



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 –October 2011: Volume 9, Number 8

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.”

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[NYS Comptroller DiNapoli: Nursing Home Overpayments and Poor Oversight Cost Taxpayers Millions](#)

According to an [audit](#) conducted by the NYS Comptroller’s office, New York is overpaying nursing homes in the state by close to \$1 million per month due to poor implementation and oversight of basic payment mechanisms in the nursing home reimbursement process. Under the Medicaid system, which pays for a majority of nursing home resident care in the state, local governments (the counties and NY City) are supposed to track the monies that nursing homes receive for their Medicaid residents’ Social Security, pensions and other income. Nursing homes retain these funds, known as Net Available Monthly Income (NAMI), as partial reimbursement for the cost of care. The localities are responsible for providing this information

to the NY State Department of Health (DOH) which then deducts the amount of the NAMI from the amount paid to nursing homes for their Medicaid residents' care.

The audit found that, due to a variety of basic problems in implementing and overseeing this system, DOH overpaid nursing homes by an estimated \$42 million in Medicaid funding over the 44-month time period of the audit. The problems uncovered include:

- **When a provider shows no claim for Medicaid payment for a resident on the first calendar day of a month, the system does not deduct any NAMI payment for the entire month.** Thus, if a resident enters the facility on any day after the 1st of the month, none of their NAMI is deducted from the Medicaid payment for their care until the following month. The provider collects this money during the partial month but is never required to account for it.
- **As a result of this processing issue, there is a high risk of nursing home exploitation due to the financial incentive: forego one day of billing to avoid a NAMI offset to their Medicaid payment for the month.** The average monthly NAMI is about \$1000 per recipient, while the average value of a day of billing is about \$200. The Comptroller's audit found, for example, "that 12 months of claims from one provider omitted billing for the first day of the month for a resident with \$3,700 of NAMI. In this instance, the provider was overpaid \$44,000 (12 months x \$3,700)."
- **Providers were overpaid approximately \$7.5 million during the audit period because "localities did not establish or update NAMI in a timely manner.** For example, in December 2007, a nursing home resident's NAMI increased by \$2,165. However, the locality did not update [DOH] with this information until 10 months had passed (October 2008). Consequently, the nursing home was overpaid \$21,650."
- **Though DOH requires that localities recover overpayments made to nursing home providers, if the overpayments result from delays in updating NAMI, localities' retroactive recovery of such funds is limited (under current regulation) to the six months prior to the update.** Thus, even when a problem or fraud is found, there is a limitation as to what can be recovered.

In addition to addressing the specific issues uncovered in the audit, the Comptroller recommends that DOH replace the eMedNY computer system that processes nursing home claims for Medicaid reimbursement. This system, which was implemented in 2005 at a cost of more than \$400 million, "has been plagued with problems" according to the Comptroller's report. "It is likely that Medicaid has overpaid many millions of dollars more than our audit shows because a legacy computer system that predated the 2005 implementation of eMedNY also reportedly did not properly process NAMI." [Emphasis added.]

The audit notes that, as of June 2011, DOH was in the process of selecting a contractor for a new system to replace eMedNY.

[For newspaper article on audit got to <http://bit.ly/mW6FJk> . For the Comptroller's press release and link to audit, go to <http://www.osc.state.ny.us/press/releases/sept11/092811.htm>.]

PHI Launches State Data Center on the Direct-Care Workforce

The [PHI State Data Center](#), the first web-based tool to provide comprehensive, state-by-state profiles of the direct-care workforce, is now live at the PHI PolicyWorks website. It profiles nursing home aides, home health aides, and personal care assistants (including direct support professionals) in every state.

The Data Center provides charts with up-to-date, key direct-care workforce statistics, which can be easily downloaded and reproduced. It provides information on:

- workforce size and projected employment growth
- trends in wages for each direct-care occupation, and
- information on health insurance coverage rates and reliance on public assistance.

The Data Center includes links to information on: legislation and regulatory developments pertaining to the workforce, such as summaries of pending or passed bills and regulatory actions; notable state-based initiatives such as training programs, demonstration projects, matching service registries, and person-centered care programs; and other resources, including state-specific surveys, demonstration projects, reports and recommendations.

[<http://phinational.org/policy/states/>]

U. Brown Study: Nursing Home Scam in Dementia Care Suspected

According to a September 29 report in the [San Francisco Chronicle](#),

One-fifth of Medicare nursing home patients with advanced Alzheimer's or other dementias were sent to hospitals or other nursing homes for questionable reasons in their final months, often enduring tube feeding and intensive care that prolonged their demise....

Nursing homes may feel hospital care is warranted when a frail, elderly patient develops swallowing problems, pneumonia or a serious infection, but researchers suspect a different motive for many transfers: money. Medicare pays about three times the normal daily rate for nursing homes to take patients back after a brief hospitalization.

"I think that's unfortunately a factor in what's happening here," said Dr. Joan Teno, a palliative care physician and health policy professor at Brown University.

"A lot of this care just feels like in and out, in and out. You really have to question, is the health care system doing a good job or not."

She is a co-author of the study, published in [the] New England Journal of Medicine and done with researchers from Harvard University and Dartmouth Medical School.

Among the nearly 475,000 patients studied, 19 percent were moved for questionable reasons. The study provided no evidence that money motivated such transfers or that there was wrongdoing involved. But the large variation that researchers saw from state to state suggests money may play a role.

[\[http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/09/28/MNFM1LAQGA.DTL\]](http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2011/09/28/MNFM1LAQGA.DTL)

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.
- Long term care information booklet in Chinese and English for Chinese consumers: What You Need to Know about Long Term Care.
- 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 2007 or PDF.

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