



**LONG TERM CARE COMMUNITY COALITION**  
 242 WEST 30TH STREET, SUITE 306, NEW YORK, NY 10001



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

**LONG TERM CARE (LTC) E- NEWSLETTER – Dec 2010/Jan 2011: Volume 8, Number 10**

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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**Please Give To Our Annual Appeal! 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).**

**Table of Contents**

TWO FEDERAL COURTS RULE GOVT TOO STRICT DECIDING WHETHER ELDERLY ENTITLED TO MEDICARE COVERAGE OF NURSING HOME & HOME HEALTH CARE ..... 2

NEW LTCCC REPORT: ASSISTED LIVING OVERSIGHT ACROSS THE U.S. - OVERVIEW AND SUMMARIES OF STATES' REQUIREMENTS & PRACTICES..... 2

NEW JERSEY TAKING ACTION TO PROTECT CITIZENS AGAINST POOR ASSISTED LIVING PROVIDERS ..... 3

FAMILIES USA ISSUES STATE FACT SHEETS ON HOW THE FEDERAL AFFORDABLE CARE ACT BENEFITS COMMUNITIES OF COLOR ..... 4

WE'RE ON THE WEB!..... 5

LTCCC LINKS OF INTEREST ..... 5

- VIEW THE LATEST ENFORCEMENT ACTIONS AGAINST NURSING HOMES IN NEW YORK STATE. .... 5
- READ THE LATEST EDITION OF LTCCC'S QUARTERLY NEWSLETTER, *THE MONITOR*. .... 5
- LONG TERM CARE INFORMATION BOOKLET IN CHINESE AND ENGLISH FOR CHINESE CONSUMERS: *WHAT YOU NEED TO KNOW ABOUT LONG TERM CARE*. .... 5
- 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. .... 5
- LTCCC STUDY: *GOVERNMENT MONITORING & OVERSIGHT OF NURSING HOME CARE* IN WORD 2007 OR PDF. .. 5

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## [Two Federal Courts Rule Govt Too Strict Deciding Whether Elderly Entitled to Medicare Coverage of Nursing Home & Home Health Care](#)

*The New York Times* reported (November 1, 2010) on rulings by two federal district courts that found that the Obama administration is using overly strict standards in determining whether elderly Americans are entitled to Medicare coverage of nursing home and home health care services. According to *The Times*,

Medicare will pay for those services if they are needed to maintain a person's ability to perform routine activities of daily living or to prevent deterioration of the person's condition, the courts said. Medicare beneficiaries do not have to prove that their condition will improve, as the government sometimes contends, the courts said.

The rulings are potentially significant for many people with chronic conditions and disabilities like multiple sclerosis, Alzheimer's disease and broken hips. Skilled care may be reasonable and necessary and covered by Medicare even if the person's condition is stable and unlikely to improve, the courts said.

The government has not said whether it intends to appeal either decision.

Representative Joe Courtney, Democrat of Connecticut, welcomed the decisions. "People with chronic conditions are being denied care in the mistaken belief that Medicare requires improvement of a person's condition as a prerequisite for coverage," Mr. Courtney said Monday. "That's not in the law. It's urban legend."

[<http://nyti.ms/bogFkF>]

## [New LTCCC Report: Assisted Living Oversight Across the U.S. - Overview and Summaries of States' Requirements & Practices](#)

As a result of the lack of federal rules and standards for assisted living, the development of requirements for things like quality of care, minimum safety and living standards, residents' rights and medication management is left to individual states. Because of this, standards vary greatly across the country, as does the quality of their enforcement and oversight of assisted living providers.

### Did You Know?

[New regulations resulting from the Affordable Care Act give consumers better value for insurance premiums.](#)

We believe that this overview is unique in that it focuses on how individual states conduct oversight and monitoring of quality. Previous reports on assisted living have provided valuable information on things like service & staffing requirements, medication management and physical plant requirements. Unfortunately, information on how facilities are

held accountable for meeting these requirements is hard to find.

This compilation of available information for each of the states will help the public, policymakers and journalists find out about critical assisted living accountability issues that affect the safety, dignity and quality of life of the elderly who rely on assisted living.

