yonkers | 3/25/02 | \$2,000.00 |
| RidgeView Manor Nursing Home | Buffalo | 5/11/05 | \$2,000.00 |
| Riverhead Nursing Home | Riverhead | 5/1/01, 9/30/02 | \$6,000.00 |
| St. Catherine of Siena | Smithtown | 3/15/05 | \$1,000.00 |
| The Wartburg Home | Mount Vernon | 12/19/03 | \$6,000.00 |

³ As reported by the New York Department of Health (DOH). For more detailed information call the DOH FOIL Officer at 518-474-8734 or e-mail – nhinfo@health.state.ny.us.

⁴ Under state law, nursing homes can be fined up to \$2,000 per deficiency.



Enforcement Actions Against Nursing Homes

STATE ENFORCEMENT ACTIONS AGAINST NURSING HOMES

In addition to the actions listed below, the following nursing homes are also subject to a fine. If the nursing home was found, at the time of the survey, to have given substandard quality of care (SQC) and/or to have put residents in immediate jeopardy (IJ), the most serious level of deficiencies, or to have repeated deficiencies that have caused isolated resident harm (G) it is noted in the third column. Double G means the home has received Gs in two consecutive surveys. IJ Removed means the facility was identified to have immediate jeopardy during the survey but removed the situation that caused immediate jeopardy prior to the end of the survey.

The State Took Other Action Against Nursing Homes 12/16/05-3/15/06

| NAME OF HOME | LOCATION | IJ,SQC or G | SURVEY DATE | ACTIONS ¹ |
|---|-------------|---------------------|-------------|--------------------------------------|
| Bayview Nursing and Rehab Center | Island Park | GG | 12/2/05 | DOPNA |
| Eden Park Health Care Center, Cobleskill | Cobleskill | IJ, SQC, IJ Removed | 3/3/06 | State Monitor, POC, Inservice, DOPNA |
| Gurwin Jewish Geriatric Center of LI | Commack | GG | 1/11/06 | POC, DOPNA |
| Highland Nursing Home | Massena | GG | 11/16/05 | POC, Inservice, DOPNA |
| Mercy of Northern New York | Watertown | GG | 1/6/06 | POC, Inservice, DOPNA |
| Michaud Residential Health Services, Inc. | Fulton | GG | 1/6/06 | POC, Inservice, DOPNA |
| Nassau ECF | Hempstead | GG | 12/2/05 | POC, Inservice, DOPNA |
| Northwoods, Cortland | Cortland | IJ, SQC | 2/2/06 | State Monitor, POC, Inservice, DOPNA |
| Norwegian Christian Home & Health Center | Brooklyn | GG | 2/6/06 | POC, DOPNA |
| Peninsula ECF-Rehab | Queens | IJ, SQC | 12/23/05 | State Monitor, POC, Inservice, DOPNA |
| Seneca Healthcare Center | West Seneca | IJ Removed | 2/24/06 | POC |
| Sheridan Nursing Home | Tonawanda | IJ, SQC, IJ Removed | 12/9/05 | State Monitor |
| Sunrise Nursing Home | Oswego | GG | 1/26/06 | POC, Inservice, DOPNA |
| United Odd Fellow and Rebekah Home | Bronx | IJ, SQC | 12/14/05 | State Monitor, POC, Inservice, DOPNA |
| Wedgewood Nursing Home | Spencerport | IJ Removed | 12/8/05 | POC |
| Westmount Health Facility | Queensbury | GG | 2/10/06 | POC, Inservice, DOPNA |
| Wyoming County Community Hospital SNF | Warsaw | IJ Removed | 3/3/06 | POC |

¹Denial of Payments for New Admissions (DoPNA): Facility will not be paid for any new Medicaid or Medicare residents until correction; Directed Plan Of Correction (POC): A plan that is developed by the state or the federal regional office to require a facility to take action within specified timeframes. In New York State, the facility is directed to analyze the reasons for the deficiencies and identify steps to correct the problems and ways to measure whether its efforts are successful; In-Service Training: State directs in-service training for staff. The facility needs to go outside for help; State Monitoring: State sends in a monitor to oversee correction; Termination means the facility can no longer receive reimbursement for Medicaid and Medicare residents.

