

DELAWARE NURSING HOME RESIDENTS QUALITY ASSURANCE COMMISSION

Herman M. Holloway, Sr. Campus, Main Bldg., Room 301

1901 N. duPont Highway, New Castle, DE

Meeting of October 8, 2002

MINUTES

Commission Members Present: Patricia C. Engelhardt; John A. Fogelgren, Jr.; Karen E. Gallagher; Vicki L. Givens; Rep. Pamela S. Maier; Thomas P. McGonigle, Esq. (Chairman); Phyllis R. Peavy;

Commission Members Absent: Sen. Robert I. Marshall; Dr. McKinley Wardlaw, Jr.

Others Present: Mary Anne Colbert (Medicaid DSS); Sandra Dole, President (Delaware Council of Activity Professionals); Tim Hoyle (DSHSS Ombudsman LTC DSAAPD); Joseph Letnaunchyn, President, CEO (Delaware Health Care Association); Cynthia Mannis (Quality Insights of Delaware); Melissa H. Shahan, Director (Client Assistance Program CAP); Steve Tanzer, Administrative Assistant to Sen. Marshall (State Senate); Carol Ellis, Director, Catherine McMillan, Deputy Director, Mitzi Murphy and Joan Reynolds, Staff Support (DHSS Division of Long Term Care Residents Protection, DLTCRP)

John Fogelgren was Acting Chair until the arrival of Chairman McGonigle who was briefly detained.

1. Approval of the Minutes of the September 10, 2002 meeting
The Minutes were approved as written.

2. Presentation of Medicaid Nursing Facilities Review for Quality and Patient Acuity by Mary Anne Colbert, RN, Statewide Medicaid Administrator for Medicaid Quality and Patient Acuity Reviews, DSS Medicaid

Ms. Colbert read from "Delaware Medicaid Patient Index Reimbursement System Policy and Procedures effective 4/1/93". This material was handed out to all members for reference. Ms. Colbert said the system is intended to provide fair and equitable reimbursement to facilities by relating payment to nursing costs and the acuity level of nursing care rendered to each resident. Explanation of policy and procedures that include rate determinations, requirements and calculation is presented in detail in this manual. Included are specifics on how resident classification is established, which helps determine basic reimbursement. Further information about rate calculations can be obtained from the Medicaid State Budget Reimbursement Unit at (302) 577-4900.

The responsibility of the facility is to inform residents and families as to what services and care a resident is entitled and the resident's level of care. In the four-month review of care level, it is determined whether or not that level of quality care is provided. If the review shows serious sub-standard care, it is reported to appropriate agencies. This is part of the on-going teaching and participation with facilities reinforcing Medicaid's expectation of a high standard of care. All findings are shared with the facility staff followed by a Plan of Correction (POC) and formal letter (copied to Long Term Care Residents Protection) stating any serious quality issues, changes of care, and noting any patients in imminent danger. Medicaid records are confidential information and are not posted but are available upon specific request from a client's family. However, families are not educated to ask for this information. If Medicaid fraud is suspected, it is referred to SUR (Surveillance and Utilization Review); Board of Nursing; Medical Board, and could be referred to the Office of Attorney General Medicaid Fraud Unit for investigation by any of those agencies.

In answer to questions, Ms. Colbert stated that the State cut Medicaid quarterly reviews to three reviews a year to help cut costs. Mr. Tanzer questioned what Medicaid, as the reimbursement agency, has done to ensure that additional funding, as a result of Eagle's Law, go for direct staffing by shift and how is this

information confirmed? Ms. Colbert stated this information is shown in facilities' annual cost reports. Mr. Tanzer said Eagle's Law states that DHSS shall insure that all additional funding will be used for the specific purpose in that bill. Mr. Tanzer asked if the Medicaid office has developed any procedural reviews specifically for the implementation of SB 115 requirements because presently, the funding is not being tracked. Ms. Colbert said the responsibility for staffing by shift was never given to Medicaid. Annually, Medicaid compares money paid for primary care staffing with the facilities' reports to verify proper allocation as required by Eagle's Law. Medicaid reimburses on patient acuity, based on thirty-two levels of care. The responsibility of the Division of Long Term Care is to make the determination that if a facility did not staff up to levels required by the law they are subject to penalties imposed by the Division. Discussion followed concerning interpretations of Eagle's Law. Director Ellis said that Eagle's Law does not make this direct connection between individuals' exact working dates in a specific shift vs. did the facility expend and verify funding amounts on primary care. Mr. Tanzer stated Eagle's Law is very specific and Medicaid has no way of knowing whether the 10 to 20 million dollars specifically for staffing by shift are being expended for that purpose. Chairman McGonigle requested that Medicaid send a financial expert to discuss with the Commission reimbursement as it relates to Eagle's Law and staffing.

4. Update reports from Commission members.

Chairman McGonigle reported on the Quality Initiative (QI) meeting he attended September 20th. Ms. Mannis listed the quality measures to be posted on Medicare's website by every nursing home in the United States for comparison. In a November NEWS JOURNAL ad three indicators will be listed for all Delaware nursing homes and Medicaid website information. John Fogelgren reported on the Residents' Rights Rally he attended October 7th. Ms. Dole, who organized the rally, said many nursing home residents participated. Topics included empowerment, education, and self-advocacy.

5. Discussion of topics and assignments for the annual NHRQA Commission Report

Mr. Fogelgren and Mr. Tanzer gave copies of, "Agency Reviews," to Commission Members.

Ms. Peavy presented a written report, "Studies Completed." She will send copies to members.

Ms. Engelhardt gave copies of two written reports "Regulations Reviewed" and "Outreach" to the Chairman and staff to be copied for Commission Members.

Chairman McGonigle said "Agency Reviews" and "Rhodes Report" are the focus of "Trends."

A partial list of goals for the Commission includes continuing regulation, agency reviews and monitoring Eagle's Law. All submissions are to be reviewed by Commission members and comments sent to the writers. After comments are received they will be merged into a draft of the Annual Report that will be circulated and finalized at the December meeting.

6. Criminal Background Check (CBC) Regulations for Home Health Agencies for review.

Commission members are to review these before November meeting and be prepared to ask questions of the Division LTCRP Investigation Administrator.

7. Public comment

It was requested that Old and New Business be put on agenda.

8. Next meeting.

The next meeting will be held on Tuesday, November 12, 2002. The meeting will start at 10:00 a.m., in the Conference Room 301, Main building, Herman M. Holloway, Sr. Campus, New Castle.

9. Adjournment - Chairman McGonigle adjourned the meeting at 12:05 p.m.

FINAL MINUTES approved at the December 10, 2002 meeting.