

NY ALFA list of Barriers to Supportive Housing Development

Ginger Lynch Landy

to:

affordable, Mark L. Kissinger

11/04/2011 12:21 PM

Cc:

"Nancy Hodes", sbs04

Show Details

As requested, NY ALFA has compiled a list of current barriers to supportive housing development in New York with a specific emphasis on both private pay assisted living and the Assisted Living Program (see below).

I have also attached a detailed document further explaining these barriers and NY ALFA's recommendations to address them.

Current Barriers to Supportive Housing Development with respect to assisted living:

Regulatory/Process Barriers:

- **Protracted ALR/EALR/SNALR licensure process.**

Statutory Barriers:

- **Two statutory/regulatory frameworks – one for the Assisted Living Program and one for private pay assisted living residents;**
- **Insufficient flexibility and innovation;**
- **The policy of awarding of ALP beds to institutions that decertify nursing home beds;**
- **A lack of incentives to encourage the development of senior assisted living.**

Please give me a call if you have any questions or have difficulty opening the document.

Thanks- Ginger



Ginger Lynch Landy

284 State Street
Albany, NY 12210
518.465.8303
518.465.8320

www.hodeslandy.com



November 4, 2011

Dear Members of the Affordable Housing Medicaid Redesign Work Group:

Thank you for the opportunity to comment on the Work Group's review of supportive housing and service programs in New York. The urgent need for state policies that expand access to assisted living as the preferred supportive housing choice for seniors has never been greater. The fastest growing segment of the State's population is individuals aged 60 or more, and in the next 25 years New York will have more seniors than school aged children. A well planned senior housing and services policy that promotes accessibility, choice, independence and dignity for all seniors, while stimulating the development of a diverse array of options to meet the growing demand, is critical. Prudent policy will clear the way for assisted living to flourish in New York and reduce State Medicaid expenditures, encourage economic growth and attract new investments.

New York has traditionally relied on more expensive institutionalized care for its older, frailer population. However, today's seniors want to stay home as long as possible or have the option to live in a community- based setting that is their home. There is clearly a growing demand for senior housing options that provide varying levels of long term care services and supports and allow individuals to age in place. Assisted living is a ready made option to meet this demand. It promotes independence, freedom of choice, and dignity for the senior population. Additionally, a robust assisted living industry results in cost savings for the State as resident resources last longer in less costly assisted living communities, delaying Medicaid eligibility (assisted living typically costs 30%-50% less than a traditional nursing home). However, certain steps must be taken in order for both private pay and Medicaid assisted living to thrive in New York State.

Assisted Living and Medicaid Across the Country

There are over 38,000 licensed assisted living communities in the United States, providing homes and services for over 1 million seniors. Assisted living communities have some of the highest consumer satisfaction ratings among long term care housing options. While many of today's baby boomers are primarily concerned with finding the right assisted living community for their aging parents and relatives, these 74 million boomers will be the next generation of assisted living residents.

Medicaid coverage for assisted living is growing across the country and now covers approximately 13% of all assisted living residents or about 131,000 seniors. 37 states use 1915 (c) HCBS waivers; 13 provide coverage directly under state Medicaid plans; 4 include it in 1115 demonstration programs; and 6 use state general funds.

The most common methodology for reimbursing assisted living providers is a tiered rate. Other common practices across the states include allowing for family supplementation and allowing apartments to be shared.

Assisted Living in New York

Prior to the passage of the Assisted Living Reform Act of 2004 (ALRA), assisted living was neither recognized nor defined in New York State law. We now have a legal framework for assisted living with standards, licensure and certification requirements, consumer protections and disclosures. Unfortunately, only 53 ALR/EALR/SNALR licenses have been approved. The backlog of licenses and the lengthy review process remains a significant barrier to assisted living development in New York.

While we are encouraged by the standards established by the ALRA and the Department's recent efforts to streamline the required documentation for Part 2 of the application, we recommend the Department reallocate resources to this initiative and implement a tracking system with internal deadlines and periodic reporting to managers to ensure a more efficient and timely review process.

Assisted Living's Impact on the State Economy – Medicaid and More

New York faces many challenges in the years ahead. The projected budget deficit for FY 2012-13 is over \$2 billion. The largest portion of the State budget is attributed to Medicaid. Furthermore, the largest percentage of Medicaid dollars is spent on long term care services, i.e. home care, personal care, and nursing home services.

It is critical that New York State develop viable long term care services and supports that promote freedom of choice and independence while controlling Medicaid expenditures. As the State's population ages, the demand for senior housing options will continue to increase. New York must provide a variety of options that will allow choices beyond the traditional, expensive, Medicaid dominated nursing home model. Assisted living is the consummate choice.

Assisted living is a crucial component of New York's long term services and supports policy for a variety of reasons. As New York residents grow older and more frail, having the option to choose to live in an assisted living residence in this State, near family and friends is extremely important to New York's economy. Rather than having to move to another state where access to assisted living residences is greater, a robust New York assisted living environment keeps residents, businesses and tax revenues in New York State.

In fact, encouraging the development of assisted living in New York maximizes economic development by stimulating local economies through construction related jobs, as well as direct care and service positions created in new communities. Currently, NY ALFA providers employ approximately 2,700 New Yorkers and positively impact employment and tax bases in their regions at 50 residences across the State. With strong state leadership and progressive senior housing and services policies, the potential for increased tax revenues and job growth will be significant.

