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Weidman-Jones, Gail

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From: IRRC [IRRC@IRRC.STATE.PA.US]
Sent: Tuesday, September 16, 2008 9:08 AM
To: Weidman-Jones, Gail; O'Brien, Ruth
Subject: FW: Comments to Pennsylvania Bulletin, Regulation No. 14-514

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INDEPENDENT REGULATORY
REVIEW COMMITTEE

Comments received on regulation #2712 – Assisted Living.

From: Stephanie.Pastula@pha.phila.gov [mailto:Stephanie.Pastula@pha.phila.gov]
Sent: Monday, September 15, 2008 7:59 PM
To: IRRC
Subject: Comments to Pennsylvania Bulletin, Regulation No. 14-514

The Philadelphia Housing Authority (PHA) appreciates the opportunity to provide comments on Pennsylvania's proposed assisted living regulations to the Independent Regulatory Review Committee. PHA intends this letter, in conjunction with the attached Statement of Position, to constitute its comments on the proposed rulemaking.

PHA is disappointed that the proposed regulations do not incorporate many of its recommendations, which would have guaranteed that assisted living services could be provided to eligible consumers living in public and affordable housing developments, including those financed with low-income housing tax credits (LIHTC).

Under the current proposed regulations, PHA believes that assisted living services may still be successfully combined with public and affordable housing to serve Pennsylvania's low-income consumers, but greater detail and clarification is essential to ensure assisted living is within reach to all eligible consumers.

If the proposed regulations are revised in a number of areas, the combination of assisted living and subsidized, affordable housing would be more straightforward and cost effective. The following provisions are of particular concern to PHA, greater detail can be found in the enclosed Statement of Position:

1. The assisted living regulations must make specific reference to Federal requirements of public and affordable housing admissions and continued occupancy to avoid conflict with those Federal regulations, which govern public and affordable housing developments.

It is PHA's understanding that § 2800.18, which states "[a] residence shall comply with applicable Federal, State and local laws, ordinances and regulations", would permit the effective combination of public housing subsidies, LIHTCs, and other affordable housing subsidies with the provision of assisted living services.

PHA believes this section should clarify that, in the event of a conflict between the State regulations and Federal requirements, Federal requirements of public and affordable housing admissions and continued occupancy would prevail. This would ensure Federal subsidization of the housing development is not jeopardized.

2. PHA strongly endorses a "floating bed" model for assisted living units that receive Federal housing subsidies. The "floating bed" model of licensing would allow services to be provided to only a portion of the beds in a specific facility, allowing the designated units to "float" throughout the facility. The number and exact location of assisted living-dedicated units would be flexible, depending upon the needs of the residents. Under this model, elderly residents of a new or existing public housing or other affordable housing development would be able to use assisted living services when needed, without having to relocate to a different facility or unit. While PHA would prefer that this model be specifically permitted in the regulations, it believes the regulations, as drafted, would permit it.

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3. PHA strongly endorses the use of the “cluster” model of assisted living service delivery for units that receive Federal-housing subsidies. The cluster model would enable public housing agencies to create assisted living opportunities for eligible residents in their communities.

The cluster model would allow PHA to select certain units throughout its housing stock, including LIHTC-financed properties, for licensing as assisted living. Licensing units in this manner allows eligible consumers to remain integrated within their community, while still receiving assistance with ADLs and IADLs. This model allows eligible public housing residents to age-in-place in a home and community-based setting without the disruption of moving, as their service needs change. PHA believes this model would provide the same level of service as the traditional model, but more cost-effectively.

To facilitate this model, PHA suggests revising the definition of the term “license” so that it is not limited to a residence in which every unit is licensed for assisted living services.

4. PHA recommends changing the term “home” to “assisted living residence” in §2600.56. This will clarify that an assisted living residence administrator can effectively serve a cluster of assisted living units in the community by spending 20 hours per week on the entire cluster, as opposed to each individual building or unit contained within that cluster.

5. PHA strongly supports greater physical requirements for units included in §2800.101 and §2800.102. The proposed regulations should be revised to explicitly require compliance with accessibility requirements that reflect reasonable, modern standards for overall living space, kitchens, and bath facilities.

Again, PHA very much appreciates the opportunity to work with the IRRC on these regulations and looks forward to working with the Office of Long Term Living to develop model, affordable assisted living residences.

