

FEDERAL REPORT REVEALS THOUSANDS OF “CRITICAL INCIDENTS” IN ASSISTED LIVING WITH LITTLE ACCOUNTABILITY; HIGHLIGHTS NEED FOR FEDERAL PROTECTIONS FOR RESIDENTS

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New York - February 5, 2018. Across America, assisted living is viewed by seniors and their families as a desirable option for residential care when an individual wishes to avoid the institutional environment characteristic of a typical nursing home. While the assisted living industry has grown rapidly to meet this demand, little is known about the quality and safety provided to residents in these facilities.

Today, the U.S. Government Accountability Office (GAO) reports, for the first time, on the extent to which states are monitoring care and ensuring safety in assisted living. The report, ***Medicaid Assisted Living Services: Improved Federal Oversight of Beneficiary Health and Welfare Is Needed***,¹ provides the results of a nationwide survey of state agencies. Forty eight states participated in the survey,² which covered the year 2014 and focuses specifically on assisted living services provided to Medicaid beneficiaries.

Key findings include:

1. Americans spend more than \$10 billion per year in federal and state Medicaid funding to provide access to assisted living for 330,000 people.
2. Nationally, the average spending per beneficiary on assisted living services in the 48 states in 2014 was about \$30,000.
3. Though state Medicaid agencies retain “ultimate administrative authority and responsibility” over the quality, safety, and integrity of Medicaid assisted living services, GAO found that:
 - Fewer than half the states surveyed (22 of the 48) were able to provide any information on abuse, neglect, exploitation, and death of residents (so-called “Critical Incidents”).
 - Those 22 states alone reported nearly 23,000 Critical Incidents in 2014.
 - Delegation of important responsibilities from the state agencies to other agencies is widespread. Despite fundamental responsibility to oversee quality and safety, GAO identified significant failures among state agencies to even review Critical Incident reports, exclusion lists, reports of abuse, and LTC Ombudsman findings, provided by those agencies.

¹ GAO-18-179 (Jan. 2018). Available at <https://www.gao.gov/>.

² Washington, DC was included in the survey while three states, Kentucky, Louisiana, and West Virginia, were not included because they reported that they did not pay for assisted living services.

- The 48 state Medicaid agencies varied in: their ability to report the number of Critical Incidents in their states; how they defined what a Critical Incident is, and the extent to which they made information on Critical Incidents readily available to the public.

Under federal law, Medicaid beneficiaries must need a nursing home level of care in order to qualify for coverage for assisted living care under a state's waiver program or other Medicaid plan. By definition, these individuals have significant needs. Despite this, and significant public investment in Medicaid assisted living services, there are no federal rules governing standards of care in assisted living (as there are for nursing homes) and the care that the industry provides is totally regulated at the state level.

"State oversight has failed assisted living residents and the taxpayers who help pay for their care," said Toby S. Edelman, Senior Policy Attorney, Center for Medicare Advocacy, "This national scandal cannot be swept under the rug any longer."

"This report verifies reports from families over the years indicating that, too often, the "promise" of assisted living is unfulfilled for seniors," said Richard Mollot, executive director of the Long Term Care Community Coalition (LTCCC), "Medicare beneficiaries deserve good care and dignity no matter where they access care and services."

More than a decade ago, when Medicaid paid for the care of 120,000 beneficiaries in assisted living and a four-part series in the Philadelphia Inquirer documented at least 55 deaths in assisted living facilities in Pennsylvania since 2000 because of lax state oversight, the Center for Medicare Advocacy concluded, "The dramatic increase in public funding of assisted living facilities over the last decade and the inadequate regulatory system at the state level indicate a need for federal oversight of the assisted living industry."

The GAO report makes clear that the problems identified in Pennsylvania 11 years ago were not an aberration. The oversight of the assisted living industry at the state level has failed to protect residents.

The Center and LTCCC call on the federal government to act now, without further delay. Our near term recommendations include:

- Take immediate steps to protect assisted living residents by enacting sensible standards to ensure safety and dignity;
- Develop federal and state websites, similar to Nursing Home Compare, with validated information on staffing, inspection results, complaints, and "Critical Incidents."