

Topic Group Recommendations Adopted by Two-Thirds Majority of the ALW

Affordability

Purpose

Identify recommendations for federal and state policies that will increase the availability of quality affordable assisted living for Medicaid eligible and moderate-income individuals.

Issues

Affordability in assisted living was examined for two groups: (1) Medicaid eligible residents and (2) moderate-income residents (individuals with \$25,000/year income or less).

Affordability discussions were prioritized, starting with the lowest income residents (Medicaid eligible). Issues impacting access to good quality assisted living were identified for each group and discussed. Recommendations for federal and state policy change were developed as necessary.

The topic group divided discussion topics into five categories: service subsidies, housing development and rent subsidies, operational/services affordability, outside issues' impact on consumer's ability to pay, and related issues. Issues related to each category were generated by the topic group and expanded as additional issues arose through topic group discussions, recommendations of the full ALW, or suggestions of outside experts. Some discussion topics resulted in a recommendation, while others were put aside due to lack of agreement or the belief that the topic area was outside of the group's scope.

Participants

The co-chairs were Robert Jenkins, NCB Development Corporation and Joani Latimer, National Association of State Ombudsmen Programs.

Participants included Kathy Angiolillo, Senior Citizens League; Bill Benson and Alice Hedt, National Citizens' Coalition for Nursing Home Reform; Lyn Bentley, National Center for Assisted Living; Colleen Bloom and Doug Pace, American Association of Homes and Services for the Aging; Virginia Dize and Greg Link, National Association for State Units on Aging; Dina Elani, Commission on Affordable Housing and Health Facility Needs for Seniors in the 21st Century; Toby Edelman, Center for Medicare Advocacy; Jim Gray, NCB Development Corporation Coming Home Program; Bill Harris and Terri Lynch, Consumer Consortium on Assisted Living; Morris Klein and Brian Lindberg, National Association of Elder Law Attorneys; Diane Lifsey, National Council on Aging; Martha Mohler, National Committee To Preserve Social Security and Medicare; Anne Berman, Lisa Newcomb, Ed Sheehy, Katie Smith, and Beth Singley of the Assisted Living Federation of America; Don Redfoot, AARP; Constance Row, American Academy of Home Care Physicians; Amy Sander, Association of State Medicaid Directors; George Taler, MD, American Academy of Home Care Physicians.

Affordability

A.01 Consumer Directed Long-Term Care Benefit

Recommendation

Create new, consumer directed federal long-term care program that includes assisted living and expands service eligibility to meet the needs of people who are not nursing home eligible.

Implementation

Guideline for Federal and State Policy

Rationale

Consumer-directed federal long-term care program: Federal long-term care policy currently favors institutional care over more residential models of care by providing a benefit entitlement only for nursing home care. Assisted living and other forms of home and community-based programs may be funded at the discretion of the states. The institutional bias in federal funding of long-term care goes against consumers' repeated preferences for home and community-based options.

In light of the various disability statutes and the recent Olmstead decision, the federal government and states should move to a long-term care funding system that provides funding in the least restrictive environment possible. To ensure consumer choice, the system should provide consumers the capacity to direct how and where their funding will be spent. This model of consumer directed care could be similar to the Cash and Counseling demonstration program currently being evaluated by HHS.

Expand service eligibility to meet the needs of people who are not nursing home eligible: Many states define nursing home eligibility at a high level of service need. Often, persons with disabilities do not qualify for nursing home care but require significant services and cannot live independently. These people either suffer without required services or depend on family caregivers to fill in the gaps. The quality of life losses to the person with disabilities who forgo services and the economic and health losses (mental and physical) to family caregivers have substantial negative consequences on our communities. A consumer-directed long-term care program would more effectively lessen these impacts if it were targeted to those who have disabilities which are less than those required for nursing home eligibility.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, Catholic Health Association of the United States, Joint Commission on Accreditation of Health Care Organizations, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Multiple Sclerosis Society, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Affordability

American Assisted Living Nurses Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Association of Health Facility Survey Agencies, American Medical Directors Association, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Association of Local Long Term Care Ombudsmen, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

American Association of Home Care Physicians, National Network of Career Nursing Assistants

Supplemental Positions for A.01

1) We dissent. While we support development and implementation of a national long-term care policy that gives individuals with various needs a variety of choices about where and how to receive long-term care services that meet defined standards of care, we object to the mythology about assisted living that pervades the rationale for this recommendation.

We support individuals' right to live in the least restrictive environment possible. We cannot support a statement that implies that all assisted living facilities are always less restrictive than all nursing homes. Without a common and meaningful definition of assisted living, we cannot agree to this conclusion, which is more a statement of faith than a statement of fact.

Moreover, our experience with the Nursing Home Pioneers confirms that many of the features that assisted living proponents claim most fervently for assisted living are in fact features of care that are implemented by Pioneer facilities under standards set by the federal nursing home reform law. We reject the majority's implication that innovation and good practices lie solely with assisted living.

Under current law, individuals have choice about where they will receive their healthcare. Consequently, the second sentence in the second paragraph of the Rationale states nothing unique. The distinction for purposes of these recommendations is that nursing facilities are entitlements under the Medicaid program, while assisted living is not. We also oppose the Cash and Counseling demonstration model, which would convert Medicaid into a "defined contributions" program, rather than a program of "defined benefits."

Association of Health Facility Survey Agencies , Center for Medicare Advocacy , National Association of Local Long-Term Care Ombudsman Programs, National Association of State Ombudsman Programs, National Association for Regulatory Administration, National Citizens' Coalition for Nursing Home Reform , National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Affordability

A.02 Home and Community Based Waiver

Recommendation

Continue to expand funding for the 1915(c) Home and Community Based Services waiver program to provide needed services.

Implementation

Guideline for Federal and State Policy

Rationale

The 1915(c) Home and Community Based Services waiver is the primary Medicaid funding vehicle for low-income persons requiring assisted living services. However, in most states the waiver funding is quite limited and over-subscribed. As an intermediate strategy to a fully implemented consumer directed long-term care program (see Recommendation A.01) the federal government should encourage states to increase their 1915(c) programs.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of State Ombudsman Programs, National Association of Local Long Term Care Ombudsmen, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.02

1) We dissent. We support individuals' right to remain in their homes and communities. However, expanding Medicaid funding of assisted living through home and community-based waivers is not good public policy in the absence of meaningful quality of care standards. In order to be eligible for home and community-based waivers, Medicaid beneficiaries have sufficiently significant health care needs to require a nursing home level of care. Nursing home-eligible individuals should not be placed in assisted living residences that are neither staffed nor otherwise prepared to meet their needs. The majority recommendations do little to guarantee a high quality of care in assisted living

Affordability

residences.

The expansion of waiver funding of assisted living services is also objectionable because other recommendations, specifically objected to below (e.g., A10 and A.20), would dismantle statutory and regulatory protections that Medicaid and HUD have had in place for many years.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy , National Association of Local Long Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

2) We support this recommendation to provide an immediate, short-term solution for funding needed services for assisted living, but continued band-aid approaches such as this will not help to avert a growing crisis in long term care financing. It is important to understand that our current financing system, rooted in the Medicaid welfare program, will not withstand the huge influx of seniors in the coming decades. Therefore, it is imperative that a permanent comprehensive solution for the funding of the entire spectrum of long term care be developed. Research by the health policy experts at Abt Associates indicates that creation of an insurance-based, public/private program offers a viable alternative to today's unsustainable financing system. Additionally, there must be recognition of the need for personal and family responsibility in the planning for future payment of long term care. State and federal governments, in conjunction with providers of care and services, consumers, researchers, actuaries and other stakeholders should meet and develop a strategy to reach a permanent, multi-faceted solution.

Additional research should be done comparing the cost-effectiveness of in-home care services, assisted living care and services and nursing home care and services taking into account acuity levels and cognitive impairment of individuals.

Catholic Health Association of the United States, Consumer Consortium on Assisted Living, National Center for Assisted Living, American Seniors Housing Association, American Association of Homes and Services for the Aging

Affordability

A.03 Additional Federal and State Funding for Affordable Assisted Living

Recommendation

Additional federal and state funding shall be allocated to meet the needs for affordable assisted living.

