

# MONITOR

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

www.ltccc.org • WINTER 2011/12



## Medicaid Redesign: Major Changes in Long Term Care

For the first time, New York State is not just cutting Medicaid rates to long term care providers; it is implementing major changes to the very structure of the Medicaid program that will significantly affect long term care recipients. Most Medicaid beneficiaries over the age of 21 who need community based services for over 120 days as well as all nursing home residents on Medicaid will be required to join a managed long term care (LTC) program. In the next few years, Medicaid reimbursement to nursing home providers will no longer come directly from the state; nursing home placement will become a covered service in these managed LTC plans which will reimburse the nursing home directly for their clients' care. Thus, the financial risk of nursing home placement will shift from the state to the managed care plan.

**Mandatory Enrollment.** Beginning with New York City residents in April, 2012 enrollment in managed care plans will be mandatory for most adult Medicaid enrollees who need home and community based long-

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## Groups Join to Protect Assisted Living Residents

For over thirty years, government investigations, news reports, and judicial decisions have documented, often in heartbreaking detail, deep-rooted problems of resident neglect and abuse in adult homes in New York and across the country. LTCCC's recent year-long study on care and oversight in assisted living & adult homes in NY State (available at [www.assisted-living411.org](http://www.assisted-living411.org)) found persistent problems in resident care, medication management and environmental issues.

**Adult Homes & Assisted Living with a history of violations have applied for licensure to take in people with significant frailties.**

Despite the persistent problems and serious inconsistencies in quality and standards, the industry had continued on its path to expand the services it offers and the level of needs of residents that it is permitted to care for. Under the state's 2004 Assisted Living Law, if an adult home is approved as a Basic Assisted Living Residence (ALR) it can admit people who need on-site monitoring, personal care services and case management. In addition to the Basic ALR licensure, the law provides for such a facility to apply for an Enhanced (EALR) Certification, if it wants to retain people who are "aging in place" (with increasing frailty and needs closer to those provided in a nursing home), or a Special Needs Certification, to care for people with significant levels of dementia.

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### LTCCC's 3rd Annual Reception Honoring Karen Schoeneman

held on Thursday, October 6th, 2011

*See photos from event on pages 10 & 11!*

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### Current Issues

The 2004 law requires an adult home to be in good standing to be approved by DOH to be an ALR or to be certified for the other additional services, unless DOH decides the facility is of good moral character and competent to run an ALR. However, good standing is defined not in terms of deficiencies received, but by proposed revocations or civil monetary penalties. Given that adult homes cannot be fined if they correct any deficiency short of endangerment within 30 days (see related article in this edition of the *Monitor*), this may mean that adult homes with histories of harming residents and going in and out of compliance may be approved as assisted living or even to provide enhanced or special needs care.

In addition, in August 2010, the legislature and governor passed an amendment to the Public Health Law (§ 4651) which expands the category of people deemed eligible to be admitted into ALRs with Enhanced Assisted Living Residence (EALR) certifications. Prior to this amendment, facilities with EALR certification could only retain individuals who “aged into” requiring EALR services. When a resident who already lived in the facility developed certain higher medical needs, that resident could remain in the facility and receive enhanced services. As a result of this change, these facilities are now allowed to admit individuals requiring this level of care directly from the community or another facility. Thus, it is possible that some of those adult homes now giving poor care will be approved to be an ALR and certified to admit and retain people who have high medical needs.

Adding insult to injury, it is important to note that following promulgation of state regulations for assist-

ed living in 2008 (four years after New York’s law was passed), several providers and industry lobbyists sued the state to weaken the protections that LTCCC and others had fought hard for. They succeeded in getting a number of consumer protections removed including, from our perspective, one of the most important: the requirement that Enhanced or Special Needs assisted living have a registered nurse on staff.

### Our Concern

Many adult homes throughout the state have already applied for Basic ALR and EALR certification. Applicants include a number of homes which the NY State Department of Health (DOH) has consistently cited for regulatory violations and poor conditions. Examples of these citations include harassment, threats, intimidation, cruelty, retaliation for refusal to attend medical appointments or day treatment programs, bed bugs, mold, failure to provide personal care services, failure to assist residents to arrange off-site medical appointments, and medication inaccuracies.

