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Brady

August 23, 2005

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BUR OF LTC PGMS
REFER TO you

Department of Public Welfare
Office of Medical Assistance Programs
Attention: Regulations Coordinator
Room 515 Health and Welfare Building
Harrisburg, PA 17105

Re: Pa.B.Doc. #05-1435 Nursing Facility Services: Preadmission Requirements and Civil Rights Compliance for Nursing Facilities

Dear Regulations Coordinator:

I am writing on behalf of the Consumer Subcommittee of the Medical Assistance Advisory Committee, the official advisory body to the state's Medical Assistance program, to express the strongest support for the above-referenced proposed regulation, which was published on July 30, 2005. The regulation addresses two major issues of longstanding concern to the subcommittee: 1) the equitable distribution of nursing facility services, and 2) the need to inform applicants to nursing facilities about home and community-based service alternatives.

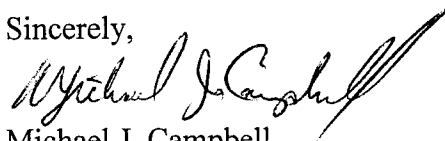
The first issue has been a concern of the Subcommittee for two decades. In the mid-1980s, the Subcommittee first urged DPW to investigate and address the fact that Pennsylvania's nursing home system was highly segregated. This high degree of segregation was documented by researchers. See e.g. Smith, D.B. 1993. The Racial Integration of Health Facilities. Journal of Health Politics, Policy and Law. 1993 Winter, 18:851. However, instead of banning discrimination against applicants to nursing facilities, or requiring a first-come first-served admissions policy as other states had done, Pennsylvania turned its back on the issue and was content to limit the scope of its annual civil rights compliance surveys to whether the white residents of nursing facilities located in African-American neighborhoods were segregated by room or at the dining table. Our neighboring states went farther. New York required all nursing homes to establish written admission policies to ensure compliance with state and federal anti-discrimination laws, as well as maintain a log of all persons referred for admission. 10 N.Y. A.D.C. 415.26 (i)(1)(ix)(x) and (xi). New Jersey required nursing homes to establish a single waiting list in chronological order. N.J. Admin. Code 8:39-5.2(a). Other states established first-come, first-served nursing home admissions policies. The modest step embodied by these proposed regulations, i.e. requiring facilities to keep a written record of applications for four

years, which will be available for review in order to assure that illegal discrimination is not occurring, is long overdue. Absent this tool, civil rights monitoring is virtually impossible.

The Subcommittee's second concern, that of informing applicants to nursing homes of their alternatives before they have discarded their lifelong residence and made the psychological as well as physical leap to institutionalization, is well described by the Department in the background section to the proposed regulation. In addition to the cited benefits of the proposed policy change, the requirement of a preadmission screening and the dissemination of information about alternatives would help protect those consumers who have paid privately since being admitted to a nursing facility, only to learn when the money has run out that they did not qualify for Medical Assistance payment because they did not need the nursing home level of care. Such cases are extremely painful, as they render frail elderly Pennsylvanians homeless.

Should the need arise, the Subcommittee would be happy to present testimony before the Regulatory Review Commission in support of these regulations.

Sincerely,



Michael J. Campbell
Pennsylvania Health Law Project
For the Consumer Subcommittee
Medical Assistance Advisory Committee

cc: Consumer Subcommittee