Submitted on behalf of Carl R. Greene, Executive Director

Enclosure(s):

Stephanie Pastula, MBA
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Philadelphia Housing Authority

Statement of Position on the Implementation of the Commonwealth of Pennsylvania's Proposed Assisted Living Regulations

Pennsylvania has the second highest per capita spending among the fifty states for publicly funded long-term nursing facility care. Experience has shown that many nursing home admissions can be delayed or avoided all together by providing earlier intervention and support to low-income seniors who need assistance in one or more activities of daily living. Developing a supply of affordable Assisted Living housing for seniors is critical to the long-term strategy to reduce unnecessary nursing home admissions, while keeping seniors healthy and living independently for longer periods of time.

One of the largest costs to the Medicaid program is providing nursing home care to low-income elderly persons. Across the country, public housing authorities are the most significant provider of housing to very low-income seniors. Therefore, housing authorities are positioned to become a vitally important partner with the Commonwealth in realizing both significant cost-savings in the Medicaid program and improved health outcomes through the use of service-enriched Assisted Living facilities as an alternative to long-term nursing home care.

Act 56, enacted by the signature of the governor on July 25, 2007, provides an opportunity to create a framework to provide affordable supportive services to frail, elderly residents living in public housing and other types of affordable housing. The legislation directs the Department of Public Welfare ("DPW") to draft regulations for the new program based upon the existing Personal Care Home ("PCH") regulations.

Public Housing Authorities (PHAs) around the Commonwealth can and should play a major role in expanding the supply of affordable senior Assisted Living facilities. These agencies bring a wealth of housing development and management experience and extensive affordable housing resources, including thousands of existing and planned senior housing units, which can be creatively leveraged to support this important initiative. Towards this end, a number of PHAs within the Commonwealth have identified a series of recommendations for consideration by DPW which, if adopted, will help facilitate the involvement of PHAs in implementing affordable senior Assisted Living, while also promoting cost-efficient improved health outcomes and high quality service delivery. Therefore, PHAs strongly encourage DPW to adopt the general framework and specific recommendations included in this paper to amend the existing PCH regulations.

PHAs are subject to a wide range of federal and other regulations pertaining to fair housing, admissions, continued occupancy, rent, transfers, hearings, appeals, transfers and other issues. Thus, in order for the Commonwealth to take advantage of co-locating Assisted Living in subsidized housing developments, it is essential that the Assisted Living license and relevant regulations accommodate these subsidized housing-related regulatory features and constraints.

It is critical that the new Assisted Living regulations promote accountability and high service standards among Assisted Living providers, while maintaining a flexible approach to service delivery, one that will encourage innovation and excellence. Accordingly, the recommendations

contained herein will help to “raise the bar” on the quality of the housing units available to low-income seniors, create greater flexibility to allow more seniors to age independently in place, and make more services available to persons at lower income levels.

Many elderly need some assistance with activities of daily living, but do not need the full complement of medical services provided by skilled nursing homes. Convenient and affordable supportive services are often difficult to access, especially for the very-low income, resulting in a premature and inappropriate placement in a skilled nursing home. Nursing home placement can be postponed and possibly avoided altogether if an elderly resident has access to the services that can be provided by Assisted Living.

In order to provide Assisted Living services to low-income elderly, the regulations for the newly authorized Assisted Living services need to be as flexible as possible to provide seniors the services they need, when they need it, allowing seniors to age in place. Given the large numbers of seniors living in public housing and other affordable housing units in Pennsylvania, these facilities need to be eligible for licensing as Assisted Living facilities. References to federal requirements for public housing and affordable housing admissions and occupancy need to be included in the regulations in order to avoid any conflict with affordable housing requirements. PHAs also strongly support two cost-effective methods of service delivery: a “floating bed” model and a “clustering” model. Only a few additions to the definitions section of the regulations will enable the floating bed and clustering models to fit within Personal Care Home requirements.

The “floating bed” model of service delivery would allow Assisted Living services to be provided to only a portion of the beds in a specific facility, allowing the designated units to “float” throughout the facility. The number and exact location of Assisted Living-dedicated units would be flexible, depending upon the needs of the residents. Under this model, elderly residents of a new or existing public housing or other affordable housing development would be able to use Assisted Living services when needed, without having to relocate to a different facility or unit.

The “clustering” model would permit units in several different buildings geographically close to one another to be managed and serviced as “one” Assisted Living building in. Residents would receive the same services as would be provided at a conventional Assisted Living senior facility.