Summary

The Work Group's charge offers a prime opportunity to advance senior housing services and supports that will be meaningful for generations to come. It is an opportunity to meet the needs and desires of the fastest growing segment of New York's population, keep families together in New York, reduce Medicaid expenditures, increase tax revenues, create new jobs, and promote high quality care and communities for individuals as they age.

Assisted living is an integral component of a progressive senior housing and services policy. NY ALFA believes that immediate, real and substantial results could be achieved in the long term care arena and encourages the MRT Affordable Housing Work Group to adopt the specific recommendations below.

Recommendations

1. Fully Implement the Assisted Living Reform Act of 2004.

NY ALFA supports expediting the ALR/EALR/SNALR licensure process. To date only 53 licenses out of 224 applications have been approved.

Assisted Living is a consumer driven resident centered model of housing with services. Continued delays in licensing negatively affect New York's seniors. They are **unable to utilize their long term care insurance policies, they must move to other states for assisted living access, or to go to more costly, institutional long term care settings.** An improved process for licensure review with clearly measured goals for timely reviews would **remove a significant barrier to expansion of assisted living in New York.** It would allow NY consumers to live in the setting of their choice, use their long term care insurance policies, delay or prevent the spend down of private resources and the need to rely on Medicaid.

2. Fully Integrate the Assisted Living Program into the Assisted Living Reform Act of 2004.

NY ALFA supports covering ALP residents under the Assisted Living Reform Act of 2004.

New York's seniors in need of assisted living deserve the same rights, protections and care regardless of income. Currently, this is not the case. Residents in the NYS ALP program do not have the same consumer protections or the same right to age in place as private pay assisted living residents. There are **two completely different statutory and regulatory frameworks** that not only cause confusion for consumers, but for providers as well. To be required to follow two different sets of rules and regulations presents a barrier for assisted living providers who serve the predominately private pay population, but are also interested in serving low income residents. In addition, integrating the ALP into the ALRA aligns with Governor Cuomo's emphasis on streamlining State government and effective resource management. Given the State's current limited resources and staff, **integrating the ALP into the ALRA will increase administrative efficiencies and result in State cost savings.**

3. Remove barriers to participation in the ALP program to improve quality and increase access.

NY ALFA supports a mixed payor assisted living model that encourages all providers to participate in the ALP program.

The current policy of prioritizing the awarding of ALP beds to institutions that decertify nursing home beds severely **inhibits the participation of those providers with the most experience in resident-centered, full aging in place assisted living models.** Opening up participation for private pay assisted living providers and encouraging a mixed payor model will improve quality of care and increase access to assisted living.

4. Utilize successful best practices demonstrated in other states.

NY ALFA members successfully participate in Medicaid assisted living programs in other states and utilize a number of practices that drive quality care and accessibility.

Communities must be allowed to **accept both private pay and Medicaid residents and to independently determine the payor mix** that best meets the needs of each individual community as this promotes the highest quality care and services.

Medicaid reimbursement must be tiered, based on the acuity and needs of the resident. Rates should be adjusted annually, based on COLA increases or a trend factor. The Medicaid ALP should be **resident –centered**. Once an individual is determined eligible for Medicaid, he or she should have the right to choose from among ALR communities participating in the Medicaid program.

Residents must have the right to **share apartments**. The program must also **allow family supplementation** to accommodate those residents who desire a private apartment.

5. The cost effectiveness of the ALRA must be maintained through regulatory flexibility and innovation.

As one example, NY ALFA supports authorizing the use of trained medication technicians to control costs and increase access.

New York's ALRA is considered a model nationwide. It allows consumers **to age with independence, choice and dignity**. It allows providers the **flexibility to meet consumer needs**. Overly prescriptive state regulations reduce resident choice and increase cost without benefiting quality of care or quality of life. An example of a regulatory change that would promote affordability would be to allow **nurse delegation** so that assisted living communities are able to **hire trained medication technicians to administer medications**. This national trend is followed in most other states and it allows medication technicians to work under the delegation of an RN to meet the medication needs of assisted living residents.

6. Incentivize the development of affordable assisted living.

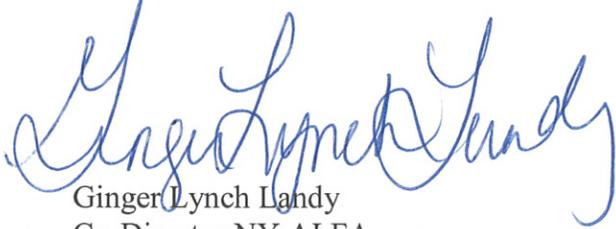
NY ALFA supports expanding the number of assisted living providers who participate in the ALP program.

One way to incentivize the development of more affordable assisted living would be to provide a tax credit program for providers who agree to participate in the ALP program. Tax credits could be available to providers who agree to offer at least 50 % of their units for persons who qualify for the ALP program.

NY ALFA appreciates the opportunity to provide input as the Work Group examines New York's supportive housing and service programs in New York. If you have any questions, or

would like additional information, please contact me at 518-465-8303 or glandy@hodeslandy.com

Sincerely,



Ginger Lynch Landy
Co-Director NY ALFA