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TO: Members of the Human Services Committee
FROM: Kevin Brophy, Director of Elder Law for CT Legal Services
RE: **Raised Bill 7323, Section 3: Establishment of a Pilot
Program for Residential Care Homes**
DATE: March 13, 2007

I am the director of elder law for Connecticut Legal Services, a non-profit legal aid agency. I am submitting testimony on behalf of my low income elderly & disabled clients, who might be excellent candidates for residing in residential care facilities, but for the fact that their income exceeds the limit for the State Supplement Program for the Aged, Blind, and Disabled.

Issue

Some seniors and individuals with disabilities who are or become over income for the State Supplement Program, are being forced to live in a nursing home rather than remain in the community in a residential care home, a less restrictive setting. Raised Bill 7323, Section 3, addresses this need by creating a Pilot Program for up to 75 persons, whose income exceeds the eligibility criteria for the State Supplement Program.

Background

Residential care homes (RCHs) are licensed by the Department of Public Health and provide room, board and personal care services to elderly and disabled individuals. RCHs provide single or double furnished rooms, private or shared bath and toilet, and shared common areas. Residents receive three meals a day in a common dining area and the personal services they receive include medication supervision and some limited medication administration. The homes also provide housekeeping, laundry, social and recreational programs, transportation, and a 24-hour emergency call system.

The residents are much more independent in RCHs than in nursing homes and do not require 24 hour nursing supervision. RCHs can be the ideal residential setting for many lower income elderly or disabled individuals and funding is available through the State Supplement Program for the Aged, Blind or Disabled for those who meet the financial eligibility criteria and cannot afford the private cost of RCHs. Financial eligibility for State Supplement is based on a person's gross income and his or her countable assets. The federal government sets the gross income eligibility limit at 300% of the maximum Supplemental Security Income (SSI) benefit, which in 2007 is \$1869.00 per month. Elderly or disabled individuals whose



income fall under this income limit and have less than \$1600 in countable assets can qualify for the State Supplement Program at a RCH. They are required to pay almost all of their income to the residential care home, keeping only a small personal needs allowance every month. State Supplement benefit pays for the cost of their care. And because these individuals are eligible for State Supplement, they automatically become eligible for Medicaid, which provides “wraparound” coverage for their Medicare.

Consequences of a Strict Income Cap

Applying a strict income cap leads to absurd results.

When the income of residents in residential care homes exceed the 300% SSI limit due to cost of living increases in their pensions or Social Security benefits, even by a few dollars, their State Supplement benefits are terminated. Thus, because the residential care home monthly private pay rate is well above their incomes, they find themselves without the means to pay for their care privately and without state assistance. Moreover, when the individuals lose their State Supplement eligibility, they also lose their Medicaid coverage. The loss of this comprehensive medical coverage can be financially devastating, even to those covered by Medicare because of the gaps in that coverage.

While the eligibility criteria for persons living in RCHs includes a strict income cap, the eligibility for Medicaid in nursing homes does not. This eligibility difference leads to the unnecessary placement of individuals in nursing homes. One elderly woman who had resided in a RCH for approximately four years was forced to be transferred to a nursing home simply because her income exceeded the 300% SSI income cap.

For these individuals, their only option may be to move to a nursing home where Medicaid will pay for their stay, even though they physically could have remained in the less expensive supportive community setting. This current bias for institutional placements arguably violates the mandates of the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) and the United States Supreme Court decision in Olmstead v. L.C., 527 U.S. 581 (1999), which requires state agencies to provide services in the least restrictive setting.

Moreover, forcing these individuals to live in nursing homes is often not cost effective for the State of Connecticut. The cost of RCHs is significantly less than a nursing home: (example: in 2006, an average of **\$73.22** a day in a RCH versus an average of **\$255.50** a day in a nursing home). While this comparison does not include the Medicaid costs of RCH residents, the nursing home daily rate does include that cost. Nevertheless, the State of Connecticut would most likely still save money in many of these cases.

Seeking a Solution

We recommend that this Committee approve Raised Bill 7323, Section 3, and establish a limited pilot program for those elderly and disabled individuals applying to or residing in residential care homes whose incomes exceed 300% of SSI eligibility. This program would prevent the unnecessary placement of these individuals in restrictive and costly nursing homes. The State of Connecticut would also provide health coverage to supplement the applicant's Medicare, including enrolling these individuals into a Medicare Part D prescription plan, so they have adequate health insurance to cover their medical needs.

The pilot data could be used to analyze and assess the savings in state and federal funds that would be obtained by this policy change and the impact on quality of life for the residents.