We have seen many facilities recently “re-tooling” themselves to take in a sicker and more vulnerable population by making changes to the physical plant of their buildings. We are concerned that DOH might approve these facilities’ applications in a perfunctory manner and fail to scrutinize their own inspection reports to identify systemic violations or may not be permitted under the law to deny approval.

Many of these facilities have a history of providing substandard care and we are deeply concerned that

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## Fall 2011 Legislative Update

### Assisted Living & Adult Homes in NY State

In May, LTCCC released a study on assisted living in New York that identified several deficiencies in the state's oversight of assisted living and offered recommendations on ways in which the state could improve. Since then, LTCCC has been working to make a few of those recommendations reality. Here is a short overview of what we hope to accomplish through legislation.

#### Improve Training for Direct Care Staff in Adult Care Facilities

**Why it is important:** Aides provide almost all of the care in adult care facilities across the state, but they have minimal education and training requirements. This leads to poor quality of care and can lead to serious errors, especially in the area of resident medication.

**LTCCC's proposed change to the law:** Amend §461-p of the Social Services Law to require a uniform, set curriculum for direct care staff in all adult care facilities, including those also licensed as assisted living residences.

#### Require an RN in Enhanced and Special Needs Assisted Living Residences

**Why it is important:** EALRs and SNALRs cater to residents requiring an increased level of care and monitoring. Following a 2009 court decision overturning large portions of the assisted living regulations, however, there is no one required to be onsite at these facilities with the medical training necessary to know whether the residence is safely and adequately meeting each resident's needs day-to-day.

**LTCCC's proposed change to the law:** Amend §4655 of the Public Health Law to require a full-time RN on staff at EALRs and SNALRs.

#### Modify The Rectification Period For Violations And Permit DOH To Levy A Fine Without Permitting A Facility 30 Days To Correct

**Why it is important:** Studies, including LTCCC's own assisted living study, have shown that when facilities are given the chance to rectify their violations without incurring a fine, they fall into a pattern of "yo-yo compliance." That is to say, although they correct their violations, they fall back into a state of non-compliance after correction. Residents are being harmed or put at

risk of harm without the facility incurring any sort of punishment for this harm. Additionally, the rectification period often changes the focus of any DOH hearing from the substantive issue of whether the facility is in compliance or not to technical issues, such as whether the facility was notified in time that it was in noncompliance.

**LTCCC's proposed change to the law:** Amend §460-d of the Social Services Law to mandate that DOH levy a fine if harm has occurred, without an opportunity for rectification and permit DOH to use its discretion allowing for a rectification period if a resident or residents have been put at risk of harm.

#### Fines Should Be Permitted To Be Levied On A Per-Violation Basis, Instead Of Solely On A Per-Day Basis, As Appropriate For The Violation

**Why it is important:** The law currently only permits DOH to levy a fine on violations on a per day basis; thus, individual violations that do not go past one day are not referred for legal action, they are deemed not worth pursuing. Though some of these violations may be minor, others can be serious, and all are either harming residents or putting them at risk of harm.

**LTCCC's proposed change to the law:** Amend §460-d of the Social Services Law to permit the DOH to levy a fine on a per violation basis.

#### The Maximum Fine Amount Should Be Raised From \$1,000 To \$5,000

**Why it is important:** The maximum fine for violations has not been raised since 1977. [For the sake of comparison, the average price of a new house in 1977 was \$54,200; in 2010 it was \$272,900.] Low fines have low impact, and may be seen as just part of the price of doing business.

**LTCCC's proposed change to the law:** Amend section § 460-d of the Social Services Law to permit the DOH to levy a fine of up to \$5,000 (half of the maximum fine that nursing homes may incur for violations) based on the severity of the violation.

#### What LTCCC is Doing

Over the summer, LTCCC developed justifications for these proposals and presented them in meetings with state policymakers. Currently, we are finalizing

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## Medicaid Redesign *continued from page 1*

term care services for more than 120 days. Mandatory enrollment will expand throughout the rest of the state as plans become available. In addition, in October 2012, Medicaid nursing home residents will be required to enroll in a managed long term care plan.

**Payment Changes.** In addition to cuts across the board, housekeeping services will be kept to a specified amount; certified home health agencies will be subject to agency specific limits; administrative rates will be cut; and living wages for workers will eventually be mandated. In addition (as noted above), since nursing home placement will be a covered service and payment for nursing home care will be part of the rate, the plans will be reimbursing the nursing homes directly for their care of Medicaid residents. Within three to four years, New York State will not be paying nursing homes directly for care of Medicaid residents.

