Harrisburg, PA

April 11, 2014
1:00 pm - 4:00 pm
The Honor's Suite, 333 Market Street

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Alexander, David A

From: eugene j. sauers [redacted]
Sent: Monday, April 07, 2014 12:30 PM
To: AI, LTC-Commission
Subject: Friday, April 11, 2014 Conference
Attachments: scan0032.pdf

Verbal Comment Statement:

I have had over 50 years of experience in the MA LTC field, 28 as an employee of the PA Dept. of Public Welfare, of which 20 years were in management, and over 22 years in business as a consultant and representative for families who have had a member that needed LTC and Medicaid.

During this time, it has become painfully obvious of the dilemma families face when dealing with this problem. This is particularly true when there is a CS involved. People are spending enormous amounts of money hiring attorneys, etc. for advice which most of the time should be available to them at no cost. This is especially true with long duration illnesses, such as alzheimer's.

I recently wrote a book with the answers to the most asked questions people have when applying for MA LTC. The book has been very well received. The name of the book is "Medicaid, PA Nursing Homes and You." My comments will be limited to suggestions on improving communications. Also on cutting down on unneeded, unnecessary and uncalled for paperwork. There should be some kind of uniformity and understanding of procedures within the CAOs.

I have attached a statement titled "You ought to write a book" to explain why I wrote this book.

I hope this is what you were looking for.

Sincerely,

Eugene J. Sauers
Sauers Consultations & Services for the Elderly

"You Ought to Write a Book"

That comment was made to me many, many times over the years by families with a member who needed long-term nursing home care. Most of them stated they felt "completely lost" when trying to navigate through the seemingly endless process of obtaining help from Medicaid. Many of their questions went unanswered and some of those that were answered just caused them to become more confused and stressed out. Unfortunately, many of those answers came from well-meaning people such as social workers, nursing home personnel, lawyers, and even government officials.

As a result of all this, I decided to write a book with the correct answers to the most asked questions families have in obtaining long-term nursing home care in Pennsylvania. The name of my book is "Medicaid, PA Nursing Homes and You".

Placing a loved one in a long-term nursing home could be one of the most stressful times in your life. Not only is it emotionally draining, but it can also be financially devastating. The average monthly cost of nursing home care is between $10,000 to $13,000. At those rates, it doesn't take long to go broke.

Families and spouses have many questions that need to be correctly answered during this trying time. Questions such as: "Will the state take my home? Must I go completely broke before I qualify? What happens to my spouse? Are my children responsible for my nursing home care expenses? Can I gift any money to my children, grandchildren, church or charity?" The list goes on and on.

As an employee of the PA Dept. of Public Welfare for 28 years, (20 of those in management) and over 22 years in my private business (Sauers Consultations & Services for the Elderly), I was able to help hundreds of families by guiding them through the maze of the endless rules and regulations pertaining to Medicaid and PA nursing homes. I was able to correctly answer all their questions and was their personal representative through the entire process.

PA is second in the nation with the most aged population, and not getting any younger. Statistics say that 1 out of every 3 of us who reach the age of 65 will spend some time in a nursing home before our demise. It would be foolhardy not to be prepared for this in advance and to fully understand information you need to know if long term nursing home care becomes part of you or your loved ones future. If this care becomes a necessity in your family, this book would be most beneficial and informative.

Eugene J. Sauers

NOTE: For more information on this subject or how to purchase this book, please visit his website:

www.medicaidandpanursinghomeinfo.com

Testimony of Pamela Walz, Esq., Community Legal Services, to the
Long Term Care Commission
April 11, 2014

Background

I am the co-director of Community Legal Services' Aging and Disabilities Unit, which provides free legal assistance to low-income older adults (60 and over) and people with disabilities in Philadelphia. Our unit, which has four attorneys and a paralegal, focuses on cases involving eligibility for public benefits (including SSI, Social Security, Medicare, Medicaid and VA benefits) and long term care consumers' rights. We frequently work with the long term care ombudsman program in cases involving the rights of nursing home and personal care home residents. We are often called upon by Medicaid waiver applicants for advice and information concerning the estate recovery program. We also handle an increasingly large number of administrative appeals on behalf of Medicaid waiver applicants and recipients who have experienced denials, delays or terminations of service. Many of our clients are referred to us by health care providers, social services agencies and service coordinators. Because aging services providers refer to us their patients and consumers who have been denied or are otherwise unable to access publicly-funded long term care services, we frequently are in a position to identify systemic barriers to access and quality care.