Assisted Living...

continued from page 3

provide a homelike environment in which one can receive care and assistance, not an institutional setting in which patients are dispatched to specialized treatment areas.

Comment on New Applications

As of this writing, DOH has not received any comments on applications from consumers or community leaders. It is crucial for consumers and advocates to voice their opinions. If you have any experience – good or bad – with an adult home or assisted living, now is the time to speak out about it! See page 10 for how to make your voices heard.

When you send your comments to DOH, please send a copy to us at info@ltccc.org. LTCCC will keep track of comments on providers' community feedback (keeping any personal information confidential).

Additionally, comments may be submitted to the Department of Health's Complaint Intake Unit for adult homes and enriched housing programs through its toll-free hotline: 1-866-893-6772. If you are concerned about giving your name, feel free to send your comments to us and we will keep your name confidential. We will send in your comments without your name and any identifying information. It is crucial for you to make your comments!



Help protect assisted living residents by writing a letter to DOH and SOFA staff, as well as the chairs of the Aging and Health committees in the State Assembly and Senate and urge the acceptance of the issues stated above. To send a free message: go to our web site, www.ltccc.org, and click on our Citizen Action Center. Click on the Action Alert related to strengthening regulations around assisted living. If you do not have access to the Internet, refer to the back page of this newsletter for contact information. □

Do we have your correct contact information?

Please take a moment to check your information on the back cover and email (info@ltccc.org) or call us (212-385-0355) with any changes.

Free Legal Assistance for Seniors



Seniors across the state have a new resource for help with legal matters. The New York Seniors Legal Assistance Project (NYSLA) offers free assistance to senior citizens. This project is made possible by a grant from the federal Administration on Aging and is hosted by Legal Services for the Elderly (LSE) and the New York City Bar Justice Center (CBJC).

NYSLA offers advice and brief services on legal issues that most commonly affect seniors, including:

- Health care issues (including the new Medicare drug plans);
- Income security issues (Social Security and other benefits);
- Advance directives (health care proxies, living wills and other wills, and powers of attorney);
- Consumer issues (bankruptcy and debt collection);
- Nursing home transition issues; and
- Other elder law issues (such as guardianships).

NYSLA was designed to supplement the services currently available from legal services agencies, who serve low-income seniors across the state, by handling the advice or shorter-service cases, thus freeing up the local legal services agencies to provide more extended representation. Priority is given to lower-income clients and clients who face barriers to obtaining legal relief without assistance, such as those with limited-English proficiency or personal factors such as fear and stress, frailty and ill health, absence of support mechanisms, living alone, or mobility restrictions.

NYSLA's services are available by telephone to all seniors in New York State, regardless of income and resource levels. For people in New York City, the number to call is (646) 442-3333. Seniors outside of the city can call toll free: (866) 382-7955. The Project operates from 10 am to 1 pm on Mondays, Wednesdays and Thursdays and from 5 pm to 8 pm on Tuesdays. □

Successes in NY Legislature for Adult Home Residents

Adult home residents have made significant progress in achieving two goals they have sought for years. In March, the New York State legislature appropriated funds for independent housing as well as funds to air condition resident rooms. As of this writing (April), residents await the governor's response to the legislature's budget, hoping the governor will join with the legislature in these important measures to improve the quality of their life and care.

The legislature appropriated \$810,000 for 54 scattered site supported apartments for people with psychiatric disabilities currently living in adult homes. It's particularly significant because it is *the first time ever* that funds have been provided for independent housing solely dedicated to adult home residents. Many of the 12,000 people with psychiatric disabilities currently living in adult homes could and should live in supported apartments. "Those of us who wish to move on from the adult care system should have these options" said Irene Kaplan, a resident of Surf Manor in Brooklyn and Vice President of the Coalition of Institutionalized Aged and Disabled (CIAD, a member of LTCCC). It is consistent with the Americans with Disabilities Act, the Supreme Court's *Olmstead* decision, and the desire of many people with psychiatric disabilities living in adult homes.