**Medicaid Redesign Team.** The state's Medicaid Redesign Team's (MRT) Managed LTC Workgroup will make its recommendations in November 2011 on:

- the development of care coordination models to be used in the mandatory enrollment;
- processes to ensure patient protections and access;
- continuity of services; and
- avoidance of nursing home placement and hospital stays.

### **Challenges for Consumers.**

- Managed long term care plans may be an advantage for some long term care recipients if their care is appropriately managed. However, managed care can often become managed costs with the lower cost

options chosen over what is appropriate for the individual. Who will ensure that these plans offer sufficient patient protections to make sure that this does not occur?

- Currently the state reimburses nursing homes for the care of Medicaid residents. Who will ensure that nursing home residents are receiving appropriate care, quality of life and dignity once a new private entity, with a vested interest in reducing nursing home costs, is taking over managing and paying for their care?

- Currently there are a number of different types of managed care plans and new plans are being developed. Understanding their differences and the choices consumers will have will be crucial.

- Changes in reimbursement might affect care; consumers will have to be aware of these changes.

- One third of the population of individuals on Medicare and Medicaid ("dual eligibles") are under the age of 65. They are very diverse, with widely differing needs for physical and behavioral health care, social and community supports, and care coordination. Consumers under 65 must be aware of how the different plans intend to deal with these issues.

- Out of 643,000 full and partial dual eligibles in New York, fewer than 5% are now enrolled in Medicaid managed care. How will plans manage mandatory enrollment of so many adults?

LTCCC will examine the Managed LTC Workgroup recommendations when they are made public and will discuss their implications in a future newsletter. □

### **More Nursing Home Information Now Available Online**

Nursing Home Compare on the federal government's Medicare website – [www.medicare.gov/nhcompare](http://www.medicare.gov/nhcompare) – provides detailed information on every nursing home in the U.S. that accepts Medicaid or Medicare (the vast majority of nursing homes). The information provided includes: "Five-Star" Quality Ratings, health inspection results, nursing home staff data, quality measures, and fire safety inspection results.

Under the federal Affordable Care Act passed in 2010 (so-called "ObamaCare"), Nursing Home Compare will be providing improved information for consumers and the public. In addition to the information described above, the website recently added information on substantiated complaints, Civil Money Penalties levied against nursing homes, and Denials of Payment for New Admissions. Yet to be implemented are the Affordable Care Act requirements that nursing home staffing information be based on payroll data (rather than permitting facilities to self-report their staffing levels, as has been the practice) and information on criminal violations by a facility or its employees committed inside the facility or outside of the facility (when they resulted in serious bodily injury). The Act also requires the addition of a more visible section that lists and explains consumer rights and how to take action if these rights are violated.



## Groups Join to Protect *continued from page 2*

they will be permitted to care for an even more vulnerable population.

### What We Are Doing

LTCCC has teamed up with MFY Legal Services and two LTCCC members, Coalition of Institutionalized Aged & Disabled (CIAD) and Statewide Senior Action Council, to conduct an education and outreach campaign to inform the public and NY State policymakers about the issue, work with DOH and advocate for the state to adopt our recommendations, particularly that facilities that are applying for Enhanced certification be truly assessed in terms of their past inspections. The law already requires DOH to consider public input when it assesses a facility's application for Enhanced or Special Needs. (LTCCC fought hard for this requirement when the law was enacted in 2004). We are working to: (1) facilitate input from residents, families and LTC ombudsmen (see below) and (2) compel DOH to actively encourage and consider public input and conduct meaningful assessments of the providers who apply for Enhanced certification.



- Action Alert: LTCCC, MFY, CIAD and Statewide have developed an Action Alert for the public (go to [www.assisted-living411.org](http://www.assisted-living411.org) and see the "Current Long Term Care Action Alerts" on the right side of the page) to speak out on this issue.

- Comment on an Assisted Living in Your Community: Go to <http://assisted-living411.org/assistedlivingcommentpage.htm> to speak out about your experience with adult homes that are seeking approval to provide enhanced care and services. When you send your comments, please send a copy to us at [info@ltccc.org](mailto:info@ltccc.org). We will keep track of comments we receive (keeping personal information confidential). If you would prefer to comment anonymously, send it to LTCCC, 242 West 30th Street, Suite 306, New York, NY 10001 and we will submit it for you.