Implementation

Guideline for Federal and State Policy

Rationale

Individuals with annual incomes below \$25,000 generally cannot afford to pay for assisted living privately. In fact, in 1997, 40% of all people aged 75 and older had incomes below \$10,000 per year. Nearly two-thirds had incomes below \$15,000 (US Bureau of the Census 1998). Further, demographic projections indicate that by 2035 the number of seniors in this county will nearly double as a share of the population. Demographic factors suggest that the need for affordable assisted living will not only continue but will likely increase. Federal and state funding will need to be increased to meet the need for assisted living for those who are moderate and low-income older seniors. This increased funding will need combine increased subsidies for housing costs as well as costs for services.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.03

1) We dissent. The recommendation vaguely calls for additional public funding for assisted living,

Affordability

arguing, in support, only that older people cannot afford to pay privately for assisted living. We cannot endorse such a broad recommendation for public financing of assisted living when the quality standards approved by the majority are so general and illusive.

The workgroup was unable to reach consensus on a definition of assisted living. In addition, most of the recommendations provide only minimal standards for quality of care as well as minimal guidance on affordability. Many of the quality of care recommendations offer considerably less protection to residents than many states' current rules and guidelines for assisted living. States such as Colorado and Maryland, for example, establish additional staffing standards for facilities that are eligible to receive Medicaid reimbursement.

Without adequate quality standards, we cannot support such broad and open-ended public funding. We are particularly concerned that the recommendation could lead to public payment for a level of care that could essentially be nursing homes without quality of care standards.

*Association of Health Facility Survey Agencies, Center for Medicare Advocacy ,
National Association of Local Long Term Care Ombudsman Programs, National
Association for Regulatory Administration, National Association of State
Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform,
National Committee to Preserve Social Security and Medicare, National Network of
Career Nursing Assistants, National Senior Citizens Law Center*

Affordability

A.04 SSI Payment for Assisted Living

Recommendation

State shall create a specific SSI “living arrangement” category that will provide SSI recipients living in assisted living a payment sufficient to cover the average unit and board costs (including overhead and profit) associated with developing and operating good quality assisted living projects.

Implementation

Guideline for State Regulation

Rationale

While Medicaid can pay for assisted living services for qualified individuals, room and board in assisted living shall be paid out of the individual’s income. For many low-income older persons, their income is limited to SSI or an equivalent amount. The unsubsidized development costs for good quality assisted living projects usually exceed what can be supported by rents affordable to an individual at SSI income levels, even in states that offer SSI supplements. Additionally, the development subsidies that can make rents affordable to individuals at an SSI income level (e.g., low-income housing tax credits or other grant programs) are scarce.

In order to allow sufficient affordable assisted living to be developed to serve low-income individuals at SSI income levels, one of two approaches shall be used:

- Increase the development subsidies available to assisted living so rents may be reduced what is affordable at an SSI income level, or
- Increase individuals' capacity to pay the assisted living rent associated with unsubsidized development costs.

Organizations Supporting This Recommendation

AARP, Alzheimer’s Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, National Network of Career Nursing Assistants, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Home Care, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Workgroup Report to the U.S. Senate Special Committee on Aging

Affordability

American College of Health Care Administrators, Assisted Living Federation of America, National Association for Regulatory Administration

Supplemental Positions for A.04

None Submitted

Affordability

A.05 Government Reimbursement for Services and the Cost of Care

Recommendation

Federal and state reimbursement for required and necessary care should meet the cost of care as required by the state defined program and to meet the principles of the Assisted Living Workgroup's definition of assisted living.

Implementation

Guideline for Federal and State Policy

Rationale

Many observers believe that federal and state reimbursements for assisted living services are often lower than the cost of providing high quality care. While the federal government requires that reimbursements be sufficient to provide access to care and to meet the costs of care, the requirement is not implemented forcefully. Rigorous federal and state methodologies should be developed and implemented to test adequacy. Adequacy should be defined as the costs of care and housing as required by the state program where those program requirements meet or exceed the requirements of the ALW. Where state programs do not exceed the standards defined by the Workgroup, the Workgroup's standards should be used to measure adequacy.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.05

Affordability

1) We dissent because the recommendation would require public payments to meet “the principles of the Assisted Living Workgroup’s definition of assisted living.”

A state should pay an appropriate amount to meet the state's definition and requirements for assisted living. It should not make payments to meet an undefined set of “principles” that assisted living residences would not have to meet.

The workgroup did not develop a definition of assisted living and the majority’s standards for state regulations are weak. The majority essentially permits each assisted living residence to define for itself which services it will provide and how it will provide them. In the absence of a meaningful definition and standards for assisted living, we cannot support a recommendation requiring full payment to provide unspecified services that would not be required.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens’ Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

2) We support this recommendation but would provide the following clarifying and qualifying statements:

- The state and federal government need to be held accountable for assuring that the payments for services rendered are sufficient to cover the care being provided.
- Providers of services need to have the ability to protect and reject participation if the payments are not sufficient to provide the services rendered.

National Center for Assisted Living, American Association of Homes and Services for the Aging, American Seniors Housing Association

Affordability

A.06 Medicaid Assisted Living Rate Setting Tool

Recommendation

CMS shall create a model state rate-setting tool for assisted living services. The tool should be adaptable to state specific Medicaid programs as well as state regulatory requirements. The tool shall be designed to estimate the costs for delivering quality services in accordance with best practices operational models and include reasonable returns for providers. Inputs into the model should reflect regional costs through out the state. The model should be used to reassess rates annually.

Implementation

Guideline for Federal and State Policy

Rationale

Assisted living cannot be a long-term care service choice for low-income persons with disabilities if there is not a Medicaid or state funded program available to subsidize the cost of those services. Even with a Medicaid or state funded program, quality assisted living services will not be available to low-income persons if the state reimbursement rates for assisted living do not cover reasonable costs and provide some return to providers.

Currently, states do not have a clear and proven methodology to set assisted living reimbursement rates that reflect the costs and incentives required to allow good quality providers to enter. Furthermore, state rates rarely have a mechanism to adjust rates rapidly in the face of an unusual price spikes. Without adequate reimbursement and the added danger that cost will rise far more rapidly than state reimbursement, existing providers are very unwilling to take on publicly reimbursed residents and investors and lenders refuse to finance new projects. A fair and rational model needs to be developed to establish, implement, and periodically update required rates.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Home Care, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

American Association of Homes and Services for the Aging, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Affordability

Assisted Living Federation of America

Supplemental Positions for A.06

1) We dissent. While we support a "model state rate-setting tool for assisted living services," we oppose adjusting Medicaid rates to meet "best practices operational models" because assisted living residences are not required to comply with "best practices operational models." Models are merely suggestions for residence performance. Medicaid rates should be adequate to meet statutory and regulatory requirements. They should not pay for standards that are neither met nor required to be met.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy , National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

2) We oppose the specific language in this recommendation and would propose the following: A payment mechanism for services provided should be developed specifically for use with each state's Medicaid waiver program. This system should be developed by the state agency responsible for the Medicaid waiver program in collaboration with providers with input from stakeholders. The payment for services must assure the following:

- The payment is sufficient to cover the quality and quantity demanded by the client.
- The payment allows access to a variety of providers in all geographic locations.
- The payment is competitive in the overall marketplace.

American Association of Homes and Services for the Aging, Catholic Health Association of the United States, National Center for Assisted Living, American Seniors Housing Association

Affordability

A.07 Retroactive Medicaid Payments in Assisted Living

Recommendation

Like Medicaid benefits for nursing home care, Medicaid waiver benefits for a resident in assisted living should be retroactive to up to three months prior to the month the applicant submitted an application for Medicaid, provided that the resident was medically and financially qualified to receive services under Medicaid and received allowed Medicaid services. Retroactive coverage is not possible in some cases due to interpretations of Olmstead Letter No. 3, Attachment 3-a. CMS should issue a clarification, providing a procedure that protects the intent of Olmstead Letter No. 3, Attachment 3a, while allowing retroactive Medicaid payments for assisted living residents.

Implementation

Guideline for Federal Policy

Rationale

Medicaid benefits are offered to applicants in a nursing home who meet eligibility requirements by the first day of the month for which benefits are sought. Benefits may be also be approved for nursing home residents up to three months prior to the month of application, if the beneficiary was eligible during the “retroactive” period. For applicants requesting Medicaid waiver services, however, Medicaid coverage may not be available back to the month application or the three-month retroactive period. This is because under Olmstead letter No. 3, Attachment 3-a, the earliest date that benefits may be provided is the last date in which the following eligibility requirements have been met: basic Medicaid eligibility, medical level of care, determination that the applicant is in the group covered by the waiver, signature of a written document that the applicant chooses to be in the waiver, and the establishment of a written plan of care. These requirements make it difficult for an applicant to receive benefits as of the date of application or for retroactive periods.