To date, few people with psychiatric disabilities living in adult homes have been able to move into more independent housing, such as supported apartments. The \$810,000 contained in the legislature's budget proposal provides a welcome opportunity for New York to take a proactive approach toward helping people with psychiatric disabilities have a choice about where they can live.

The New York State legislature also provided \$2 million towards providing air conditioning in adult home resident rooms. According to the U.S. Centers

for Disease Control and Prevention, air conditioning is the number one protective factor against heat-related illness and death. Those most at risk for heat-related illnesses include the elderly, people with mental illness and people with chronic diseases. Virtually all adult home residents fall into at least one of these categories. Many adult home residents have cardiopulmonary conditions, which make them particularly susceptible to heat related complications, and a large number of residents are on psychotropic medications, which greatly diminish their ability to withstand warm temperatures, according to the New York State Health Department. Currently, only one common room is required to be air conditioned in an adult home. Air conditioning in resident rooms will save lives, improve health and reduce costs from hospitalizations for heat related illnesses.

The housing and air conditioning proposals came about in large measure because of the efforts of adult home residents themselves. Organized by CIAD and the New York State Coalition for Adult Home Reform (NYSCAHR), approximately 100 residents from New York City, Long Island and Dutchess County took their message to Albany during the Third Annual Adult Home Resident Speak Out in Albany on February 15, 2006. CIAD also organized two resident forums on air conditioning in Brooklyn and Far Rockaway during the 2005 summer heat wave. The meetings were attended by several state legislators and attracted coverage in the print and broadcast media. CIAD's Resident Media Team has produced an eight minute video, *Dying for Air*, that addresses the need for air conditioning in adult homes.

This article was written by Geoffrey Lieberman. Geoff is president of the board of directors of LTCCC and executive director of CIAD. Geoff can be reached at ciad-ny@aol.com or (212) 481-7572 for more information. □

A Seed Worth Planting

Yellow mustard is one of America's favorite condiments-about 70 percent of American households buy yellow mustard every year!

If only some of that money could be seed money for LTCCC... But guess what? You can make that happen just by buying your books, CDs, shoes, clothes, flowers, electronics, toys and everyday items at iGive.com. At the Mall at www.iGive.com/Ltccc,

you get a free membership (no obligations) to shop at 600+ stores and without any extra cost to you, you'll be helping LTCCC at the same time and up to 26% of every purchase you make will be a donation. □



Help Make Sure That Assisted Living Consumers Receive Care from Qualified Providers

Under New York State's new assisted living law, all providers must be licensed - either as adult homes (ACF) or basic assisted living residences (ALR). In addition, some providers who want to care for more dependent or frail individuals are applying for special certificates: (1) SNALR - a special needs certificate that will permit the provider to advertise care for residents with Alzheimer's/dementia; and (2) EALR - an enhanced certificate that will permit care for residents as they "age-in" or get sicker. Recently, the NY Department of Health (DOH) has begun to accept applications for licensure.

You Can Help Ensure That Assisted Living Residents Are Protected In The Future By Speaking Out Now On Your Experience With Adult Home Or Assisted Living Providers

New York's new law requires that the state solicit and consider your opinions on providers in your community that are applying for licensure and certification. This is an important opportunity to speak out about your experience with adult homes or assisted living providers in your area that are seeking approval to provide care and services.

It Is Easy To Find Out If A Home You Know Is Applying For Licensure And Certification And Leave A Comment



Visit our Website, www.ltccc.org, and scroll down to the bottom of the page for the box "Update on Assisted Living in New York." There you will find more information, and a direct link to the official state Website page where you can click on a map of NY State, find out who is applying in your area, for what license and certificate, and submit a comment if you like. When you send your email to DOH, please send a copy to us at info@ltccc.org. LTCCC will keep track of comments from the community (keeping any personal information confidential). This will help us ensure that both providers and NY State are accountable for providing good care in the future. If you know of an application by a provider in your community, and do not have access to the web, you can also comment by phone: 1-866-893-6772. If you are concerned about giving your name, send your comments to us and we will keep your name confidential. We will send your comments without your name and any identifying information.