- LTC Ombudsman Survey: We have also developed a survey for LTC Ombudsman on the adult homes and assisted living in their communities. If you are an ombudsman and would like more information please email [richard@ltccc.org](mailto:richard@ltccc.org). □

## Changes In Nursing Home Bed Hold Policy

As of January 2012, there will be major changes in NY State's bed hold policy for nursing homes. Nursing home Medicaid reimbursement for all Medicaid recipients over age 21 who leave the nursing home for a night or longer will be eliminated for those recipients if their facility does not have 50% or higher enrollment of eligible residents in a Medicare managed care program (NOTE: As of November 2011 this was pending federal approval). If they do enroll at least 50% in a Medicare managed care program, they will receive reimbursement under the following rules:

(1) Facilities will be reimbursed for only 14 days per year (down from 15 to 20 days) to hold the bed for a Medicaid recipient aged twenty-one or over, for temporary hospitalizations and for 10 days per year (down from 18 days) for non-hospital (therapeutic) leaves of absence; (2) Reimbursement will cover only 95% of the Medicaid rate (down from 100%); and (3) Reimbursement will only be paid if the facility has a vacancy rate of no more than 5 percent.

According to the Department of Health, if a facility

is not reimbursed, it does not have to hold the bed. However, it still must offer the resident returning the first available bed and lack of a bed hold is not an acceptable reason to discharge a resident.

### Concerns

- How will Medicaid residents and their families know if a facility has enrolled 50% or more of their eligible residents in a Medicare Managed Care Program and thus are required to hold their bed?

- Since private pay residents and family members of Medicaid residents can still pay to have their beds held, will this mean that only those who can afford to can expect to return to their bed?

- Will this reduce appropriate hospitalization for individuals who need hospital care but are afraid of losing their home in their nursing home if they go to the hospital?

- Will this effectively eliminate therapeutic leaves of absence (such as for family visits or holidays) for Medicaid residents? Who will take a chance that their bed is gone? □



## Quarterly Enforcement Actions Against Nursing Homes

### Selected Enforcement Actions of NYS Attorney General

#### Medicaid Fraud Control Unit<sup>1</sup> Took Action Against 5 Nursing Home Personnel 6/16/11 - 9/15/11

Nursing Home	Location	Defendant	Narrative	Action Taken
Betsy Ross Rehabilitation Center	Rome	Gantt, Chanda, CNA	After a 73-year old resident spit onto the table during a meal, the defendant scooped it up and fed it back to her.	8/5/2011: One-year conditional discharge <sup>2</sup> ; \$750 fine; \$200 surcharge and surrender of her certificate to MFCU by September 1, 2011.
Daleview Care Center	Farmingdale	Kennedy, Kathleen, RN	The defendant failed to properly assess a resident (with a history of falls who had previously suffered a fractured hip) after a fall, failed to properly document the fall and later submitted a false statement that she had no knowledge of the fall.	7/20/2011: A five year term of probation.
Medford Multicare Center	Medford	George, Paulette Marie, CNA	The defendant was convicted, after a jury trial, of neglecting and endangering four residents in her care as well as falsely documenting the records to cover up her actions. The defendant was seen, on the home's own security cameras, taking the fully-clothed residents to breakfast, never taking them to the showers. In addition, the defendant was convicted of transferring a resident with a Hoyer lift, alone.	8/4/2011: Eight months incarceration, some of which to be served through community service, and probation for her convictions.
Medford Multicare Center	Medford	Pierre, Marie, CNA	In the investigation into whether Paulette George (above) was showering the residents in her care, Marie Pierre submitted a false statement in which she falsely claimed that Paulette George showered her residents.	8/11/2011: Conditional Discharge, a condition of which is the performance of 280 hours of community service in lieu of 60 days incarceration.
Medford Multicare Center	Medford	Pierre, Marie, CNA	During a Hidden Camera Investigation, video surveillance showed that the defendant failed to provide range of motion exercises and failed to change the resident's brief for up to 6 hours.	8/11/2011: Conditional Discharge with Community Service. Condition which includes 60 days incarceration or 280 hours of community service in lieu of incarceration and the community service may not involve medical or health care services. The defendant also executed a written waiver of her right to appeal.
Northwoods Rehabilitation and ECF-Troy	Troy	Smith, Alicia, LPN	Video surveillance, during a hidden camera investigation, revealed that the defendant falsified the Medication and Treatment Administration Record to reflect care she had not given to the resident.	8/9/2011: A five year term of probation and the surrender of her license.

