



OLR RESEARCH REPORT

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ASSISTED LIVING AND THE AFFORDABLE CARE ACT

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You asked if the federal Affordable Care Act addresses assisted living facilities, in particular whether it makes assisted living services more accessible to individuals who are Medicaid-eligible.

SUMMARY

The federal health care reform legislation (P.L. 111-148, amended by P.L. 111-152, hereafter the Affordable Care Act) contains numerous provisions designed to help states rebalance their long-term care systems to spend less on institutional care and more on home- and community-based services. Nothing in the Affordable Care Act specifically addresses assisted living facilities, but several of its Medicaid long-term care provisions could indirectly provide more opportunities for states to expand Medicaid coverage for assisted living services. These are optional provisions and states would have to elect to implement them.

Currently, the state offers all of its Medicaid-funded assisted living assistance through the Connecticut Home Care Program for Elders. This is available to individuals residing in the state's subsidized congregate housing sites and a small number of private assisted living facilities. The relatively new Money Follows the Person Demonstration Program also offers assisted living options to individuals transitioning from nursing homes into the community. The federal act's long-term care provisions could be used to make these programs more accessible to people who are, or who become, Medicaid-eligible.

PROVISIONS IN THE AFFORDABLE CARE ACT THAT COULD EXPAND MEDICAID-FUNDED ASSISTED LIVING SERVICES

State Balancing Incentive Payment Program (BIPP) (§ 10202 of P.L. 111-148)

The Affordable Care Act includes the BIPP, which runs from October 1, 2011 through September 30, 2015. It offers financial incentives to states that spent less than 50% of their Medicaid long-term care dollars on home- and community-based services (HCBS) in FY 09. Under the program, states that spent between 25% and 50% receive a 2% increase in federal matching funds (Connecticut spent 35%).

States must take certain actions within six months of applying for the program, including instituting a single point-of-entry system for long-term care information, referrals, and program eligibility. And they must increase their HCBS spending to 50% by the end of the four-year period.

If the state were to spend additional Medicaid dollars on assisted living services, it could have these expenditures count towards the federal act's 50% goal.

The Commission on Enhancing Agency Outcomes recommended that the state implement this program, and the Government Administration and Elections Committee has raised the concept in SB 1059 ([attached](#)).

Medicaid HCBS State Plan Option (§ 2402 of P.L. 111-148)

Connecticut's Medicaid HCBS program, the Connecticut Home Care Program for Elders (CHCPE), subsidizes a variety of services, including assisted living services. The program is run through a traditional federal Section 1915c HCBS waiver. It also has a state-funded component. The Medicaid-funded portion of the program has a limited number of slots, and services provided under it cannot cost more than they would in an institution (i.e., they must be budget neutral).

The 2005 federal Deficit Reduction Act allowed states to offer these services through a state plan amendment rather than a waiver (designating it Section 1915i). The act also eliminated requirements that (1) individuals participating in the program meet an institutional level of care requirement and (2) the program be budget-neutral. It also allowed states to offer fewer services than under the waiver program, and limited participation to individuals with incomes lower than the waiver's limits.

The Affordable Care Act aligns income eligibility with other HCBS programs, expands services that can be offered, and eliminates states' ability to cap the number of participants in the program.

If the state were to adopt this provision, it could offer assisted living services to a larger universe of seniors, not just those eligible for the waiver portion of the CHCPE.

Money Follows the Person (§ 2403 of P.L. 111-148)

The federal Money Follows the Person (MFP) Demonstration program offers another potential resource for assisted living support. The program allows individuals to move from nursing homes into the community and offers states enhanced federal Medicaid matching funds.

The Affordable Care Act reduced, from six months to 90 days, the amount of time someone must be residing in a nursing home in order to be eligible for the program. It also extended the program through 2016.

The state's MFP protocol, the blueprint for implementing the demonstration, assumes that some participants will move into assisted living facilities. By extending the duration of MFP, the federal act potentially makes more individuals for whom assisted living would be the most appropriate community setting eligible to receive it. Governor Malloy has proposed transitioning 2,251 individuals by the end of FY 13.

AFFORDABLE CARE ACT COULD HELP PAY ASSISTED LIVING ROOM AND BOARD COSTS

The Affordable Care Act established the Community Living Assistance Services and Supports (CLASS) Act, which offers a voluntary, consumer-funded long-term care insurance program that provides working adults who develop a functional or cognitive impairment with a daily cash benefit to purchase non-medical long-term care services and supports. This could be used to pay for some of the non-Medicaid reimbursable assisted living services. Benefits must be at least \$50 per day but will vary depending on the severity of the impairment.

The federal government will administer the program, which is funded through voluntary payroll deductions or direct payments.

A recent [New York Times](#) article suggests that the CLASS program may be unsustainable. It quotes the U.S. Department of Health and Human Services (HHS) secretary as saying that she is considering changes in the eligibility criteria, as well as adjusting premium amounts.

While the provision took effect on January 1, 2011, the HHS secretary has until October 1, 2012 to adopt regulations (§ 2402 of P.L. 111-148).

MEDICAID ASSISTED LIVING IN CONNECTICUT

Connecticut Home Care Program for Elders (CHCPE) and Department of Economic and Community Development (DECD) Subsidies

There are four settings in which Connecticut seniors can access subsidized assisted living services:

1. state-funded congregate housing facilities;
2. five federally funded U.S. Department of Housing and Urban Development facilities;
3. the 75-slot, private assisted living pilot program; and
4. four (Glastonbury, Hartford, Middletown, and Seymour) affordable housing assisted living demonstration sites.

Subsidized assisted living services are available to state residents who qualify for either the Medicaid-funded or state-funded portion of the CHCPE (run by the Department of Social Services). Those seniors who reside in subsidized housing who do not qualify for the CHCPE can receive assisted living service subsidies from the Department of Economic and Community Development (DECD) if they meet DECD's financial eligibility requirements.

OTHER RESOURCES

- OLR Backgrounder: Federal Health Care Reform: Long-Term Care Provisions, ([2010-R-0304](#))
- OLR Report, Assisted Living Subsidy Programs, ([2010-R-0237](#))
- OLR Report, Medicaid Coverage of Assisted Living Services, ([2009-R-0300](#))
- National Senior Citizens Law Center White Paper, [Medicaid Payment for Assisted Living: Preventing Discrimination Against Medicaid-Eligible Residents](#) (November 2010)

HYPERLINKS

- SB 1059,
<http://cga.ct.gov/2011/TOB/S/2011SB-01059-R00-SB.htm>
- New York Times,
http://www.nytimes.com/2011/02/22/health/policy/22care.html?_r=1
- OLR Report 2010-R-0304,
<http://cga.ct.gov/2010/rpt/2010-R-0304.htm>
- OLR Report 2010-R-0237,
<http://cga.ct.gov/2010/rpt/2010-R-0237.htm>
- OLR Report 2009-R-0300,
<http://cga.ct.gov/2009/rpt/2009-R-0300.htm>
- *Medicaid Payment for Assisted Living: Preventing Discrimination Against Medicaid-Eligible Residents* (November 2010)
<http://www.nsclc.org/areas/long-term-care/Assisted%20Living/Medicaid%20Payment%20for%20AL%20-%20Policy%20Issue%20Brief%2011.15.10.pdf>

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