Organizations Supporting This Recommendation

AARP, Alzheimer’s Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Home Care, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Association for Regulatory Administration, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Network of Career Nursing Assistants, National Senior Citizens Law Center, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Affordability

Organizations Abstaining From the Vote on This Recommendation

American College of Health Care Administrators

Supplemental Positions for A.07

None Submitted

Affordability

A.08 Governmental Subsidies and Resident Income Calculation

Recommendation

It should be clarified in all federal and state housing and service programs that when determining an individual's eligibility for federal or state housing and/or services programs, subsidies for one should not be counted as income for the other.

Implementation

Guideline for Federal and State Policy

Rationale

In order for assisted living to be available to people with low-income, significant subsidies are required from multiple sources, including federal, state, and local governments. Under current regulations, the eligibility criteria for one program often requires counting subsidies from other programs as "income," thereby nullifying the benefits of those other programs, and making it impossible for a person to get the care he or she needs.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Gerontological Society, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, Center for Medicare Advocacy, Consultant Dietitians on Healthcare Facilities, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Adult Family Care Organization, National Association of Activity Professionals, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition for Nursing Home Reform, National Conference of Gerontological Nurse Practitioners, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Association of Home Care, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants

Supplemental Positions for A.08

None Submitted

Affordability

Affordability

**A.09 Tenant Service Payment and Housing Subsidy
Income Calculations**

Recommendation

When an individual seeking admission to a subsidized housing program licensed as assisted living (or its equivalent) will pay privately for services, the amount that he/she will pay for services (e.g., health care, personal care, meals, home maker, transportation, activities) should be deducted from the resident's income before calculating eligibility for federal and state housing subsidy programs (e.g., tax credits, Section 8, HOME) and the resident's contribution toward rent.

Implementation

Guideline for Federal and State Policy

Rationale

Many individuals require services to avoid institutionalization in a nursing home. Often, an individual's income will be greater than what allows him or her to qualify for a housing subsidy program but insufficient to pay for necessary services and housing. In order to assist lower-income individuals to qualify for a residential setting, the service costs to be paid by a resident should be deducted from the resident's income before his/her financial eligibility and rent contribution are calculated.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Gerontological Society, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, Center for Medicare Advocacy, Consultant Dieticians on Healthcare Facilities, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Adult Family Care Organization, National Association of Activity Professionals, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition for Nursing Home Reform, National Conference of Gerontological Nurse Practitioners, National Hospice and Palliative Care Organization, National Network of Career Nursing Assistants, National Senior Citizens Law Center, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Association for Regulatory Administration, National Association of Home Care, National Committee to Preserve Social Security and Medicare

Supplemental Positions for A.09

Affordability

None Submitted

Affordability

A.10 Medicaid Program Rules: Family Contributions and Room and Board Maximums

Recommendation

When an assisted living resident receives Medicaid support, family or other private contributions paid directly to a provider for additional services or amenities which are not covered by Medicaid should not be counted as income to the resident for the purpose of calculating Medicaid eligibility. A provider shall accept Medicaid payment, plus applicable beneficiary deductibles, as payment in full for all Medicaid covered services provided to those residents the provider has agreed to serve under the program.

States should set the maximum amount that providers participating in the Medicaid program may charge Medicaid residents for room and board. States shall establish maintenance allowances that permit residents to retain sufficient income to pay for room and board and personal expenses. States shall provide room and board subsidies for Medicaid eligible residents whose income is less than what is established by the state as the room and board payment amount.

The maximum room and board amount shall be established with stakeholder input and calculated to cover the reasonable costs of providing room and board as defined by the ALW recommendations without the assumption of housing or other subsidies. In cases where states do not require private rooms as recommended by the ALW, and the resident nonetheless desires a private room, states shall establish a reasonable maximum for such rooms and shall adjust the maintenance allowance to pay for it. Family or other private contributions should be permitted for any reasonable room and board costs not covered by subsidies and should not be counted as income to the resident for the purpose of calculating Medicaid eligibility.

Implementation

Guideline for Federal and State Policy

Rationale

Many residents of assisted living utilizing a Medicaid program may benefit from services or amenities available to them but not covered by Medicaid. These additional services and options are often beyond their ability to afford. In some instances, families of residents (or others) are willing to pay for these additional, non-Medicaid services or amenities. If direct payments from families (or others) to an ALR or other provider are counted as income to the resident, the added income could disqualify the resident for Medicaid. In order to allow a resident to benefit from additional, non-Medicaid reimbursed services or amenities, payments made by a family member, other person, or organization directly to a provider should not be counted as income to the resident for the purpose of Medicaid program eligibility determination.

By definition, Medicaid-eligible residents have almost no savings, and very limited incomes. To assure that all Medicaid recipients can afford room and board, states should set a maximum amount that a provider may charge residents participating in the Medicaid program and should establish a maintenance allowance that permits residents to pay for

Affordability

room and board and personal expenses. To ensure participation by providers and access services by those residents participating in the Medicaid program, the maximum room and board amount should be based on the fair market costs, including an appropriate profit, on providing room and board services (as defined by the ALW). States should not factor in limited subsidy programs (e.g., low-income tax credits, Housing Choice Vouchers, etc.) when calculating the payment amount if these programs will not be available in sufficient quantity to meet the demand for assisted living by Medicaid eligible residents. States should provide a subsidy program (e.g., a supplemental payment to SSI) to allow individuals eligible for Medicaid assisted living services, but with incomes less than the established room and board payment standard, to pay the room and board charges while retaining an amount established for personal needs.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Assisted Living Federation of America, Association of Health Facility Survey Agencies, National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

American Seniors Housing Association

Supplemental Positions for A.10

1) We dissent. Although this recommendation contains several important protections, what is missing is a clear statement that "[t]he amount charged by an assisted living residence for room and board must not exceed the amount of income allocated to the resident by the Medicaid program." We proposed and supported such language, but it was not adopted by the majority.

By definition, Medicaid-eligible residents have almost no savings, and very limited incomes. Medicaid programs allow Medicaid-eligible residents to retain only a certain amount of income each month. For Medicaid-reimbursed assisted living to be affordable to Medicaid-eligible individuals, an assisted living residence's room and board charge must not exceed the resident's income allocation.

Room and board in an assisted living residence is not covered by Medicaid, and thus is not covered by the recommendation's requirement that an assisted living residence accept Medicaid

Affordability

reimbursement as payment in full for "Medicaid covered services." For assisted living truly to be affordable for Medicaid beneficiaries, the assisted living residence must be required to set the room and board charge at an amount that is no more than the resident's income allocation set by the Medicaid program.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long-Term Care Ombudsman Programs, National Association of State Ombudsman Programs, National Association for Regulatory Administration, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

2) When the payment is not sufficient to cover the room and board services, providers must maintain the right to determine whether they are able to accept or retain the residents. Requirements or limitations should not be developed that would limit or restrict family or other private supplementation.

American College of Health Care Administrators, National Center for Assisted Living, American Seniors Housing Association

Affordability

A.11 Third Party Service Payments and Housing Subsidy Income Calculations

Recommendation

When determining an individual's eligibility and rent contribution for a state or federal housing subsidy program, payments made by a private, third party (e.g., family member, charity, or non-governmental entity) to a provider for care services (e.g., health care, personal care, meals, home maker, transportation, activities) should not be considered income to that individual for the purposes of federal and state housing subsidy eligibility determination or rent contribution calculations. (E.g., tax credits, Housing Choice Vouchers/Section 8, HOME).

Implementation

Guideline for Federal and State Policy

Rationale

Individuals living in government-subsidized housing are low-income. When they need services to avoid institutionalization, they often need financial assistance to pay for those services. Public subsidies for services may be insufficient or unavailable, necessitating family and/or private charitable assistance to pay for services. However, it is not always clear whether family or charitable contributions to a resident's care shall be counted as resident income for the purpose of calculating eligibility for housing subsidy programs. If service payments from family or charities are counted as income, they may have the consequence of raising the resident's rental payments or disqualifying the resident altogether for the housing that they have made their home and hope to remain in through the use of services. Clarification is needed in all federal and state housing programs that service payments from family or other private sources that are paid directly to providers should not be counted as income to the resident for the purpose of calculating that individual's eligibility for the housing program or his/her rent contribution.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Gerontological Society, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consultant Dieticians on Healthcare Facilities, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of

Affordability

Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Adult Family Care Organization, National Association of Home Care

Supplemental Positions for A.11

1) We dissent. We agree that public payments for assisted living must be sufficient to pay for the services or housing that they are intended to cover. However, we strongly oppose allowing supplementation from families or other third parties, which this recommendation would permit.