<sup>1</sup>The unit prosecutes cases of patient abuse in nursing homes.

<sup>2</sup>Conditional discharge means if similar act is committed during the time period defendant can be brought back to court.

### Federal Civil Money Penalties<sup>1</sup> Against 18 Nursing Homes: 6/1/11 – 8/31/11<sup>2</sup>

Name Of Home	Location	Survey Date	Amount
Adirondack Medical Center-Uihelein	Lake Placid	3/22/11	\$20,150.00
Andrus on Hudson	Hastings-on-Hudson	5/19/11	\$22,652.50 <sup>3</sup>
Bethany Gardens Skilled Living Center	Rome	5/18/11	\$1,250.00
Bishop Francis J. Mugavero Center	Brooklyn	4/11/11	\$30,600.00
Crown Center for Nursing and Rehabilitation	Cortland	2/17/11	\$5,500.00
Elant at Fishkill	Beacon	1/10/11	\$46,450.00 <sup>4</sup>
Evergreen Commons	East Greenbush	10/22/09	\$10,000.00
Ferncliff Nursing Home	Rhinebeck	4/27/11	\$37,700.00 <sup>3</sup>
Katherine Luther Residential Health Care and Rehabilitation	Clinton	5/25/11	\$28,437.50 <sup>3</sup>
Livingston County Center for Nursing and Rehabilitation	Mount Morris	7/11/11	\$3,250.00 <sup>3</sup>
Loretto Utica Residential Health Care Facility	Utica	4/16/11	\$24,410.59 <sup>3,5</sup>
Mosholu Parkway Nursing and Rehabilitation	Bronx	4/12/11	\$55,575.00 <sup>3</sup>
Northern Riverview Health Care Center	Haverstraw	5/6/11	\$47,999.25 <sup>3</sup>
Pleasant Valley	Argyle	4/26/11	\$51,150.00 <sup>3</sup>
River Ridge Living Center, LLC	Amsterdam	4/11/11	\$3,900.00 <sup>3</sup>
The Springs Nursing and Rehabilitation Centre	Troy	4/1/11	\$21,385.00 <sup>3</sup>
Stonehedge Health and Rehabilitation Center-Rome	Rome	5/18/11	\$1,600.00
Van Duyn Home and Hospital	Syracuse	4/18/11	\$3,347.50 <sup>3</sup>

<sup>1</sup>Civil Money Penalties (CMPs) – a federal sanction against nursing homes that fail to comply with quality care requirements.

<sup>2</sup>As reported by CMS. For more detailed information contact the FOIA Officer at CMS 212-616-2439.

<sup>3</sup>Amount reflects a 35% reduction as the facility waived its right to a hearing as permitted under law. Original fine was 35% higher.

<sup>4</sup>Hearing requested. Collection will not occur until after hearing decision.

<sup>5</sup>Includes interest at 11% for paying in installments.



## Quarterly Enforcement Actions Against Nursing Homes

### NY State Fined 12 Nursing Homes: 7/1/11 – 9/15/11<sup>1</sup>

Name Of Home	Location	Date Of Survey	Amount <sup>2</sup>
Beechwood Homes	Getzville	10/14/08	\$10,000
Bronx Center for Rehab & Health	Bronx	4/16/10	\$4,000
Center for Nursing & Rehab	Brooklyn	1/29/10	\$24,000
Evergreen Commons	East Greenbush	10/22/09	\$8,000
Fieldston Lodge Care Center	Bronx	8/26/08	\$10,000
Jewish Home Lifecare	Manhattan	3/12/10	\$2,000
Lawrence Nursing Care Center, Inc.	Queens	3/10/10 and 6/15/10	\$16,000
Morris Park Nursing Home	Bronx	7/13/09	\$4,000
New Carlton Rehab & Nursing Center, LLC	Brooklyn	2/27/09	\$10,000
New East Side Nursing Home	Manhattan	1/20/10	\$12,000
Oceanside Care Center, Inc.	Oceanside	1/29/10	\$6,000
Whittier Rehab & Skilled Nursing Center	Ghent	1/12/10	\$12,000

<sup>1</sup>As reported by the Department of Health (DOH). For more detailed information call the DOH FOIL Officer at 518-474-8734 or e-mail – [foil@health.state.ny.us](mailto:foil@health.state.ny.us).

