

NEW HAVEN LEGAL ASSISTANCE ASSOCIATION, INC.

426 STATE STREET
NEW HAVEN, CONNECTICUT 06510-2018
TELEPHONE: (203) 946-4811
FAX (203) 498-9271

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**TESTIMONY OF SHELDON TOUBMAN BEFORE THE PROGRAM REVIEW AND
INVESTIGATIONS COMMITTEE REGARDING ACCESS TO LONG-TERM
SERVICES AND SUPPORTS FOR MEDICAID ENROLLEES**

Dear Members of the Program Review and Investigations Committee:

My name is Sheldon Toubman and I am an attorney with New Haven Legal Assistance Association specializing in access to health care under Medicaid, including long-term care. I am here to testify in support of the Department of Social Services' very successful programs for providing long-term services and supports to Medicaid enrollees in order to avoid more costly, and more restrictive, care in a nursing facility. In addition, I wish to call your attention to the problems of lack of sufficient home care providers and lack of access to transitional services owing to the Department's system for reviewing Medicaid enrollees' need for nursing home care via a private contractor.

First, DSS has been proactive in pursuing community alternatives to care for individuals who would otherwise receive care in a more restrictive setting in a nursing home, which would also more than likely be more expensive for the state. It has pursued and expanded a variety of successful waivers from the federal government allowing it to (1) provide some community-based services not otherwise normally covered under Medicaid, and (2) cover individuals at a higher income level than would normally qualify them for community-based Medicaid (though they would be eligible for long-term care under Medicaid in a facility, with its different rules).

Second, the Department's Money Follows the Person (MFP) program has been very successful in helping to move individuals already in nursing homes and whose care is being paid for under Medicaid into alternative community-based placements. MFP is a flexible DSS program which partners with effective non-profits to creatively provide a variety of kinds of assistance needed by an individual to successfully transition to the community. This includes both one-time upfront costs like security deposits, basic furniture for an apartment and social work services to set the client up in the community, and the arranging of RAP certificates and home health care under one of the existing home and community based services waivers.

Both the waivers and MFP are highly successful programs which serve the dual goals of allowing individuals with severe medical conditions to live in the least restrictive setting appropriate to their needs, as they desire, and saving Connecticut significant sums of money under the Medicaid program because of the generally lower costs of providing care in the community. These programs should be supported and grown, and this

includes addressing waiver programs where long waiting lists are blocking access to needed community-based services.

Third, although the waiver programs and MFP are in general very successful programs, one obstacle to getting needed services to people in the community is the absence of home care providers. The payment rates are generally deemed to be too low, while DSS has added on significant new responsibilities for the same reimbursement levels. This is hindering recruitment and retention of providers, just as the need is increasing.

Finally, we note that there is one area where DSS's procedures are interfering with access to the cost-effective MFP program: In order to receive these services, an individual must be in a nursing home for at least 90 days and paid for by Medicaid on the date of discharge. DSS relies upon an out of state private contractor, Ascend, to make level of care determinations for nursing home care. If this contractor finds that a person does **not** need a nursing home level of care, then Medicaid payment for nursing care terminates **and so do all MFP services**. This means that none of the essential MFP services are available and the odds of a successful transition are dramatically reduced. Most likely, while the person will be discharged from the nursing facility, the rushed and unsupported community solution will fail and the person will soon be right back in the facility, at a high expense to the taxpayers and probably with additional complications which make a permanent return to the community less likely.

If the Ascend determinations were appropriate, this might not be such a problem. But there are multiple problems with those determinations, which we have been attempting to address with DSS and which we hope can be worked out in the near future. This includes the application of private criteria to deny services which do not comport with the Medicaid definition of medical necessity, C.G.S. § 17b-259b. It also includes the improper termination of Medicaid payment with no determination of ongoing need simply because the nursing facility did not submit a request for further coverage.

In many cases, the Ascend termination notice sent is confusing and fails to properly apprise individuals that they can continue with Medicaid payment if they timely request a hearing. In other cases, no termination notice at all is issued. Absent proper termination notice clearly explaining the reason for the Ascend determination and the means to maintain full Medicaid payment for nursing home services pending an appeal, the individual will not know what steps to take to maintain Medicaid and MFP services until discharge from the facility. The result is that Medicaid payment, and thus MFP assistance, will end before an effective community transition plan can be put in place.

In sum, we fully support the various DSS waiver programs and the very successful MFP program, and urge that these programs be fully funded and expanded. But we also urge you to look at the problem of too few home care providers and the problems with DSS's Ascend nursing home level of care determination system, which are directly interfering with the ability of MFP to transition individuals to cost-effective community alternatives.

Thank you for your attention to our concerns in conducting your study of LTSS.