The language of the recommendation allows payments by third parties for a broad range of services. It does not limit these payments in any way. We infer from the language of the Rationale – that "public subsidies for services may be insufficient or unavailable" [emphasis supplied] – that private payments would be permitted to supplement public payments for covered services. We object to such supplementation. The Medicaid program requires health care providers to accept the Medicaid rate as payment in full for covered services and prohibits facilities from requesting or accepting additional payments (i.e., supplementation) from family members or other third parties. Individuals choosing assisted living should not have to give up financial protections for residents and their families that the Medicaid program provides for any other Medicaid-funded service, including nursing home care.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Affordability

A.12 Medicare & Medicaid Physician House Call Payments in Assisted Living

Recommendation

CMS and State Medicaid agencies should increase access to house calls by physicians for assisted living residents by updating their definition of assisted living and raising payments for house calls to assisted living residents.

Implementation

Guideline for Federal and State Policy

Rationale

Physician house calls to ALR residents are beneficial for many reasons, among them:

1. Allowing physicians to observe the resident in their home environment
2. Ease and cost to ALR and residents
3. Improving lines of communication between physician and ALR staff
4. Decreasing risk to cognitively impaired residents by not moving them from their structured environment

Assisted living residents may enter an assisted living residence with, or develop, functional impairments and chronic diseases that require active medical care management. It is difficult for many residents to travel to physicians' offices. Medicare and Medicaid house call reimbursements are currently inadequate to enable physicians to make house calls in assisted living.

Medicare residents living in their private homes have access to physician house call services. This is because of changes made to the Medicare fee schedule in 1998 that made provision of service economically feasible. To facilitate access to appropriate medical care in assisted living residences, Medicare and Medicaid should establish adequate definition and reimbursement rates for assisted living. Assisted living currently falls under the Medicare definition for domiciliary care, CPT codes 99321-99333. For similar services in private homes, physicians can bill under Medicare house call codes 99341-99350.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Network of Career Nursing Assistants, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Affordability

Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of Social Workers, National Association of State Ombudsman Programs, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, Association of Health Facility Survey Agencies, National Committee to Preserve Social Security and Medicare

Supplemental Positions for A.12

None Submitted

Affordability

A.13 Transportation

Recommendation

Federal and state programs subsidizing assisted living services shall include accessible transportation services for personal and medical needs as a required service within the basic rate. Providers may provide or contract for transportation services.

Implementation

Guideline for Federal and State Policy

Rationale

Transportation is a critical need in affordable assisted living. Without transportation services, residents can not get to medical appointments, shop for personal needs, or maintain community or cultural contacts. Transportation costs are often not included in publicly subsidized service packages in assisted living and may not be available through other subsidies. Including them in basic assisted living packages, with appropriate reimbursement, will assure that publicly subsidized residents have access to transportation for medical, personal, and social needs.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, National Network of Career Nursing Assistants, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Social Workers, National Association of Activity Professionals, National Association of Home Care, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, American Seniors Housing Association, National Association for Regulatory Administration

Supplemental Positions for A.13

None Submitted

Affordability

Affordability

A.14 HUD and HHS Collaboration to Deliver Affordable Assisted Living

Recommendation

HUD and HHS should collaborate to craft and fund specific programs to blend housing and service subsidies to enable low-income persons to have access to high quality, affordable assisted living projects.

Implementation

Guideline for Federal Policy

Rationale

Assisted living is a unique model of residentially based long-term care services for frail and cognitively impaired persons. Assisted living requires a distinct combination of physical amenities and service programs to operate successfully. To serve low-income older persons, an affordable assisted living project will typically combine a variety of federally funded housing and services programs. Negotiating these programs is complex and there are areas where they either do not work together well or one is insufficient. Collaboration by HUD and HHS to enable programs within their respective jurisdictions to work better to fund assisted living would remove obstacles, encourage provider participation in affordable assisted living programs, and maximize the efficiency of limited public resources. Among the issues discussed by HUD and HHS should be income and asset related eligibility standards.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of State Ombudsman Programs

Organizations Abstaining From the Vote on This Recommendation

National Association of State Ombudsman Programs, National Association of Local Long Term Care Ombudsmen, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Affordability

Supplemental Positions for A.14

1) We support collaboration by HUD and HHS to develop and fund programs that combine housing and services for low-income people. We object to the first two sentences of the Rationale. The assisted living workgroup was unable to reach consensus on a definition of assisted living and the majority's recommendations do little to explain what assisted living facilities can and cannot do. As a consequence, it is inaccurate and misleading to say, as these sentences do, that assisted living is a "unique" type of residential living or long-term care or that there is any "distinct combination" of amenities and services that defines assisted living.

*Association of Health Facility Survey Agencies, Center for Medicare Advocacy ,
National Association for Regulatory Administration, National Citizens' Coalition for
Nursing Home Reform , National Committee to Preserve Social Security and
Medicare , National Senior Citizens Law Center*

Affordability

A.15 Federal Housing Subsidy Programs and Assisted Living

Recommendation

Federal housing subsidy programs, both tenant based and project based, should not change their occupancy standards or requirements for amenities when they are used for assisted living.

Implementation

Guideline for Federal Policy

Rationale

This recommendation seeks to clarify the principle that occupancy standards governing federal housing programs should not be waived simply because the person receiving the housing subsidy has a disability. Occupancy standards for housing subsidy programs, including those administered by HUD, the Rural Housing Administration, and the Internal Revenue Service (the tax credit program) generally require that housing units under their jurisdictions provide units that are shared only by choice. Often, shared unit are for married couples or siblings. Rules already clarify that a caregiver may also share the unit. Further clarification will be needed in circumstances where couples are same sex, unmarried, or the resident desires a roommate.

Similarly, occupancy standards also cover the amenities, such as kitchens and bathrooms required for the recipients of housing subsidies. The recommendation clarifies that these requirements should not be waived in those housing projects offering assisted living services. These agencies may need to issue further clarification regarding circumstances under which stoves or other equipment may be disconnected for safety reasons.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, National Network of Career Nursing Assistants, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Social Workers, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Workgroup Report to the U.S. Senate Special Committee on Aging

Affordability

Assisted Living Federation of America

Supplemental Positions for A.15

None Submitted

Affordability

A.16 Federal Housing Subsidies and the Cost of Common Facilities in Assisted Living

Recommendation

Federal housing assistance programs, both tenant and project based, should recognize the cost of common areas and service delivery support areas for assisted living. Subsidy amounts (e.g., HUD vouchers payment standards/fair market rents, operational subsidies etc.) available to assisted living projects should be adjusted to reflect these additional costs.

Implementation

Guideline for Federal Policy

Rationale

Assisted living programs provide long-term supportive services to frail and cognitively impaired individuals in a residential environment. In order to provide these services (including socialization for isolated persons) in a safe, effective, and economical way, assisted living projects require certain common areas, support spaces, and security systems that exceed those required in independent living projects. Often these requirements are state mandated. These additional requirements may include an activity room(s), dining room, commercial kitchen, bathing room, medication storage room, clinics staff offices, housekeeping room, interior circulation, resident wandering prevention systems, added life safety systems and standards, etc.

All of these additional elements add to the cost of construction and operations. However, federal housing assistance programs currently available to assisted living residents are designed primarily for independent housing and are not structured to factor in these additional costs. The lack of specific housing programs, or specific rates within housing programs, designed to meet assisted living's cost structure often makes affordable assisted living projects infeasible to develop or operate. Federal housing subsidy rates should be adjusted for assisted living in order to make affordable assisted living a readily available option for persons needing residentially based long-term care.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association for Regulatory Administration, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Center for Medicare Advocacy

Affordability

Organizations Abstaining From the Vote on This Recommendation

National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Supplemental Positions for A.16

None Submitted

Affordability

A.17 HUD Assisted Living Conversion Program

Recommendation

Continue HUD assisted living conversion program (ALCP). Continue to provide federal funding to pay for structural conversion costs within the HUD budget. However, provide line item for conversion costs separate from the 202 budget line item to eliminate confusion regarding increases/decreases in 202 construction funding.

Implementation

Guideline for Federal Policy

Rationale

The HUD ALCP program offers tremendous promise to bring needed services and physical amenities to existing projects where residents have aged-in-place and are in jeopardy of having to move to institutional care. It has gotten off to a slow start because of the complexity of combining services and housing programs, but it is now building momentum. The program should be continued at current funding levels to provide it a full opportunity to demonstrate its value.