<sup>2</sup>Under state law nursing homes can be fined up to \$2,000 per deficiency. These fines may be increased to \$5,000 if the same violation is repeated within twelve months and the violations were a serious threat to health and safety. These fines may also be increased up to \$10,000 if the violation directly results in serious physical harm.

### NY State Took Other Action Against 13 Nursing Homes 7/1/11 - 9/15/11<sup>1</sup>

Name of Home	Location	Resident Impact <sup>2</sup>	Survey Date	Actions <sup>3</sup>
Blossom North Nursing and Rehab Center	Rochester	IJ/SQC	9/14/11	CMP, DOPNA
Bridgewater Center	Binghamton	IJ	7/6/11	CMP, DPOC, Inservice, DOPNA
The Center for Nursing and Rehab at Hoosick Falls	Hoosick Falls	IJ/SQC	8/17/11	CMP, DPOC, Inservice, DOPNA
Countryside Care Center	Delhi	IJ/SQC	9/7/11	CMP, DOPNA
Eger Health Care and Rehab Center	Staten Island	GG	7/29/11	DPOC, Inservice, DOPNA
Fulton County Residential Health Care Facility	Gloversville	GG	7/25/11	DPOC, Inservice, DOPNA
Highbridge Woodycrest Center	Bronx	IJ/SQC	8/22/11	CMP, Monitor, DOPNA
Livingston County Center for Nursing and Rehab	Mt. Morris	IJ/SQC	7/11/11	CMP, DPOC, DOPNA
Livingston Hills Nursing and Rehab Center	Livingston	IJ/SQC	7/6/11	CMP, Monitor, DPOC, Inservice, DOPNA
Nassau Extended Care Facility	Hempstead	GG	8/24/11	DPOC, Inservice, DOPNA
Parker Jewish Institute for Health Care and Rehab	Queens	IJ/SQC	7/13/11	CMP, DPOC, DOPNA
The Pines at Utica Center for Nursing and Rehab	Utica	IJ/SQC	7/27/11	CMP, Monitor, DPOC, Inservice, DOPNA
Rutland Nursing Home	Brooklyn	IJ/SQC	9/1/11	CMP, DPOC, Inservice

<sup>1</sup>As reported by the Department of Health (DOH). For more detailed information call the DOH FOIL officer at 518-474-8734 or e-mail – [foil@health.state.ny.us](mailto:foil@health.state.ny.us).

<sup>2</sup>Immediate jeopardy (IJ), and substandard quality of care (SQC): The most serious level of deficiency causing harm; GG: Deficiencies that have caused isolated resident harm on two consecutive surveys.

<sup>3</sup>Civil Money Penalty (CMP): State recommends the fine to CMS; State Monitoring: State survey staff is onsite in the facility to monitor and oversee correction; Directed Plan Of Correction (DPOC): A corrective action plan that is developed by the State or CMS, and requires a facility to take action within specified timeframes. In New York State, the facility is directed to determine the root cause of the deficiency, identify and implement steps to correct the problem, and evaluate whether corrective measures are successful; In-Service Training: State directs in-service training for staff; which must be provided by a consultant who is not affiliated with the facility; Denial of Payment for New Admissions (DoPNA): Facility is not paid for any new Medicaid or Medicare residents until correction of deficiencies is achieved.

## Fall 2011 Legislative Update *continued from page 5*

our recommendations for bill language, working closely with the office of Assemblyman Richard Gottfried, who has expressed interest in sponsoring them. Soon we will begin focused efforts to build support for the bills among other legislators and other state leaders.

### What Coalition Members Can Do

Support from consumer groups will be crucial as these bills progress. Please be on the lookout for

Action Alerts in the coming months. Also, if any of these proposals are of interest to you, please let us know. We would be happy to provide you with more detailed information and welcome any insights you might have.