Under these models, services will be organized and administered by geographic clusters of residential units (“Service Cluster”). Each Service Cluster will have an administrative office (“Cluster Administrative Office”), which will be staffed by an administrator. Staffing plans for each Service cluster will include the services of a social worker, nurse, and activity director, and supplemental health care services may be contracted as resident needs warrant. Each Cluster Administrative Office will administer and coordinate all services. Each residential building included in a Service Cluster will have direct care worker(s), based upon the number of clients at each site. Meals will be prepared off-site and delivered to each site. Housing Authority residents living at sites within a Service Cluster, as well as other qualified neighborhood residents, who are eligible for Assisted Living services would be able enroll in the Assisted Living program.

Very-low income seniors who live in public housing and other subsidized housing and need Assisted Living services are highly unlikely to be able to afford private market rates for services. Therefore, PHAs have also proposed regulatory language that would permit DPW to allocate Medicaid Waivers to Assisted Living Residences subsidized with federal housing subsidies on a project basis, allowing these low-income seniors to access services and housing they would otherwise be unable to afford. This strategy also allows the Commonwealth to leverage the enormous value of these housing resources in support of the initiative to reduce nursing home costs.

Recommendations for Assisted Living Regulations

DPW is strongly urged to consider a regulatory framework for Assisted Living that permits the greatest amount of flexibility possible with respect to requirements for facilities, licensing, staff qualifications, and subcontracting for supplemental health care service delivery in order to allow cost-effective coordination with federally-subsidized housing, including the use of floating beds and clustering models of administration. With some modifications as detailed below, the current Personal Care Homes Regulations are a good basis to enable the provision of affordable Assisted Living services in public housing and other affordable housing developments.

For all recommended changes to regulatory text, underlined words are new, words stricken through are deleted, and plain text is the original language of the PCH regulation.

Recommendations to Implement a Floating Bed Model and Clustering: § 2800.4. Definitions

PHAs recommend that the Assisted Living regulations specifically allow for alternative models of providing services by allowing “floating beds” among the units within a building, and “clustering” of beds that are located in different, but geographically close, buildings.

The Commonwealth already permits floating personal care home beds at some facilities. Incorporation of the “floating bed” and “clustering” concepts into the Assisted Living regulations would permit both continuing care retirement communities and independent living facilities to provide services to individuals living in these communities when needed by the resident.

Clustering permits flexibility and promotes cost-effective service delivery in providing Assisted Living services as it doesn’t require large dedicated buildings or the marketing costs and effort necessary to keep new eligible residents flowing into the facility. Clustering has also been introduced with success into the private market, evidenced by the “Green House” concept homes located in Tupelo, Mississippi.

Both floating beds and clustering allow seniors to age in place, which is almost always preferable to the resident. If Assisted Living services can be provided where a person is living, rather than requiring the person to move to access Assisted Living services, the individual is better served. Permitting Assisted Living units to float and cluster allows delivery of Assisted Living in a less costly, more residential setting. Moving into a new facility in order to receive Assisted Living services can cause a frail elderly person emotional trauma and sometimes associated health problems from the stress of moving. Floating beds and clustering can help seniors avoid this trauma. Finally, effective regulations can ensure that the comfort of receiving Assisted Living services in a more residential setting can mean the same or better care than is received in a traditional setting.

PHAs recommend amendments to the terms “license”, “Assisted Living residence”, and “premises” to allow the use of the floating bed and clustering models of service administration. PHAs also recommend the addition of “housekeeping” to the list of instrumental activities of

daily living, in order to permit recipients of Assisted Living services to receive housekeeping services if they are unable to perform these functions themselves.

DPW is also urged to carefully review the recommended language for the term “license.” PHAs do not support a model that would require every unit in a residence to be licensed under the Assisted Living law. Rather, the number of units as specified by the residence should be licensed. Those units may float within the facility. Further, only units with eligible Assisted Living residents need be inspected, avoiding the expense of unnecessary inspections.

A further recommendation is to change “home” to “Assisted Living Residence” in section 2800.56. This change clarifies that an administrator for an Assisted Living Residence, which includes a cluster-type residence, is required to spend a minimum of 40 hours a week on the cluster, and not 40 hours at each building within the cluster.

Amend the following definitions in section 2800.4:

IADL – [Add “housekeeping” to the list of IADLs.]