The funding for the program should, however, be provided in a separate line item from the HUD Section 202 budget line item in order to avoid confusion about the relative increases or decreases in the Section 202 construction funding budget.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Committee to Preserve Social Security and Medicare, National Adult Family Care Organization, National Conference of Gerontological Nurse Practitioners, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Association for Regulatory Administration, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.17

Affordability

1) We dissent. The HUD assisted living conversion program should not be continued in the absence of meaningful and enforceable standards for assisted living residences that HUD conversions would support. Federal money should be restricted to residences that meet specific standards that address, at a minimum, staffing ratios and qualifications, participation by health care professionals, and life safety code. Federal money should also be limited to private units, as described in the defeated recommendation A.27 (private units, including, at a minimum, a private toilet with lavatory and shower or tub, and a kitchenette with sink).

The majority's recommendations inadequately describe standards of care for assisted living residences. They do little more than identify areas where guidance for regulatory standards is important; they frequently fail to provide any specific guidance. The result is many recommendations that are meaningless and content-free (e.g., O.02 (National Fire Protection Association Requirements), O.06 (Food and Nutrition), M.07 (Medication Assistive Personnel job description), D.07 (Hospice Care)).

Association of Health Facility Survey Agencies , Center for Medicare Advocacy , National Association of Local Long-Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Affordability

A.18 Assisted Living Conversion Program for Public Housing

Recommendation

Congress should enact a comprehensive program for funding the conversion of public housing projects for older persons to assisted living. Such a program should include: a) capital funds for construction, modernization, and modifications; b) service coordinators and other management and maintenance personnel; and c) enhanced congregate housing funds for services in public and federally assisted housing not usually funded under Medicaid and other services programs.

Implementation

Guideline for Federal Policy

Rationale

Public housing provides shelter to more older persons than any other federal project-based housing program. In addition, many public housing projects for the elderly also house large numbers of younger persons with disabilities. The residents in public housing projects tend to have lower incomes than other housing programs. Many of the buildings have large numbers of efficiency units that have been difficult to rent as regular apartments. Such projects can be good candidates for conversion to assisted living, either in whole or in part.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Hospice and Palliative Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Association of Health Facility Survey Agencies, National Adult Family Care Organization, National Association of Local Long Term Care Ombudsmen, National Committee to Preserve Social Security and Medicare

Supplemental Positions for A.18

Affordability

None Submitted

Affordability

A.19 Affordable Assisted Living Demonstrations in Subsidized Housing

Recommendation

Create affordable assisted living demonstrations in subsidized housing for residents who can no longer reside safely in their current living environment, meet Medicaid financial eligibility standards, but do not meet Medicaid nursing home level of care criteria.

Implementation

Guideline for Federal and State Policy

Rationale

Many people living in subsidized housing have aged-in-place. Often these residents are just barely hanging onto their independence through a combination of self-denial, formal, and informal care. The subsidized housing communities are often ideal candidates for full or partial conversion to affordable assisted living due to their populations' care and economic needs, the concentration of need, and the adaptable environments they offer.

While many or most of the residents meet Medicaid financial eligibility standards, some do not meet the state's Medicaid nursing home level of care criteria. For disabled residents, both those who do and do not meet Medicaid care eligibility standards, the lack of an assisted living program often means displacement. An assisted living demonstration would collect valuable information to inform the discussion regarding what programs are required to avoid displacement, the individual and community benefits of preventing displacement, and the costs and cost savings associated with preventing displacement for both Medicaid eligible and service needy, but ineligible, residents.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American Association of Home Care Physicians, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Conference of Gerontological Nurse Practitioners, Paralyzed Veterans of America, National Adult Family Care Organization, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Association for Regulatory Administration, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

National Network of Career Nursing Assistants

Affordability

Supplemental Positions for A.19

1) We dissent. Many programs already bring additional services to tenants of subsidized housing. In the absence of a meaningful definition of assisted living, it is not clear what "assisted living" services are contemplated by this recommendation that are not already and otherwise available.

As stated earlier in our dissent to A.01, we, of course, support development and implementation of a national long-term care policy that gives individuals (with various needs) a variety of choices about where and how to receive long-term care services that meet defined standards of care commensurate with assessed level of need.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

Affordability

A.20 HUD Housing Choice Voucher Rules in Assisted Living

Recommendation

HUD shall modify existing program requirements of Section 8 Housing Choice Vouchers in order for them to become more compatible for use in assisted living residences. Specifically, HUD needs to:

- a. HAP Contract and Services: Amend the HAP contract to allow assisted living providers to require service participation and service payment (as required for other residents in the ALR), outside of the rent contract, as a condition of tenancy by modifying Part C Section 6
- b. Maximum Resident Contribution: For residents receiving Medicaid waiver funding, immediately amend the Section 8 rule that limits a resident's payment for rent from a maximum of 40% to 65% of his/her income.
- c. Resident Contribution Study: Conduct a study within the next two years to determine what the appropriate maximum resident contribution for rent should be in assisted living and adjust the Section 8 rules as appropriate when that percentage of income is determined. Residents who use Section 8 to rent an assisted living unit under the temporary 65% rule may continue to pay the percentage of their income established under that temporary rule as long as they continue to reside in the unit or program where they lived at the time of a new maximum contribution rule was established by HUD.
- d. Third Party Contributions: For purposes of facilitating use of vouchers in assisted living settings, HUD should issue a formal position and/or policy clarification stating that financial contributions toward Assisted Living services from family members and other third parties are not considered as income.
- e. Section 8 Assisted Living Designation: States and local housing authorities should be encouraged to designate a portion of Housing Choice Vouchers specifically to assisted living, including project based vouchers and/or a set aside for emergency use.

Implementation

Guideline for Federal Policy

Rationale

HAP Contract and Services

The Housing Choice Voucher Program (formerly known as Section 8 Tenant Based Rental Assistance) provides eligible low-income Americans with a method of obtaining affordable housing. It helps families lease privately owned rental units from participating landlords. The vouchers are generally administered by the local public housing authority or other public entity.

The Housing Assistance Payments (HAP) Contract is a mandatory agreement between the public housing agency and the owner of a unit occupied by an assisted family when the Housing Choice Voucher is utilized. Part C, the Tenancy Addendum to the HAP Contract

Affordability

contains language that has caused some assisted living homes to decline to participate in the Housing Choice Voucher program. Part C, Section 6b reads as follows: "The owner may not require the tenant or family members to pay charges for any meals or supportive services or furniture which may be provided by the owner. Nonpayment of any such charges is not grounds for termination of tenancy." Similar language is included in a HUD Notice issued in 2000 to address the use of Housing Choice vouchers in assisted living. This policy may have arisen to discourage mandatory meal programs in independent senior housing, a common practice in the 1980's.

Some assisted living home administrators fear that if they accept somebody using a Housing Choice Voucher, the person could refuse to pay for their meals or services, which may be required by state statutes and/or regulations or required to maintain the viability of an assisted living service program. This could potentially create a financial and regulatory challenge for the administrator.

Vouchers are not yet widely used in assisted living, however it is a worthy part of the puzzle for providers attempting to cobble together assisted living programs affordable to very low-income persons. Voucher holders are required to spend a portion of their income on rent; services and meals cannot be paid for using Section 8 funds.

Maximum Resident Contribution

The HUD Housing Choice Voucher (Section 8) currently requires eligible recipients to contribute thirty percent of their income to their rent payment, with the HUD Housing Choice Voucher (Section 8) paying the difference between their contribution and HUD's established Fair Market Rent (FMR) for their unit type and location. If the FMR payment rate is insufficient to pay for a unit, the resident may currently supplement the voucher payment with up to an additional ten percent of his/her income. To maximize a resident's choice in selecting an assisted living residence in the next two years, HUD should temporarily raise the Section 8 forty percent rule for assisted living residents to sixty-five percent. This is the percentage of income that is allowed for rent (and any services included in the rent) under the Senator Dodd's proposed assisted living tax credit bill S1886.

Resident Contribution Study

During the two year temporary increase, HUD shall study how much income a resident in assisted living needs to maintain for other needs and establish a revised maximum rent contribution for residents in assisted living as necessary. In order to allow residents and providers to make informed decisions during the temporary 65% rule, any new cap implemented by HUD shall grandfather the 65% Section 8 voucher rules for those residents and providers enrolled during the temporary contribution period.

Family Contributions

Assisted living services are required to support the needs of many low-income residents eligible for Section 8. Some of these eligible residents will receive family support to pay for assisted living services as allowed by Medicaid or when they cannot access or utilize Medicaid funding. Family contributions together with the Section 8 subsidy often allow a resident to piece together enough resources to cover the room, board, and services charge

Affordability

in assisted living. If the family contribution for services counts as income, the resident's income available for service and food payments will be reduced, and in the worst case, their Section 8 subsidy will be revoked. This works against the public's and the resident's interests by making assisted living more difficult to afford, potentially eliminating a residential alternative to institutional care for these residents.