In addition to our individual client representation, CLS also participates in policy advocacy. I serve on the Long Term Care Subcommittee of DPW's Medical Assistance Advisory Committee and previously was a member of DPW's Personal Care Home Advisory Committee, as well as the Coalition for Personal Care Home Reform (a statewide coalition of consumer organizations which successfully advocated for stronger licensing regulations and enforcement in personal care homes).

Priorities for System Change

1. Make the application process for HCBS waiver programs more expeditious and less bureaucratically cumbersome. During the past couple of years, we have seen the time frame for waiver applications grow from about 2 months to 6 months or more. Problems include:

    - Understaffed county assistance offices which cannot timely process applications or renewals, and send confusing and conflicting notices which often do not correctly identify the reason for the action being taken. We are receiving frequent referrals of elderly and disabled waiver consumers who have submitted the eligibility redetermination paperwork requested by the Department but have received termination notices because the county assistance office is simply overwhelmed and cannot effectively process the paperwork and associate incoming verification with the consumer's case record. Worse yet, the county assistance office has also been unable to properly process appeals, leaving frail waiver consumers cut off from their services despite having filed appeals within

the timeframe to continue receiving services pending resolution of their appeals. **We recommend that DPW adequately staff and provide all necessary technical support for CAOs processing long term care applications.**

- A cumbersome process in which consumers are sometimes notified that they are eligible, only to have the Office of Long Term Living (OLTL) make a program eligibility determination overruling that decision a month or two later. Functional eligibility for the waiver programs is determined through a level of care assessment performed by assessment workers who meet with the applicant and complete a lengthy assessment process. However, OLTL then performs a paper review of every one of these determinations. Despite not having seen the consumer, OLTL then sometimes overrules the determination made by the assessment agency. We have seen a number of these cases where the OLTL decision was patently incorrect, but it took months to get them to reverse their decision. This review step also adds weeks to an already very slow process. **We recommend that the application process be streamlined, OLTL staff performing these reviews be more carefully trained on eligibility requirements, and duplicative eligibility determination steps be eliminated.**

- Once an applicant is finally approved for waiver services, an individual service plan (ISP) is created to identify the services which will be provided. OLTL reviews each of these ISPs, which creates an additional delay before the consumer can actually receive services. In Philadelphia, the wait to get ISPs approved has recently been about four months. This creates real hardship for frail elderly people who have already spent months getting through the application process. **The ISP review process must be made more expeditious, and consideration should be given whether it is necessary to review 100% of ISPs.**

- Consumers using the consumer-directed model must sign up to receive Financial Management Services (FMS) from Public Partnerships, LLC (PPL). This process can take months, and the paperwork which consumers must complete is both extremely lengthy and difficult to understand. The agencies which provided FMS prior to PPL had staff located near waiver consumers' communities and provided hands-on assistance, where needed, with the complicated paperwork involved. PPL does not have staff who can meet with consumers face to face, and instead relies exclusively on telephone and Internet communication. We have had several blind clients who were not able to complete the forms because they were not given assistance, and many other clients have had difficulty completing the forms correctly, creating lengthy delays before they could receive services. At the same time, funding for service coordinators has been reduced (see below), curtailing the availability of service coordinators to assist with this paperwork. We have also had many clients with identical complaints of PPL losing paperwork they sent in and making the consumer complete and return the same paperwork over and over. **PPL's customer service needs to be substantially improved, and face-to-face contacts and help with paperwork should be provided where consumers need that support.**

- Until this year, consumers using the consumer-directed model have been permitted to allow their attendants to begin work pending the results of the attendants' criminal background checks. Often, consumers hire individuals they know and trust, so they feel comfortable doing this, and we have not heard of problems arising as a result. However, DPW changed the policy at the beginning of this year and now prohibits attendants from beginning work until the criminal background check results are returned. This adds between several weeks and several months to the consumers' wait for services to begin. When all of the delays are added up, we have begun to routinely see consumers more than 6 months from the date of application before their services begin. **The policy requiring criminal background checks to be completed prior to attendants beginning work should be reversed.**

2. **Reinstate Community Choice or create a policy to accomplish the same purpose.** Community Choice was a policy which allowed expedited consideration and approval of waiver applications in situations where the applicant was at imminent risk of having to enter a nursing home (for example, a hospital patient who could not be discharged home without waiver services or an applicant with needs to emergent to wait through the regular application process). Community Choice was successful in keeping applicants from having to enter nursing facilities, but was eliminated without any announcement or opportunity for stakeholder input. Especially now that the waiver application process takes months, an expedited process is needed for individuals who are in dire need of services to avoid imminent institutionalization.

