



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

LONG TERM CARE (LTC) E- NEWSLETTER – Feb 2012: Volume 10, Number 1

Welcome to the [LTC E-NEWSLETTER](#), a monthly electronic newsletter of the [Long Term Care Community Coalition](#). Note to Readers: To go directly to an article, click on its page number in the Table of Contents. Once you are at the article, click on any underlined text for a link to more information or to send a message in “Spotlight on Advocacy.”

[Please support LTCCC’s work to protect the frail elderly and disabled who rely on long term care. Click here to donate \\$5 \(or whatever you care to give\).](#)

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Table of Contents

CUTS TO MEDICAID PROGRAMS AVOIDED IN TWO STATES DUE TO ADA COMPLIANCE ISSUES..... 1

NY TIMES: PATH IS FOUND FOR THE SPREAD OF ALZHEIMER’S 2

FTC SUES TO BLOCK OMNICARE’S BID TO BUY RIVAL PHARMACY PROVIDER PHARMERICA 3

SPOTLIGHT ON ADVOCACY: SEND A MESSAGE IN SUPPORT OF CRITICAL ASSISTED LIVING PROTECTIONS IN NEW YORK 3

WE’RE ON THE WEB!..... 4

LTCCC LINKS OF INTEREST 4

[Cuts to Medicaid Programs Avoided in Two States Due to ADA Compliance Issues](#)

In January, two courts upheld the rights of the elderly and people with disabilities to access care in their homes under the Americans with Disabilities Act. As a result, two states – California and Louisiana – were prevented from implementing Medicaid savings plans that would have reduced access to Home and Community Based Services.

According to the report posted by PHI on January 26, 2012,

In California, federal judge **Claudia Wilken** issued a preliminary injunction [on Jan. 19](#) blocking the state from enacting a 20 percent cut to the **In-Home Supportive Services** (IHSS) program, which provides care to nearly 450,000 elders and people with disabilities who have Medicaid.

The cuts were initially scheduled to take place on Jan. 1, but were temporarily halted by Wilken [last December](#) due to concerns that they violated the ADA. Wilken reiterated those concerns in her latest injunction.

If ever enacted, the IHSS budget cut would cause 372,000 IHSS consumers to see reductions in home care services, possibly forcing them into nursing homes or other institutions — a violation of the ADA. In 1999, [the Supreme Court ruled](#) [in its *Olmstead* decision] that the ADA gives seniors and people with disabilities the right to live at home if their care needs can be reasonably met there.

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[\[I\]n Louisiana](#), advocates for elders and people with disabilities reached a settlement with the state over a reduction in-home care services there.

Advocacy Center and **AARP Foundation Litigation** advocates had filed a class action lawsuit in September 2010, arguing that the state was violating the ADA by imposing a 32-hour weekly cap on consumers enrolled in the state's Medicaid in-home services program.

As part of the [settlement](#) (pdf), state officials will request 200 waivers from the federal government allowing Louisiana residents who receive Medicaid to qualify for long-term personal care services.

The waivers will be awarded to consumers who can demonstrate that the 32-hour cap would force them to transfer into a nursing home.
(Emphases in original)

These decisions are particularly important given that other states, including [New York](#), are also implementing or planning Medicaid reductions.

[\[http://phinational.org/archives/cuts-to-medicaid-programs-avoided-due-to-ada-compliance-issues/\]](http://phinational.org/archives/cuts-to-medicaid-programs-avoided-due-to-ada-compliance-issues/)

[NY Times: Path Is Found for the Spread of Alzheimer's](#)

According to two studies reported on in *The New York Times*, "[Alzheimer's disease](#) seems to spread like an infection from brain cell to brain cell, two new studies in mice have found. But instead of viruses or bacteria, what is being spread is a distorted protein known as tau. The surprising finding answers a longstanding question and has immediate implications for developing treatments, researchers said. And they suspect that other degenerative brain diseases like [Parkinson's](#) may spread in a similar way."

[\[http://nyti.ms/xE589N\]](http://nyti.ms/xE589N)

[FTC Sues to Block Omnicare's Bid to Buy Rival Pharmacy Provider PharMerica](#)

The Federal Trade Commission (FTC) has sued to block Omnicare's bid to take over rival PharMerica, alleging that the combination of the two largest U.S. long-term care pharmacies would harm competition and enable Omnicare to raise the price of drugs for Medicare Part D consumers and others.

According to a [gnom.es national newswire service report](#),

In its complaint, the FTC charges that a deal combining Omnicare and PharMerica would significantly increase Omnicare's already substantial bargaining leverage by dramatically increasing the number of skilled nursing facilities, known as SNFs, that receive long-term care pharmacy services from the company. Due to its substantial market share, the FTC alleges that the combined firm likely would be a "must have" for Medicare Part D prescription drug plans, which are responsible for providing subsidized prescription drug benefit coverage for most SNF residents and other Medicare beneficiaries.

According to the Centers for Medicare & Medicaid Services (CMS)... the proposed acquisition "appears likely to result in higher reimbursement rates . . . and thereby to increase the cost to CMS (and therefore the U.S. government and U.S. taxpayers) as well as any individuals who pay out-of-pocket"

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...This year, more than 1.6 million Part D Medicare beneficiaries are expected to require long-term care while living in an SNF, and about 1.1 billion prescriptions per year are processed under Part D on behalf of approximately 29 million beneficiaries. ...Unlike traditional retail pharmacies, long-term care pharmacies do not provide medications directly to "walk-in" consumers from nearby homes. Instead, long-term pharmacies work with SNFs and other institutional providers to arrange for the delivery and administration of prescription medications to the SNF's residents. Most SNF residents need help with the ordering, delivery, and administration of their drugs, and a majority of them get prescription drug coverage from a Part D prescription drug plan.

[\[http://bit.ly/yJKOL7\]](http://bit.ly/yJKOL7)

[Spotlight on Advocacy: Send a Message in Support of Critical Assisted Living Protections in New York](#)

LTCCC strongly supports three bills to provide crucial protections for assisted living residents in NY State now and in the future. These bills are needed to ensure that there are sensible

standards in NY, especially for people with dementia and other significant frailties. Below and attached is LTCCC's memo describing the important provisions.

Please support these protections - and help ensure a decent and safe assisted living industry in New York - by sending a quick, free message from the LTC Citizen Action Center at <http://bit.ly/ny-assisted-living>. PLEASE PASS THIS ON IN YOUR COMMUNITIES - it is crucial that we get the word out! Thank you!

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.

[Tools for Stakeholders & National Report on Increasing Transparency and Consumer Involvement in States' Uses of Nursing Home Civil Money Penalties](#) to Improve Care and Quality of Life.

LTCCC study: Government Monitoring & Oversight of Nursing Home Care in [Word](#) or PDF.

Long term care information booklet in [Chinese](#) and [English](#) for Chinese consumers: What You Need to Know about Long Term Care.

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