Section 8 Assisted Living Designation

Due to governmental subsidy structures, persons with low-incomes may require a Section 8 voucher to afford the rental component of assisted living charges. To prevent persons from going without needed services or from being placed in a nursing home unnecessarily Section 8 certificates shall be available when the person's need arises. Because this need often develops from an unpredictable crisis, Section 8 vouchers shall be available without waiting list. To accomplish this, a Section 8 set aside should be established for individual who need assisted living services.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Home Care, National Association of Professional Geriatric Care Managers, National Center for Assisted Living, National Hospice and Palliative Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Adult Family Care Organization, National Association of Social Workers

Supplemental Positions for A.20

1) We dissent. This recommendation dismantles protections that HUD has had in place for tenants for many years, particularly in its discussion of the Maximum Rental Contribution (#b and #c). The recommendation immediately increases the amount of income that a tenant could be required to pay for a housing subsidy from 40% of his/her income to 65%. The recommendation then calls for a study to determine the appropriate percentage of income to be contributed to rent but says that if the study finds that a percentage lower than 65% is found to be appropriate, tenants admitted under the 65% rule would nevertheless be required to continue paying the 65%. We object to (1) raising the percentage ceiling from 40% to 65% before conducting a study; and (2) continuing the 65% contribution rate for tenants admitted under the 65% rule if the HUD study determines that a lower

Affordability

percentage would be appropriate.

We also strongly object to the family contributions (#d) authorized by this recommendation. The recommendation calls for modification of the HAP contract to permit housing providers to require service participation as a condition of tenancy. Residents without sufficient income to pay for services, and ineligible for Medicaid or unable to use Medicaid, would have no choice but to use family contributions. The recommendation recognizes residents' need to rely on family supplementation and provides that family contributions would not count as income to the resident. We support having public payment be sufficient to pay for assisted living. We do not support government subsidies to programs and entities that rely on family supplementation.

By way of contrast to this recommendation, the Medicaid program requires health care providers to accept the Medicaid rate as payment in full for covered services and prohibits facilities from requesting or accepting additional payments (i.e., supplementation) from family members or other third parties. Individuals choosing assisted living should not have to give up financial protections for residents and their families that the Medicaid program provides for residents of other residential long term care settings such as nursing homes.

While we do not oppose some revisions to the HAP Contract and Services, the recommendation (#a) includes no limitations on what level of participation and payment a HUD provider could demand with respect to services. Although we understand the majority to argue that a hallmark of assisted living is residents' ability to pick and choose the services they want and will purchase, the language of the recommendation appears to give unlimited control to the assisted living residence.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Affordability

A.21 LIHTC QAP & Set Aside for Affordable Assisted Living

Recommendation

State agencies administering the current 9% low-income housing tax credit program (LIHTC) should review their qualified allocation plan and eliminate any barriers it contains that will prevent AL from achieving a competitive score. To promote the development of affordable assisted living serving the lowest-income, state agencies should create a set-aside for affordable assisted living programs serving Medicaid eligible residents. The amount of the tax credit set-aside should be designed to meet the identified needs for affordable assisted living. Non-profit assisted living projects that do not receive funding under the assisted living set aside should be allowed to compete in the general non-profit set-aside.

Implementation

Guideline for State Policy

Rationale

LIHTCs are a primary resource in creating affordable assisted living, providing substantial and difficult to obtain capital investment. LIHTCs allow a project to reduce or eliminate project debt, providing a project subsidy that reduces rent to a level affordable to persons with low-incomes. Without access to LIHTC, it is very difficult to develop a project to serve persons with income at or near SSI payments.

Assisted Living programs often have difficulty competing for LIHTC due to state qualified allocation plan (QAP) scoring systems. States revise their QAPs each year and may choose to recalibrate the scoring system. The QAP in each state should be reviewed and modified to allow assisted living to score in a competitive range with all other projects. Moreover, to encourage the development of assisted living that serves residents with the lowest incomes, state agencies should provide a LIHTC set-aside for assisted living. A set-aside establishes a pool of tax credits that may only be awarded to a project meeting the set aside guidelines. Set-asides encourage people to submit applications for projects conforming to the guidelines because competition is reduced and is limited to like project eliminating scoring advantages of particular project types. Set-aside funds that are not utilized are returned to the general LIHTC pool.

In at least one state that created an assisted living set-aside, the QAP provided that assisted living projects (non-profit and for-profit) would compete against each other in for the set-aside and those not chosen would automatically compete in the more competitive for-profit category. This effectively limited assisted living tax credit funding for non-profits to one project per year. Because of the great need for assisted living that is affordable to those with the lowest-incomes, non-profits should be allowed to compete in the less competitive assisted living and non-profit set-asides.

Organizations Supporting This Recommendation

Affordability

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Hospice and Palliative Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

Association of Health Facility Survey Agencies, National Adult Family Care Organization, National Association of Local Long Term Care Ombudsmen, National Committee to Preserve Social Security and Medicare

Supplemental Positions for A.21

None Submitted

Affordability

A.22 Assisted Living Tax Credit

Recommendation

Create a special low-income housing tax credit (LIHTC) for assisted living. Incorporate the following provisions:

- Create program guidelines that specifically acknowledge and allow for the health care and service component of assisted living.
- Create a higher credit amount for assisted living (providing a higher tax credit calculated on the qualified basis).
- Provide for a shorter-term compliance period for investors to mitigate the long-term Medicaid and market risks.

Allocate tax credits outside of the current caps in order to avoid competition with other housing options and provide sufficient credits to develop the volume of affordable assisted living required to serve the demand. New tax credit allocations could be set based on projected budget savings from nursing home diversions.

Implementation

Guideline for Federal Policy

Rationale

The current LIHTC program does not fit assisted living well. Investors and underwriters are uncertain about program compliance due to health care services provided. They are also concerned about the stability of Medicaid funding source and the long-term business risks Medicaid funding creates. Both of these issues raise the risk of a project default, potentially resulting in severe financial consequences for investors. For the LIHTC program to attract investors to assisted living credits, a new program needs to be structured to account for the qualities and risks of assisted living. These changes are required in order to attract investors to assisted living and deliver adequate subsidy to the project after investors discount the credits for assisted living's operational risk.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Social Workers, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform,

Affordability

National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.22

1) We dissent. This recommendation is focused on making affordable assisted living as risk-free and financially advantageous for developers as possible. While we recognize that affordable assisted living will not be built unless developers are willing to build it, we cannot support a recommendation that focuses exclusively on developers' desire to avoid financial risk and that puts developers' interests in safe profits over Medicaid beneficiaries' need for housing and health care.

This recommendation creates an enhanced tax credit for developers of assisted living (second bullet) and shortens the time period for developers' obligation to provide housing to poor people (third bullet). Specifically, this recommendation would allow developers of assisted living to get more financial benefit, while providing less service, than developers of other types of low-income housing. Consequently, the enhanced tax credits supported by this recommendation would not result in the development of a meaningful amount of affordable assisted living. Assisted living developers would essentially be receiving higher tax credits for providing less service.

In addition, there would be no quality control over the assisted living built with this enhanced tax credit. The majority's general recommendations for quality standards for assisted living residences are weak and minimal. This recommendation includes no additional or more specific quality standards that assisted living residences would be required to meet in order to qualify for enhanced low-income housing tax credits. As a result, this recommendation would encourage the development of assisted living residences of dubious quality.

*Association of Health Facility Survey Agencies, Center for Medicare Advocacy ,
National Association of Local Long Term Care Ombudsman Programs, National
Association for Regulatory Administration, National Association of State Long-Term
Care Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform,
National Committee to Preserve Social Security and Medicare, National Senior
Citizens Law Center*

Affordability

A.23 Advisory Boards for Government Initiative in Affordable Assisted Living

Recommendation

State or Federal Agencies should place priority on designing affordable assisted living initiatives. Governments shall have an inclusive advisory board (e.g., consumers, advocates, providers, and related professionals) working with the agency throughout the process. Affordable assisted living initiatives include, but are not limited to, regulations, waiver programs, and state plan services.

Implementation

Guideline for Federal and State Policy

Rationale

State and federal programs impacting or providing assisted living are often constructed without consumer, provider, and advocate input throughout the process. The programs often meet with significant opposition when released for public comment due to the lack of public input during the design period. The late stage modifications brought about during the public comment period often lead to awkward compromises, providing convoluted or imperfect remedies to a program's structural deficits. State and federal programs would benefit from consumer, provider, and advocates input from the start of program design in order to craft rational systems meeting all stakeholders' needs.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, Assisted Living Federation of America, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, National Network of Career Nursing Assistants, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Social Workers, National Association of Activity Professionals, National Association of Home Care, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Association for Regulatory Administration, National Senior Citizens Law Center, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.23

Affordability

None Submitted

Affordability

A.24 Aging Network Funding for Training

Recommendation

Provide federal and state funding to develop and support ongoing training for staff of the Aging Network who provide information and assistance to consumers about choices and decisions regarding assisted living and other long-term care options. At a minimum, training should include: information about what housing and services options are available, eligibility requirements for programs available to assist with the costs of assisted living, the assistance available to pay for services, and other referral resources available in the community that can assist with decision-making.