License – A certificate of compliance issued by the Department permitting the operation of an Assisted Living Residence ~~personal care home~~, at a given location or locations, for a specific period of time, for a specified capacity, according to Chapter ~~[insert correct reference] 20 (relating to licensure or approval of facilities and agencies)~~. The license will specify the permissible number of individuals who may receive Assisted Living services at any one time within the Assisted Living residence and the license will apply to those living units being occupied by individuals receiving Assisted Living services.

Assisted Living Residence - Any premises in which food, shelter, personal care, assistance or supervision and supplemental health care services are provided for a period exceeding twenty-four hours for four or more adults who are not relatives of the operator, who require assistance or supervision in such matters as dressing, bathing, diet, financial management, evacuation from the residence in the event of an emergency or medication prescribed for self-administration. A single Assisted Living Residence may comprise more than one location or buildings if:

- The buildings are each owned and operated by a public housing agency chartered within the commonwealth of Pennsylvania;
- The buildings are geographically close to one another;
- The public housing agency’s application for licensure identifies the buildings comprising the Assisted Living residence.

Assisted Living Residence explicitly includes public housing authority-owned buildings, properties subsidized with low-income housing tax credits, and any other type of multifamily housing receiving Federal Housing Subsidies that meets the other requirements of this Chapter.

Premises – The grounds and buildings or living units located within buildings on the same grounds, in which food, shelter, personal care, assistance or supervision and supplemental health care services are provided.

Amend section 2600.56: Administrator Staffing

The administrator shall be present in the Assisted Living Residence ~~home~~ an average of 40 hours or more per week, in each calendar month.

Recommendations to Implement Consistency with Federal Housing Admissions and Occupancy Requirements by creating a new licensing category

PHAs recommend the creation of a subcategory of license for Assisted Living Residences that must comply with Federal Housing Subsidies, a “Subsidized Assisted Living Residence License”. Residences licensed under this category will comply with all requirements of Chapter 2800 with the exception of areas in which the rules for operation of a subsidized residence conflict with Assisted Living Residence requirements. PHAs recommend adding definitions of “Subsidized Assisted Living Residence License”, “Subsidized Residence Rules”, “HUD” and “Federal Housing Subsidy” in order to allow a seamless coordination of Assisted Living services with residency in affordable housing. Use of the term “Subsidized Assisted Living Residences Rules” will require residents in Assisted Living facilities to comply with federal housing requirements as they apply to fair housing, admission, continued occupancy, rent, transfer, and eviction and to complaints, appeals, and hearing procedures. Some residency and occupancy requirements are requirements of federal housing subsidies, and in order for an Assisted Living resident to live in a federally subsidized unit, she or he must also abide by the rules that flow with the subsidy. Thus, this language is essential if the Commonwealth intends to leverage these housing resources in support of expanded Assisted Living for low-income seniors.

Add new definitions to section 2800.4:

Federal Housing Subsidy — Funds or tax credits that subsidize the cost of housing construction and operation, including, but not limited to, Public Housing Operating Funds and Capital Funds (funded under Section 9 of the U.S. Housing Act of 1937), Housing Choice Vouchers (funded under Section 8 of the U.S. Housing Act of 1937), and Low-Income Housing Tax Credits (allocated under Section 42 of the Internal Revenue Code).

Subsidized Assisted Living Residence License - A subcategory of License issued by the Department permitting the operation of an Assisted Living Residence in a Premises that receives Federal Housing Subsidies and, notwithstanding the requirements of this Chapter, complies with the requirements of Subsidized Residence Rules.

Subsidized Residence Rules – Rules for the operation of an Assisted Living Residence in Premises that receive Federal Housing Subsidies. This includes but is not limited to rules, policies and procedures related to fair housing, admission, continued occupancy, rent, transfers, hearings, appeals, and eviction of residents implemented by the owner pursuant to owner’s receipt of Federal Housing Subsidies. In the event of a conflict, the Subsidized Residence Rules shall prevail over the requirements of this Chapter.

HUD — U.S. Department of Housing and Urban Development.

Add a new subsection to section 2800.22, Admission:

(f) If the resident resides in an Assisted Living Residence whose operations must comply with the requirements of one or more Federal Housing Subsidies, the admission requirements as

described in the Subsidized Residence Rules must be followed, and in the event of a conflict with this Section or this Chapter, the Subsidized Resident Rules shall prevail.