The charts includes detailed summaries for each state with available information on issues relating to assisted living oversight, such as:

- Whether licensure is required;
- Which state agency oversees assisted living residences;
- The frequency of inspections;
- Whether inspections are announced or unannounced;
- The composition of the inspection team;
- The training of the surveyors;
- The survey protocol used;
- What remedies or sanctions are used for facilities with care problems;
- Whether a facility can challenge agency findings; and
- Whether inspection reports are made available to the public.

The goal of these resources is to enable both consumers and policy makers to better understand the ways in which the various states monitor the quality of assisted living care. LTCCC intends to make periodic updates to this resource as more information is made public and as state laws and regulations change.

[\[http://assisted-living411.org/nationaloverviewstateassistedlivingoversight.php\]](http://assisted-living411.org/nationaloverviewstateassistedlivingoversight.php)

### **[New Jersey Taking Action to Protect Citizens Against Poor Assisted Living Providers](#)**

The *Press of Atlantic City* report on November 21 that the New Jersey Department of Health and Senior Services had ordered an assisted living company to stop providing health care services at three facilities or pay fines of \$265,000 daily.

This is the latest development in the ongoing case of a national assisted living company, Assisted Living Concepts, trying – often successfully – to renege on promises made to its elderly residents and to the states it operates in. The company has previously come under fire in New Jersey and elsewhere for evicting residents who have run out of private funds, though those residents (according to allegations from both consumers and state officials) were assured that they could remain in their homes when their funds ran out and they went on Medicaid.

According to a May 28, 2009 article in the Milwaukee *Journal-Sentinel*,

Two days after Cordelia Robertson's 99th birthday, Assisted Living Concepts Inc. served her with an eviction notice.

Robertson had outlived her savings after spending \$300,000 to live at the company's center in Sumner, Wash., forcing her to rely on Medicaid to pay for her care.

According to the *Press of Atlantic City* report:

ALC [Assisted Living Concepts] disseminated letters in June to a dozen elderly residents telling them they had two months to make other living arrangements before the company would surrender its licenses to provide health care services, saying it intended to change over the facilities to "a senior housing community for older adults." The notification contradicted promises made by ALC to those residents that they could stay once they exhausted their savings and qualified for Medicaid.

Officials spoke out against the strategy as an attempt to circumvent state guidelines.

ALC had filed an application with the state Department of Community Services to operate non-health care senior care facilities, Leusner [spokesperson for the NJ health agency] said.

"But it was clear to the department (of Health and Senior Services) that they were continuing to provide health care services," she said.

A bill passed Monday by the state Health, Human Services and Senior Services Committee would prohibit that. [It] requires those facilities to put money in escrow to cover care for elderly patients who become eligible for Medicaid after spending their own money paying for care.

### [Families USA Issues State Fact Sheets on How the Federal Affordable Care Act Benefits Communities of Color](#)

Families USA, a nonprofit organization dedicated to achieving high quality and affordable healthcare for all Americans, has released a series of fact sheets on how the federal health care reform law benefits communities of color. According to the Families USA website, "The benefits and protections in the new law... lay a critical foundation for eliminating racial and ethnic health disparities and promoting health equity.

**Did You Know?**  
[New regulations resulting from the Affordable Care Act give consumers better value for insurance premiums.](#)

Communities of color stand to gain from the new health care law—both from those provisions that will affect all communities but have a disproportionate impact on communities of color and from those that are designed specifically to eliminate health disparities."

The fact sheets, published in September-October 2010, cover 33 states and the District of Columbia.

[\[http://www.consumerreports.org/cro/money/insurance/long-term-care-insurance/overview/long-term-care-insurance-ov.htm\]](http://www.consumerreports.org/cro/money/insurance/long-term-care-insurance/overview/long-term-care-insurance-ov.htm)

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## **We're on the Web!**

[www.ltccc.org](http://www.ltccc.org): Our main website, with access to all of our issues, policy briefs and research.

[www.assisted-living411.org](http://www.assisted-living411.org): For information on assisted living, including consumer issues and policies.

[www.nursinghome411.org](http://www.nursinghome411.org): For information on developments in nursing home care, regulation and policy issues.

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## **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](#).

## ***Happy Holidays From LTCCC!***

**If you are able to, PLEASE support our work to protect people who rely on long term care! [Click Here To Make A Tax-Deductible Donation On-Line](#) or send a check to Long Term Care Community Coalition, 242 West 30<sup>TH</sup> Street, Suite 306, NY, NY 10001.**

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