Implementation

Guideline for Federal and State Policy

Rationale

Assisted Living is an important component of the long-term care system and may become an option or necessity for many consumers during their lifetime. It is imperative, therefore, that potential consumers seeking information about long-term care including assisted living, obtain it from persons or entities that are knowledgeable about what options are available to consumers, the basic eligibility requirements of the programs that are in existence to offer assistance with the costs of assisted living, and the possible avenues a consumer may explore when considering assisted living.

Staff who receive training and regular updates on this information will be a valuable resource to both consumers and their representatives as well as to the network of assisted living programs and services in the state or community in which they are located. Trained staff can help prevent misconceptions about what programs are available and the eligibility requirements of those programs and can also assure that programs and services are represented accurately to consumers and their families.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Association of Health Facility Survey Agencies, Catholic Health Association of the United States, National Network of Career Nursing Assistants, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Association of Social Workers, National Association of Activity Professionals, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

None

Assisted Living Workgroup Report to the U.S. Senate Special Committee on Aging

Affordability

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Adult Family Care Organization,

Supplemental Positions for A.24

None Submitted

Affordability

A.25 Paper Work Burden of Governmental Programs in Assisted Living

Recommendation

Governmental agencies providing support to affordable assisted living projects should develop unified reporting documents and procedures where appropriate to reduce the paperwork burden on projects.

Implementation

Guideline for Federal and State Policy

Rationale

Governmental programs, whether state or federal, providing financial assistance to assisted living facilities and for services provided, frequently require separate and often duplicative paperwork and reporting requirements. Because of the burden of completing multiple reports and multiple monitoring requirements, assisted living projects are often reluctant to participate in programs that promote affordable assisted living.

All programs should work together to develop and require uniform and streamlined reporting and monitoring processes so as to eliminate duplication and promote information sharing to the extent permissible.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Gerontological Society, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Center for Medicare Advocacy, Consultant Dietitians on Healthcare Facilities, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Academy of Elder Law Attorneys, National Adult Family Care Organization, National Association of Activity Professionals, National Association of Local Long Term Care Ombudsmen, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Association of State Ombudsman Programs, National Center for Assisted Living, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Conference of Gerontological Nurse Practitioners, National Hospice and Palliative Care Organization, National Network of Career Nursing Assistants, National Senior Citizens Law Center, Pioneer Network

Organizations Opposing This Recommendation

None

Organizations Abstaining From the Vote on This Recommendation

Assisted Living Federation of America, National Association for Regulatory Administration, National Association of Home Care, Association of Health Facility Survey Agencies

Supplemental Positions for A.25

Affordability

None Submitted

Affordability

A.26 Food Stamps Usage in Assisted Living

Recommendation

USDA should provide clarification and guidance to their field offices stating that food stamps may be used by income eligible households residing in assisted living to purchase meals prepared by the assisted living residence and served in a communal area. If a change in the Food Stamp Act is required to provide this guidance, Congress should amend the Act as required.

Implementation

Guideline for Federal Policy

Rationale

Assisted living is housing with services. Low-income residents in assisted living often do not have sufficient income to pay the operator for rent and prepared meals, yet they need the prepared meals to maintain their health and functioning. Food stamps can and do play a critical role in subsidizing meals for low-income assisted living residents in some states. Unfortunately, USDA field office interpretations vary on whether income eligible assisted living residents are eligible "households" and if they are, whether they may use food stamps to purchase meals prepared by the residence. USDA should clarify at the national level that income eligible assisted living residents qualify to receive food stamps and that the food stamps may be used to purchase meal prepared by the ALR and served in a communal setting. If USDA feels that a change in the Act is required to allow food stamp to be used by income qualified assisted living residents, USDA should seek the required changes to the Act.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Social Workers, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Affordability

Supplemental Positions for A.26

1) We oppose this recommendation. In general, people who live in nursing homes and similar facilities where meals are provided by the facility are not eligible to participate in the food stamp program. 7 C.F.R. §273.1(b)(6). We do not support creating an exception in federal law for assisted living, particularly given the nebulous definition and weak recommendations set forth in the report.

We do support assisted living residents being able to use Food Stamps to purchase food that they cook and consume in their private units. However, assisted living residences should not deny residents congregate meals or discourage residents from eating congregate meals or pressure residents into using Food Stamps and preparing their own food when they can no longer do so.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long-Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Senior Citizens Law Center

2) The undersigned strongly support Affordability Recommendation A.06 as written for the following reasons:

- Many states have programs that will pay for assisted living services. However, the state subsidies generally do not cover raw food costs or rent (e.g., Medicaid waiver programs).
- Rent and food costs for low-income people must generally be covered out of a resident's SSI payment. SSI payments are almost always insufficient to pay rent costs alone unless a project has received very substantial development subsidies, subsidies that are available to very few projects.
- Even with very substantial development subsidies, rent charges necessary to support the project's debt and on-going costs (e.g., utilities, maintenance) often leave the residents with less income than is required to pay for the raw food costs.
- Food stamps can play an important role in subsidizing the raw food costs for residents without sufficient income to meet rent and food costs.
- Clarification is needed for the current USDA interpretation of assisted living as an "institutional" setting (residents of institutions are not eligible for food stamps) and whether certain categorical eligibility provisions for food stamp recipients override the institutional prohibition.

USDA clarification of current assisted living residents' eligibility for food stamps and, as required, rule or legislative changes to allow assisted living residents to qualify for food stamp assistance would provide much needed assistance to low-income residents and put assisted living on the same footing as other residential options for older persons.

AARP, Consumer Consortium on Assisted Living, NCB Development Corporation, National Center for Assisted Living, National Multiple Sclerosis Society

Topic Group Recommendations That Did Not Reach Two-Thirds Majority

Affordability

The following recommendations did not reach a two-thirds majority of the ALW. The recommendations showing a voting record were unable to reach two-thirds majority at the final vote. The recommendations that do not show a voting record were unable to reach two-thirds majority during the development process.

Affordability

A.27 Federal Development Subsidies and Private Units **2/3 Maj. Not Reached**

Recommendation

Federal programs subsidizing assisted living new construction or conversion should require private units, including, at a minimum, a private toilet with lavatory and shower or tub, and a kitchenette with sink. Subsidy amounts should be sufficient to pay for the private unit requirement.

Implementation

Guideline for Federal Policy

Rationale

Federal housing programs serving older persons require the provision of full private apartments with private toilets, bathing capacity, and kitchen or kitchenettes with cooking capacity. Older persons should not have to forego those basic amenities simply because they have a disability.

At the same time, the Assisted Living Workgroup recognizes that subsidized housing that is built as assisted living or converted to that purpose will have to make accommodations and adaptations to serve persons with disabilities. For example, more common space may be required to offer services. A kitchenette should include, at a minimum, a sink, a food preparation and storage area, a small refrigerator, and a microwave oven. For residents who cannot operate such appliances safely, the housing provider should have a policy and procedure for disconnecting them.

Similarly, individual units may have to be adapted to allow for different living arrangements. While individuals should not be forced to share rooms with a stranger, some may prefer to share an apartment for various reasons—for example, sharing with a spouse, a friend, a domestic partner, or a caregiver. When requested by the resident, sharing accommodations should be permitted and facilitated.

Organizations Supporting This Recommendation

No Vote Recorded

Organizations Opposing This Recommendation

Organizations Abstaining From the Vote on This Recommendation

Supplemental Positions for A.27

1) We support this failed recommendation as written.

AARP, American College of Health Care Administrators, Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social

Affordability

Security and Medicare, National Network of Career Nursing Assistants, National Association of Social Workers, National Senior Citizens Law Center

2) The substance of this recommendation is dealt with in Recommendation A.15, "Federal Housing Subsidy Programs and Assisted Living." The occupancy standard in federal housing programs is that units are shared only by choice. Most units of subsidized housing occupied by older persons are single person occupancy. The organizations listed below believe these occupancy standards should not be waived when assisted living services are offered in subsidized housing. A person should not be forced to share a housing unit with a stranger simply because they have a disability.