Add a new subsection to section 2800.42, Resident Rights, Specific Rights:

(z) Notwithstanding any rights listed in this Section or in this Chapter, residents shall comply with applicable Subsidized Residence Rules if the resident resides in an Assisted Living Residence whose operations must comply with the requirements of one or more Federal Housing Subsidies. In the event of a conflict, the Subsidized Residence Rules shall prevail over the requirements of this Chapter.

Add a new subsection to section 2800.44, Resident Rights, Complaint Procedures:

(h) Notwithstanding anything in this Section or in this Chapter, complaints shall be addressed through existing Subsidized Residence Rules if the operations of the Assisted Living Residence must comply with the requirements of one or more Federal Housing Subsidies. In the event of a conflict, the Subsidized Residence Rules shall prevail over the requirements of this Chapter.

Add a new subsection to section 2800.228:

(i) Notwithstanding anything in this Section or in this Chapter, discharge, transfer, and eviction shall be addressed through existing Subsidized Residence Rules if the operations of the Assisted Living Residence must comply with the requirements of one or more Federal Housing Subsidies. In the event of a conflict, the Subsidized Residence Rules shall prevail over the requirements of this Chapter.

Recommendations to Reconcile Tax Credit Issues

We recommend a thorough review of the Regulations by PHFA and its attorneys for any necessary changes to ensure that assisted living services may be provided in LIHTC developments.

For an assisted living residence to be eligible for Tax Credits, it must be primarily residential in nature, rather than primarily a health care facility. This division between a residential facility and a health care facility is somewhat ambiguous, but the IRS has found that continual or frequent nursing, medical, or psychiatric services will qualify a home as health care facility rather than a residential property. Significant additional supportive services, such as meals and housekeeping, are acceptable within the definition of a residential facility. As long as nursing care or medical care are optional, and not a condition of occupancy, a facility may be considered a residential rental facility by the IRS and eligible for Tax Credits.

The draft language, in § 2800.220, requires assisted living residences provide a number of “mandatory services”, all of which are non-medical. There is some indication by the IRS that these services should be available at the option of the resident, and we recommend this section be given careful consideration. The regulation further requires “supplemental services”, some of which are medical in nature, be made available at the option of the resident. The optional nature of the supplemental services should be acceptable to the IRS. Therefore, in order to better ensure Tax Credits leverage private investment for service-enriched housing, it is important that the Assisted Living regulations make it clear that these supplemental services are not mandatory.

In addition, we strongly recommend that the zoning of the residential units in the property not be institutional to avoid a conclusion by the IRS that the property is a health care facility.

Definition § 2800.4.

“The provision [by an assisted living residence] of any type of health care service coordinated by the assisted living residence or by the resident that allows a resident to age in place, either directly or through contractors, subcontractors, agents or designated providers, except for any service that is required by law to be provided by health care facility”

Add the underlined language to § 2800.220(c):

"The residence must provide, arrange for, or allow the resident to arrange for the provision of supplemental health care services that allow the resident to age in place, including but not limited to:"

Add at the end of subsection § 2800.220(c) the following:

"Notwithstanding anything in this chapter, the supplemental health care services listed in this subsection are not mandatory, and are available at the option of the resident, provided that such services are reasonably necessary to allow the resident to age in place."

Recommendations for Staffing. § 2800.51-68.

The Assisted Living regulations should incorporate staffing qualifications that permit a wider range of licensing and qualification regimes to allow hiring capable individuals to work at Assisted Living residences. PHAs support additional and on-going training for its experienced property managers, who are otherwise qualified under the current regulations, to enable these managers to also serve as Assisted Living residence administrators. A good model is that used in New Jersey which permits a broader range of programs permissible for qualification as a direct care staff person qualified to work in the Assisted Living setting.

PHAs also recommend flexibility to staff Assisted Living residences to best meet the unique needs of each individual resident. Assisted Living residences which will serve seniors with varying health conditions, and service packages should not be rigid, but responsive to the needs of the resident. Staffing flexibility facilitates the goal of Act 56 to permit residents to age in place, by providing seniors the services they need, and not mandating unnecessary services.

§ 2800.54 Qualifications for direct care staff persons.

(a) Direct care staff persons shall have the following qualifications:

- (1) Be 18 years of age or older, except as permitted in subsection (b).
- (2) Have a high school diploma, or GED~~or,~~ have active registry status on the Pennsylvania nurse aide registry or have successfully completed an approved homemaker/home health aide training program, personal care assistant training course or other equivalent approved training program.

