

## **canpfa**

The Connecticut Association of Not-for-profit Providers For the Aging

### **Testimony to the Human Services Committee**

**Senate Bill 369, An Act Concerning the Enforcement of Surety Contracts by Nursing Homes**

**&**

**House Bill 5398, An Act Concerning a Pilot Program to Transfer Hospital Patients who Receive Medicaid Benefits to Nursing Homes in a Timely Manner**

**Presented by Mag Morelli, CANPFA President**

**March 11, 2010**

Good afternoon Rep. Walker, Sen. Doyle and Members of the Committee. My name is Mag Morelli and I am the President of the Connecticut Association of Not-for-profit Providers for the Aging (CANPFA), an association of not-for-profit providers of aging services. On behalf of CANPFA I would like to submit the following testimony regarding *Senate Bill 369, An Act Concerning the Enforcement of Surety Contracts by Nursing Homes* and *House Bill 5398, An Act Concerning a Pilot Program to Transfer Hospital Patients who Receive Medicaid Benefits to Nursing Homes in Timely Manner*.

### **Opposing Senate Bill 369, An Act Concerning the Enforcement of Surety Contracts by Nursing Homes**

In the last several years, CANPFA has worked with state legislators to find solutions to help our nursing homes survive these financially troubling times. Having received no rate increase for three years and a cut last year as the statutory rebasing was eliminated, we have repeatedly asked for your help in our effort to maintain an adequate cash flow from the Medicaid program for those residents in our care who have applied for Medicaid. In all of these discussions, the very real issue of growing receivables due to pending Medicaid cases has been raised as a critical problem. Pending claims, intentionally transferred assets resulting in Medicaid penalty periods, and the non-payment of applied income are all issues that are negatively affecting cash flow from receivables.

I raise this issue because the ability to put some level of responsibility on an individual that has legal access to a nursing home resident's income or resources is crucial in the effort to complete pending Medicaid eligibility cases. This is because a private pay nursing home resident needs only to *apply for* Medicaid coverage to garner the statutory protections that prevent a nursing home from discharging or transferring due to non-payment. The resident does not need to complete an application, but to simply submit one - and simply submitting an application does not grant someone Medicaid benefits. If one is submitted but never completed, the resident becomes yet another pending Medicaid case, protected from discharge or transfer, but with no other payor source. If a third party is not held responsible in some manner for completing that Medicaid application, it may never get done.

A Medicaid application must be completed and verified before benefits are granted. For nursing home residents this can be a very complicated process as the individual often has a long and complicated financial history that the state must consider during the eligibility determination process. More often than not, the resident is not capable of completing and filing the Medicaid application, and so a family member or other representative must do so on the resident's behalf. That is why requiring assistance from such an individual, one who has legal access to a resident's income or resources, is so crucial.

Connecticut and federal law already prohibit a nursing home from requiring a third party guarantee of payment as a condition of admission or continued stay in the facility. (CT --

Residents' Bill of Rights -- 19a-550(b)(26) and Federal -- 42 CFR 483.12(d)(2).) This means that a nursing home cannot require that a resident's son or daughter sign a surety contract guaranteeing to pay for his or her mother's care in the nursing home.

However, the federal provision does make an exception by allowing the nursing home to require that an individual, who "has legal access to a resident's income or resources" sign the residency agreement without incurring any personal liability. Therefore nearly every nursing home admissions contract requires that just such an authorized individual be held responsible for returning a properly completed Medicaid application on behalf of the nursing home resident. If this is not done, the nursing home can legally pursue payment of the "resident's income or resources" on the grounds that the responsible party individual did not carry out their fiduciary responsibility. While this is not pleasant nor is it the means by which nursing homes would choose to enforce these agreements, it is very often necessary.

CANPFA therefore opposes any effort that would place insurmountable obstacles in the way of obtaining a completed Medicaid application for nursing home residents who are spending down their personal assets. Such obstacles would cause an accelerated increase in the rate and amount of pending Medicaid applications, which are already causing severe financial distress to the state's nursing homes.

**Supporting House Bill 5398, An Act Concerning a Pilot Program to Transfer Hospital Patients who Receive Medicaid Benefits to Nursing Homes in a Timely Manner**

CANPFA supports this bill which is proposing a very limited pilot program with the intent of testing an idea to improve the quality of life for certain hospital bound patients.

It is our understanding that the bill originated with an idea brought forth by a CANPFA member facility that has recognized a growing problem in their community. The problem is that highly compromised hospital patients who are also Medicaid recipients are finding it increasingly difficult to be discharged from the hospital to a more appropriate long term care or rehabilitative care setting because they require very costly care. The major impediment to the discharge is that Medicaid reimbursement rates are not sufficient enough to meet the cost of providing the necessary level of care. This idea of the pilot is to provide an enhanced rate of reimbursement that will enable and encourage skilled nursing facilities to accept these discharges and provide the appropriate level of care. The pilot would be limited to very medically compromised patients who have remained in-patient for a specific length of time.

This pilot is a creative idea that might just provide us with some insight into how we can better serve chronically ill hospital bound Medicaid recipients. The concept of such a pilot fits into CANPFA's broader public policy position which is that we need to move quickly to strengthen our system of long term care by allowing professionals in the field to develop individual business plans for existing skilled nursing facilities and campuses. We are asking that the state allow us to propose creative plans such as this one to build better models of care that will meet current consumer demands and market needs.

Providers can be creative in their thinking and create real solutions to the needs of their region. We support the creative thinking that went into this proposed bill and we encourage the Committee to support it too.

Thank you for your consideration of this testimony.

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