AARP, Association of Health Facility Survey Agencies, Center for Medicare Advocacy, Consumer Consortium on Assisted Living, NCB Development Corporation, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Multiple Sclerosis Society, Paralyzed Veterans of America, Pioneer Network

Affordability

A.28 Affordable Assisted Living Liability Insurance

2/3 Maj. Not Reached

Recommendation

State and federal governments in conjunction with relevant stakeholders shall research the causes for the increased cost of liability insurance in AL to determine appropriate solutions to ensure that assisted living is affordable and appropriate insurance is accessible.

Implementation

Further research followed by state and federal policy change.

Rationale

The increased cost of general and professional liability insurance is directly impacting the availability of affordable assisted living services. Possible areas to investigate for solutions include but should not be limited to the following:

1. Develop an experience-based rating for ALRs. That is, rates should be reflective of both ALR vs. nursing home experience and rates should be experience-based by ALR. In other words, those ALRs with good claim histories would pay a lower premium than ALRs with poor claim histories.
2. States and insurance commissioners should work creatively with providers and insurers to develop alternate models of general and professional liability insurance.
3. Developing and implementing comprehensive quality improvement and risk management protocols.

The cost of general and professional liability insurance for assisted living residences has increased dramatically during the past several years. These increases have two direct impacts on assisted living:

1. In private pay assisted living residences, the increased costs are passed to the resident. This may have the effect of making previously moderately priced assisted living too costly for some individuals.
2. In assisted living residences (ALR) that participate in the Medicaid-waiver program, reimbursement has not increased to reflect increased costs related to liability insurance. The provider shall absorb those costs and the net effect may be that the ALR will choose to cease providing services under the Medicaid waiver program. An additional factor is the availability of insurance. In one state the highest licensure level was required of ALRs who chose to participate in the Medicaid waiver program. Providers with that highest license level (which had increased requirements and also allowed for increased services to be offered) have been either unable to obtain liability insurance or the cost is prohibitive. That state has been forced to lower the licensure level for Medicaid waiver providers to ensure access for Medicaid waiver residents.

This recommendation is not intended to take a position on tort reform.

Organizations Supporting This Recommendation

Affordability

AARP, Alzheimer's Association, American Assisted Living Nurses Association, American Association of Homes and Services for the Aging, American College of Health Care Administrators, American Medical Directors Association, American Seniors Housing Association, American Society of Consultant Pharmacists, Assisted Living Federation of America, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, Joint Commission on Accreditation of Health Care Organizations, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Association of Social Workers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Adult Family Care Organization, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Association of Health Facility Survey Agencies, National Network of Career Nursing Assistants, Center for Medicare Advocacy, National Academy of Elder Law Attorneys, National Association of Local Long Term Care Ombudsmen, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Organizations Abstaining From the Vote on This Recommendation

None

Supplemental Positions for A.28

1) We oppose this failed recommendation. We oppose this recommendation because of the highly politicized discussion at the present time as to the causes of the increased costs of premiums for liability insurance. Although we appreciate the final sentence of the rationale – that the recommendation “is not intended to take a position on tort reform” – we cannot support a recommendation that singles out the high costs of insurance as a threat to affordable assisted living. This recommendation is beyond the scope of expertise of the Assisted Living Workgroup.

Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Local Long Term Care Ombudsman Programs, National Association for Regulatory Administration, National Association of State Ombudsman Programs, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Senior Citizens Law Center

Affordability

A.29 Unit Hold

2/3 Maj. Not Reached

Recommendation

Resident's units in an ALRs are their home. As such, their unit shall be held for them during temporary absences as long as the ALR fees continue to be paid. To make this possible for residents whose room, board, or services are paid by a government entity, the following government payment policies shall be integrated into reimbursement programs

Housing and board fees: The resident and any government entity that subsidizes the resident's rental payment, continue to pay his/her full share. The ALR may initiate discharge proceedings in instances of nonpayment.

Health or personal care fees: Because the ALR cannot reduce its staffing and operating costs when a resident is absent from the ALR for short terms, the government entity subsidizing the care costs needs to provide funding during the absence to provide for a viable program. For medically necessary absences, the government entity will continue to pay 100% of the rate (less any resident share of cost payment made to the ALR during the absence) for up to 24 consecutive days per medical episode. For a non-medical absences, the government entity will continue to pay 100% of the rate (less any resident share of cost payment made to the ALR during the absence) for up to 14 days per year to allow the resident the opportunity to leave the ALR for personal reasons. If a resident's absence exceeds the government funding period in either instance, the resident or his/her family shall either pay the fees privately to retain the unit or relinquish the unit to the provider unless at the provider's discretion, the provider is willing to reserve the unit at reduced or no cost for the remainder of the resident's absence. The ALR may initiate discharge proceedings in instances of nonpayment. [Please note: The ALW believes that in the case of non-medical absences, an allowance of 14 cumulative days should be the minimum allowed under government programs. Providing larger allowances for non-medical absences further benefits the residents' options.]

Decisions about terminating residency in the ALR: If the resident decides not to return to the ALR, he/she shall notify the ALR in a manner consistent with law. (The admissions contract shall disclose to residents what these requirements are.) If the ALR claims that under relevant law it is entitled, based on an increase in the resident's care needs, to have the resident transfer or move out, the ALR shall provide the resident (and any designated representative) with a discharge notice. The resident has the right to appeal the discharge in the state administrative process.

Implementation

Federal and State Policy

Rationale

Assisted living residents who are temporarily absent from their ALR want to be able to return to their homes following their temporary absence. The rule shall assure the resident's right to return. In addition, there need to be provisions that address payment during the resident's absence and terminating the residency. Payments during a temporary absence shall be equal to the payments during occupancy because a provider

Affordability

may not be able to modify operations (e.g., staff down, forego debt payments, reduce utility costs, modify food orders) during a temporary absence.

Organizations Supporting This Recommendation

AARP, Alzheimer's Association, American Association of Homes and Services for the Aging, American Medical Directors Association, American Society of Consultant Pharmacists, Catholic Health Association of the United States, Consumer Consortium on Assisted Living, National Multiple Sclerosis Society, NCB Development Corporation, National Association of Social Workers, National Association of Activity Professionals, National Association of Professional Geriatric Care Managers, National Center for Assisted Living, National Hospice and Palliative Care Organization, National Senior Citizens Law Center, Paralyzed Veterans of America, Pioneer Network

Organizations Opposing This Recommendation

Assisted Living Federation of America, Association of Health Facility Survey Agencies, Center for Medicare Advocacy, National Association of Home Care, National Association of Local Long Term Care Ombudsmen, National Association of State Ombudsman Programs, National Citizens' Coalition on Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants, National Association for Regulatory Administration

Organizations Abstaining From the Vote on This Recommendation

American Assisted Living Nurses Association, American College of Health Care Administrators, American Seniors Housing Association, Joint Commission on Accreditation of Health Care Organizations

Supplemental Positions for A.29

- 1) The undersigned strongly support Affordability Recommendation A.29 as written for the following reasons:
- Without unit hold provisions and continued state service payments during absences, residents risk losing their home if they go into the hospital or leave to visit family.
 - ALR's providing affordable assisted living services under governmental programs cannot typically afford to forego service payment during a resident's absences because they do not have the operational flexibility to scale back staff and fixed expenses on a fractional basis.
 - If states do not compensate ALRs for services during a resident's absence, mission-driven providers may be unable to afford to participate in state programs and good quality for-profit providers will likely avoid taking state-reimbursed residents due to their absences' negative impact on the ALR's effective reimbursement rate.

Without the unit hold and reimbursement policies described in A.29, residents may face two unacceptable possibilities: 1) that an absences for medical reasons or to visit family (e.g., funeral, baptism, celebration, vacation) will cause them to forfeit their unit or 2) residents will be pressured by providers not to leave the ALR.

AARP, Consumer Consortium on Assisted Living, NCB Development Corporation, National Center for Assisted Living, National Multiple Sclerosis Society, Paralyzed Veterans of America, Pioneer Network

- 2) We oppose this failed recommendation. We support R.13, a residents' rights recommendation that addresses unit hold.

Affordability

We oppose A.29 because it focuses on assisted living residences' interest in 100% funding during residents' temporary absences rather than on assuring residents' ability to retain their homes during temporary absences.

We also oppose A.29 because it makes no provision for prorating residents' fees for services that residents do not use while they are absent from the assisted living residence. For example, residents who are away on vacation or in the hospital will not eat meals or use housekeeping services. Assisted living residences should be required to give credit for unused services, prorated on a daily basis.

Center for Medicare Advocacy, National Citizens' Coalition for Nursing Home Reform, National Committee to Preserve Social Security and Medicare, National Network of Career Nursing Assistants