Recommendations for Unit Layout. § 2800.81 - 109.

Facility standards under the new regulations should reflect reasonable, modern standards for overall space requirements, kitchen and bath facilities. For example, current PCH regulations permit units as small as 100 square feet, the standards endorsed by PHFA and PHAs recommend a minimum of 250 square feet. The PHFA and PHAs have jointly developed the following recommended standards, incorporating features of ALR regulations currently in place in Vermont, New Jersey and Washington.

At a minimum, each resident unit shall include the following:

- 250 square feet of clear usable floor area. Any calculation of clear and usable floor area shall exclude closets, bathroom, and kitchen space. If multiple occupancy is anticipated, this should increase by 90 square feet per each additional person.
- Private bedroom; studio/efficiency apartments meet this requirement.
- Private bathroom.
- Kitchen capacity.
- Lockable door, unless otherwise specified by the regulations.

At a minimum, kitchen capacity shall consist of the following:

- Food preparation area.
- Cabinets and food storage area.
- A refrigerator.
- Sink with hot and cold water.
- Stove or microwave that can be removed or disconnected, if required by a resident's personal care plan.
- New construction must possess a counter surface with a minimum of thirty inches wide by twenty-four inches deep, a maximum height of thirty-four inches, and a knee space beneath at least twenty-seven inches in height.
- Kitchens shall have a clear passageway of not less than 40 inches between counterfronts and appliances or counterfronts and walls.

Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and kitchens shall have a clear ceiling height of not less than 7 feet.

Every habitable space except kitchens and bathrooms shall have at least one window or skylight.

A bedroom shall not be less than 9 feet in any plan dimension and shall have a minimum of 90 square feet overall. Any other habitable room shall not be less than 10 feet in any plan dimension, and shall be at least 120 square feet overall.

Bathrooms and toilet rooms shall provide privacy to the occupant of the room and shall not be part of the only access to another space or means of egress.

Bathrooms shall include a shower or tub/shower with grab bars, a lavatory with a top at 34" height and knee space beneath at least 30" wide and 27" high, and an ADA compliant toilet with

grab bars. Clearances within the room and at each fixture shall be in compliance with the Fair Housing Act. Grab bars shall be provided in accordance with the ADA or ANSI A117.1-2003.

Each unit shall be equipped with an emergency notification system in the bathroom and sleeping area to notify staff of an emergency.

Language to Ensure ADA Compliance

All bathroom facilities and kitchen facilities located within units constructed after _____ shall meet ADA requirements.

Recommendations for Excludable Conditions. Act 56

PHAs support the existing PCH regulations for excludable conditions. We recommend flexibility with respect to a resident's ability to die in Assisted Living, even when his or her condition has deteriorated to a point that exceeds the excludable conditions criteria. This should be a mutual decision by the provider and the resident. Not all providers may have access to the hospice support necessary to permit this.

Recommendations for Care Plan, Act 56

PHAs recommend that Care Plans be renewed when the resident's condition changes, or at least annually. This system of timing permits an update of the plan when necessary, responding to the resident's changing needs, while avoiding unnecessary administrative costs.

Funding Services for Assisted Living Residences with Medicaid Waivers

PHAs recommend that a new section be added to the Assisted Living regulations that provides for DPW's allocation of project-based Medicaid waivers to Assisted Living Residences that are selected through a competitive process and that serve a population that is at least 70 percent very low-income.

Add a new section: § . Funding Assisted Living Residences with Medicaid Waivers

(a) The Department may allocate Medicaid waivers to fund services for residents of Assisted Living Residences who are very-low income and who are living in subsidized Assisted Living Residences, including but not limited to facilities subsidized with Federal Housing Subsidies.

(b) The Secretary of the Department and the Secretary of Aging shall cooperate in assuring that waiver budgeting is secured on an annual basis and ongoing waiver reporting requirements are met.

(c) Participating Assisted Living Residences shall be selected through a competitive process administered by the agency in consultation with the Department of Aging. Priority in the award of demonstration program resources shall be given to Assisted Living Residences in which a minimum of 70 percent of the units are restricted to very low-income elderly households, and which otherwise meet the requirements of this Chapter.

(d) Medicaid waivers may be allocated on a project basis to Participating Assisted Living Residences.