Go to <http://assisted-living411.org/NEWREPORT-CAREANDOVERSIGHTINASSISTEDLIVING.htm> for the full report, executive summary and more details about these legislative proposals. □



# Quarterly Enforcement Actions Against Nursing Homes

## Selected Administrative Actions By The NYS Office of Medicaid Inspector General

### Action Taken Against 22 Nursing Home Personnel 6/15/11 - 9/15/11

Nursing Home	Location	Defendant	Narrative	Action Taken
Aaron Manor Rehabilitation and Nursing Center	Fairport	Taggart, Suzanne Marie, LPN	Ms. Taggart admitted guilt to the State Education Department's charge of professional misconduct, practicing the profession of nursing with negligence on more than one occasion.	Based on State Education Department Consent Order <sup>1</sup> Exclusion OMIG Exclusion <sup>2</sup> : 08/16/11
Absolut Center for Nursing and Rehabilitation	Endicott	Gulley, Yolanda, CNA	Ms. Gulley was excluded from the Federal Medicare program by the Department of Health and Human Services requiring simultaneous exclusion from the Medicaid program. <sup>3</sup> Earlier this year she was excluded from Medicaid after being convicted of one count of Willful Violation of Health Laws (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Adirondack Tri-County Nursing and Rehabilitation Center, Inc.	North Creek	Hayes, Brenda, CNA	Ms. Hayes was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after being convicted of one count of Willful Violation of Public Health Law (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Avalon Gardens Rehabilitation and Health Care Center	Smithtown	Chi, Tolly, CNA	Ms. Chi was excluded from the Medicare program by HHS. Previously she had been convicted of Falsifying Business Records in the Second Degree (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 06/20/11
Ferncliff Nursing Home	Rhinebeck	Thomas, Stephen, CNA	Convicted of one count of Willful Violation of Health Laws, Mr. Thomas transferred a resident on his own, even though the resident required a two person transfer. The resident's shoulder was broken in the process. He, along with a fellow CNA, Christopher Post, then gave a false statement to the supervisor, claiming that the two transferred the resident together.	Based on MFCU Conviction OMIG Exclusion: 08/15/11
Ferncliff Nursing Home	Rhinebeck	Post, Christopher, CNA	Convicted of one count of Willful Violation of Health Laws, Mr. Post gave a false statement to his supervisor, claiming that he had assisted Mr. Thomas in transferring a resident who needed a two person transfer, when in fact he had not.	Based on MFCU Conviction OMIG Exclusion: 08/15/11
Lily Pond Nursing Home	Staten Island	Ferry, Cynthia, CNA	Ms. Ferry was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after being convicted of one count of Willful Violation of Public Health Law (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Lily Pond Nursing Home	Staten Island	Bernabe, Josefina, LPN	Ms. Bernabe was excluded from the Medicare program by HHS. Earlier this year, she was excluded from Medicaid after being convicted of one count of Willful Violation of Public Health Law (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Medford Multicare Center for Living	Medford	Miller, Toni, LPN	Ms. Miller was excluded from the Medicare program by HHS. Earlier this year, she was excluded from Medicaid after having been convicted of one count of Endangering the Welfare of an Incompetent Person and one count of Falsifying Business Records (MFCU Conviction).	Based on an HHS Exclusion OMIG Exclusion: 06/20/11
Medford Multicare Center for Living	Medford	Chaudhry, Rima, LPN	Ms. Chaudhry was excluded from the Medicare program by HHS. Previously, she was excluded from Medicaid after having been convicted of 17 counts of Falsifying Business Records (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 06/20/11
Medford Multicare Center for Living	Medford	Coleman, Janet, LPN	Ms. Coleman was convicted of one count of Falsifying Business Records in the First Degree, and two counts of Endangering the Welfare of an Incompetent or Physically Disabled Person. She was caught on a hidden camera, placed by MFCU, endangering an elderly resident with physical and mental disabilities. She did not perform the required treatment and falsely recorded that she had. The resident was also placed in danger when Ms. Coleman failed to assist a certified nurse aide in using a Hoyer Lift to transfer the resident, a maneuver requiring two people	Based on MFCU Conviction OMIG Exclusion: 08/15/11
Medford Multicare Center for Living	Medford	Ellis, Patricia, LPN	Ms. Ellis was excluded from the Medicare program by HHS. Previously, she was excluded from Medicaid after having been convicted of one count of Endangering the Welfare of an Incompetent or Physically Disabled Person (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 06/20/11

<sup>1</sup>An agreement between the State Education Department Office of Professional Discipline, Board of Regents, Committee of the Professions and the licensee who admits guilt to at least one of the alleged acts of misconduct. The Consent Order provides the details of the misconduct and the assigned penalties.