3. **Permit applicants whose incomes exceed the $2163 monthly waiver income limit to spend down to $2163, using medical and home care expenses.** In the past, DPW inquired with CMS about doing this and were told that it was not permitted. CMS then changed its policy in 2010 and has indicated a willingness to allow states to do this. However, DPW has not taken action to pursue this option. Consumers with incomes which exceed $2163 by a relatively small amount are forced to enter nursing homes in order to receive care because they don't qualify for waiver (and the Options and Act 150 waiting lists are very long), but cannot afford to pay privately for the care that they need. CLS clients have had repeated and costly medical emergencies and skilled nursing stays because they cannot afford to pay for the care they need but have incomes slightly over the waiver income limit. In addition to saving the Commonwealth money on nursing home care, this policy would shift some Options and Act 150 recipients (currently paid for by 100% state dollars) to waiver, which is 54% federally funded.

4. **Adequately fund service coordination and other HCBS services.** In 2012, funding for HCBS waiver service coordination was reduced as a result of a rate-setting process which failed to consider all of the costs involved in providing this service. The result has been that service coordinators have less time and ability to address critical consumers' issues and make face-to-face contacts to ensure that consumers' needs are being met. A new rate review is underway, and it is very important that rates be set to adequately fund this important service.

5. **Give careful consideration to funding opportunities available under the Affordable Care Act, including Community First Choice and the option to provide home and community based services under the state plan.** These options offer enhanced federal funding to states which increase the availability of home and community based services, thereby reducing their reliance on more costly nursing facility services. The Commission should obtain a full briefing on these options and carefully consider how the Commonwealth might benefit from adopting one or more of them.

6. **Improve the Department of Health's enforcement of nursing home residents' rights and quality of care licensing requirements.** There are several types of nursing home residents' rights violations which have become distressingly common. These include nursing homes' discharging residents as soon as their Medicare coverage ends, despite the residents' need for additional care in the facility and despite the fact that Medicaid coverage is available to pay for long term nursing facility care. These discharges violate federal and state law which prohibits nursing facilities from involuntarily discharging residents except in certain limited circumstances. CLS has had clients who suffered serious adverse medical consequences and even death after being prematurely discharged. However, the Department of Health has failed to cite facilities for this behavior when licensing complaints are filed by consumers and ombudsmen.

7. **Make sure that the Commission's deliberations are transparent and include public and stakeholder input.** The work of this Commission and your recommendations are potentially very important to thousands of people who need care and services or who will need them in the future. It was disappointing that there was not more representation on the Commission from consumer advocacy groups, especially statewide organizations such as the Disabilities Rights Network, the Pennsylvania Health Law Project and the Center for Advocacy for the Rights and Interests of the Elderly (CARIE). All of these organizations have considerable expertise in Medicaid and long term care policy, and for many years have been crucial stakeholders in policy discussions. I urge you to include more voices in the work of your subcommittees and also to make sure that all of your meetings are open to the public.

Thank you for the opportunity to provide these comments to you today.

Alexander, David A

From: Pacheco, Emilio <[redacted]>
Sent: Thursday, April 10, 2014 2:40 PM
To: AI, LTC-Commission
Subject: public meeting on the current long-term care system

Thank you for your considerations.

I do not have a written testimony but for your information I will briefly (5 minutes or less) address

Durable medical equipment
Medications
Emergency room
How the system push the individuals and family to use the most expensive services.

Thank you for registering for the to provide input public meeting on the current long-term care system.

If you are attending and providing comments you will be limited to a total of five minutes to allow others time to share their comments.

To assist the Department in accurately capturing verbal comment, individuals are asked to provide their comments in writing to ra-LTCCommission@pa.gov or mail to:

Department of Public Welfare
Attention: OLTL Policy
P.O. Box 2675
Harrisburg, PA 17105-2675.

If there are capacity limitations, priority will be given to those who have registered to attend.

Emilio Pacheco, MHS. Associate Director