LTCCC urges you to comment on these applications. We will monitor the state's response to ensure that they are considering your comments. For more information on assisted living, including free consumer guides, go to www.assisted-living411.org (links are also on our homepage, www.ltccc.org).

Thank you. Your comments will help make sure that providers that give good care are licensed.

Please Copy and Distribute This Form in Your Community

NY State EPIC and Medicare Part D

There have been a lot of questions regarding how the new Medicare prescription drug benefit will work with the New York State EPIC program. For many seniors, using both at their pharmacy will save them more money than either by itself.

New York State EPIC has been around for more than 17 years, helping seniors save on the cost of prescriptions. Today, NYS EPIC is considered to be “creditable coverage” which means it is at least as good as the basic Medicare Part D plan. For many seniors, EPIC may be the “creditable coverage” that works best for them. As always, seniors should look at their prescription expenditures and ask, “How do I pay for my prescriptions now?” and “What will work best for MY personal situation?” Medicare Part D and NYS EPIC work together right at the pharmacy. Many seniors can enjoy maximum savings when the two are used together.

When the senior brings their prescription to the pharmacy, the two programs work together like this: Medicare Part D is billed first and NYS EPIC is billed second. Medicare is primary and EPIC is secondary coverage. You may hear people saying EPIC “wraps around” the federal Medicare Part D program. What this means is any out-of-pocket costs are billed to EPIC. This includes deductibles, co-payments, non-covered drugs and possible gaps in coverage. In most cases, the senior leaves the pharmacy having paid lower co-payments for their drugs.

Not everyone who qualifies for Medicare Part D will qualify for EPIC and vice versa. It is important to realize that the state program (EPIC) and the federal program (Medicare) have different criteria. First of all, Medicare Part D has only one qualification. That is, anyone who already has Medicare A and/or B, is eligible for Medicare Part D. So, simple enough, if you have Medicare, you qualify for Part D.

For EPIC, there are four qualifications: 65 years of age or older, resident of New York state, income below \$35,000 for a single person, \$50,000 for a married couple. (The fourth qualification concerns any other prescription coverage the senior might have. With other prescription coverage, you may still qualify for EPIC, so check it out.) EPIC’s definition of married couple refers to husband and wife, living under the same roof. For someone who has a spouse in a long term care facility, they are counted as a single person. For most people, this makes the income limit easier to meet. Also important to note, the above income limits always refer to last calendar year’s income. Income

and resource limits associated with Part D are ONLY in reference to receiving extra help with paying for the monthly Medicare Part D premiums. Again, anyone with Medicare qualifies for Part D.

As mentioned above, the EPIC program is specifically designed to help seniors with high prescription costs. Seniors who qualify will find themselves placed into the fee program OR the deductible program, based on their income and marital status. Those folks in the fee plan will be required to pay a fee and will start saving money right away. Those folks who fall into the deductible category will have to meet a deductible, based on their income, before they see any real savings on prescriptions. Again, each individual should look at their prescription purchases based on their personal situation.

While EPIC and Medicare Part D are both voluntary, Medicare beneficiaries need to make a decision about Part D coverage by May 15, 2006, which is the end of the initial enrollment period. The next enrollment period for Part D is from November 15th to December 31st, with coverage beginning on January 1st, 2007. There is a premium penalty for signing up after the end of the initial enrollment period, unless you can prove you have “creditable coverage.”

It is important to note that many long term care facility residents have both Medicare and Medicaid. Residents who have what is called FULL Medicaid do not qualify for EPIC. Residents who have Medicaid SPEND DOWN could qualify for EPIC. If you have a spend down (or buy-in), you should ask your case worker if EPIC is right for you.