<sup>2</sup>Exclusion means that no payments will be made to or on behalf of any person for the medical care, services or supplies furnished by or under the supervision of the defendant during a period of exclusion or in violation of any condition of participation in the program. Additionally, any person who is excluded from the program cannot be involved in any activity relating to furnishing medical care, services or supplies to recipients of Medicaid for which claims are submitted to the program, or relating to claiming or receiving payment for medical care, services or supplies during the period. OMIG may take a variety of exclusion actions against a provider based upon: indictments; convictions; consent orders or HHS exclusion.

<sup>3</sup>A provider excluded by HHS from the Medicare program is simultaneously excluded from the Medicaid program by OMIG.





# Quarterly Enforcement Actions Against Nursing Homes

## Selected Administrative Actions By The NYS Office of Medicaid Inspector General

### Action Taken Against 22 Nursing Home Personnel 6/15/11 - 9/15/11 (continued)

Nursing Home	Location	Defendant	Narrative	Action Taken
Northwoods Rehabilitation and Extended Care Facility	Troy	Tremper, Jessica, CNA	Ms. Tremper was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after having been convicted of one count of Falsifying Business Records in the Second Degree and two counts of Willful Violation of Health Laws (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Northwoods Rehabilitation and Extended Care Facility	Troy	Abel, Nancy, CNA	Ms. Abel was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after having been convicted of two counts of Falsifying Business Records in the Second Degree and two counts of Willful Violation of Health Laws (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 06/20/11
Northwoods Rehabilitation and Extended Care Facility	Troy	Inyard, Monique, CNA	Ms. Inyard was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after having been convicted of two counts of Falsifying Business Records in the Second Degree and two counts of Willful Violation of Health Laws (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 06/20/11
Rockaway Care Center	Far Rockaway	Laureano, Esmeralda, CNA	Ms. Laureano was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after having pled guilty to willfully subjecting a resident of a nursing home to abuse, neglect or mistreatment. (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
San Simeon by the Sound Center for Nursing and Rehabilitation	Greenport	Finley, Donald, LPN	Mr. Finley was excluded from the Medicare program by HHS. Previously, he was excluded from Medicaid after he surrendered his license to practice as an LPN, the result of an investigation into charges of professional misconduct for having been convicted of Falsifying Business Records in the Second Degree and Willful Violation of Health laws.	Based on HHS Exclusion OMIG Exclusion: 06/20/11
St. Ann's Community	Rochester	Garofolo, Carol, RN	Ms. Garofolo was excluded from the Medicare program by HHS. Previously she was excluded from Medicaid after surrendering her nursing license to the State Education Department, admitting guilt to a charge of professional misconduct, specifically, practicing the profession of nursing fraudulently.	Based on HHS Exclusion OMIG Exclusion: 07/20/11
St. Camillus Health and Rehabilitation	Syracuse	Pritchard, Stephanie, CNA	Ms. Pritchard was excluded from the Medicare program by HHS. Previously she was excluded from Medicaid after having been convicted of Grand Larceny in the Fourth Degree (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Williamsville Suburban Nursing Home	Williamsville	Groth, Deborah, LPN	Ms. Groth was excluded from the Medicare program by HHS. Earlier this year she was excluded from Medicaid after having been convicted of three counts of Falsifying Business Records in the First Degree (MFCU Conviction).	Based on HHS Exclusion OMIG Exclusion: 08/18/11
Williamsville Suburban Nursing Home	Williamsville	Bell, Willena, CNA	Convicted of one count of Willful Violation of Health Laws, Ms. Bell physically transferred a resident on her own using a mechanical lift, without the assistance of another person, in violation of the resident's care plan.	Based on MFCU Conviction OMIG Exclusion: 09/06/11
Williamsville Suburban Nursing Home	Williamsville	Handley, Diane, CNA	Convicted of one count of Willful Violation of Health Laws, Ms. Handley physically transferred a resident on her own using a mechanical lift, without the assistance of another person, in violation of the resident's care plan.	Based on MFCU Conviction OMIG Exclusion: 09/06/11

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