Seniors, caregivers and family members are encouraged to call EPIC at 1-800-332-3742 to find out more information or to request a brochure and application.

This information has been provided under the auspices of the State Pharmaceutical Assistance Program Transition Grant. □



Ronald Fatoullah (far right), a noted elder law attorney, spoke about changes in the Medicaid law, particularly issues regarding transfer of asset rules, at LTCCC's March 2006 general coalition meeting.

**NEW YORK STATE
OFFICIALS:**

Governor Pataki
State Capitol, Albany, NY 12224
Phone: 518-474-7516
E-Mail: Go to:
<http://www.state.ny.us/governor>

Commissioner Antonia C. Novello
NY Department of Health
Tower Building
Empire State Plaza
Albany, NY 12237

Lisa Wickens
Deputy Director, OHSM
NYS DOH - Corning Tower
Empire State Plaza
Albany, NY 12237

Laurie Pfferr, Deputy Director
New York State Office for
the Aging
Agency Building #2 - 2nd Floor
Empire State Plaza
Albany, NY 12223

Action Alert Mailing List

New York State Assembly:

To write to your representative in the Assembly, address your letters to him or her at NYS Assembly, Albany, NY 12248. The general switchboard for the Assembly is 518-455-4100.

In addition to your personal representative, it is important that the following leaders hear from you:

Assemblymember Sheldon Silver, Speaker
speaker@assembly.state.ny.us

Assemblymember Richard N. Gottfried, Chair, Committee on Health
gottfr@assembly.state.ny.us

Assemblymember Steve Englebright, Chair, Committee on Aging
engles@assembly.state.ny.us

New York State Senate:

To write to your Senator, address your letters to him or her at NYS Senate, Albany, NY 12247. The general switchboard for the Senate is 518-455-2800.

In addition to your personal senator, it is important that the following leaders hear from you:

Senator Joseph Bruno
Majority Leader
bruno@senate.state.ny.us

Senator Martin Golden
Chair, Committee on Aging
golden@senate.state.ny.us

Senator Kemp Hannon
Chair, Committee on Health
hannon@senate.state.ny.us

To obtain the names of your personal state government representatives, go to The Citizen Action Center on our website: www.ltccc.org.

FEDERAL OFFICIALS:

President Bush
The White House
Washington, DC 20500
Phone: 202-456-1111
Fax: 202-456-2461
E-Mail:
president@whitehouse.gov

Mark McClellan, Administrator,
CMS
7500 Security Boulevard
Baltimore, MD 21244-1850
Phone: 202-690-6726
E-Mail:
mark.mcclellan@cms.hhs.gov



BESTBUY • BARNES & NOBLE • EBAY • DELL COMPUTERS • LANDS' END • NEIMAN-MARCUS • SEARS • GODIVA

HELP THE ELDERLY AND DISABLED AT NO COST TO YOU!

Now you can shop on the Internet and make a free donation to support our work at the same time.

It's easy! It's safe! No cost to you! 100's of stores!

Go to www.ltccc.org, www.assisted-living411.org or www.nursinghome411.org and click on the blue button on the right hand side that says "Shop and Support LTCCC." This takes you to our page on iGive.com, an Internet "shopping mall" that allows you to shop securely at stores that have agreed to make a donation. To start shopping, the first time only, go to the top of the right hand side of the page and enter your email address under "Join Here."

Special offers available through iGive, such as discounts on merchandise and shipping, etc...

MIKASA • WEIGHT WATCHERS • STAPLES • CHEFSCATALOG.COM • HARRY & DAVID • H & R BLOCK • AVON

LTCCC LONG TERM CARE COMMUNITY COALITION
Working to improve long term care through research, education & advocacy

242 West 30th Street, Suite 306
New York, NY 10001

NON-PROFIT ORG.
U.S. POSTAGE
PAID
NEW YORK, NY
Permit No. 893

Visit our homepage, www.ltccc.org, for the latest news, action alerts or to make a donation!