

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 14, 2003

MINUTES

Commission Members Present: Patricia C. Engelhardt; Karen E. Gallagher; Vicki L. Givens; Rep. Pamela S. Maier; Sen. Robert I. Marshall; Thelma G. Mayer; Brian Posey.

Commission Members Absent: Thomas P. McGonigle, Esq., (Chairman); Yrene E. Waldron; Dr. McKinley Wardlaw, Jr.

Others Present: Carol Barnett, Planner, Tim Hoyle, Ombudsman, and Victor O. Orija, Social Service Administrator (Services for Aging & Adults with Physical Disabilities DSAAPD); Sandra Dole, President (Delaware Council of Activity Professionals); Joseph Letnaunchyn, President (Delaware Health Care Association); Mary Roger, (Quality Insights of Delaware); Philip Soulé, Deputy Director (Div. Of Social Services, DHSS) Steve Tanzer, Legislative Aide to Senator Marshall; June Valentine, State Executive Director (Delaware Association of Homes and Services for Aging, DAHSA); Laura Waterland, Senior Staff Attorney (Disabilities Law Program); Catherine McMillan, Deputy Director, Mitzi Murphy and Joan Reynolds, Staff Support, (Division of Long Term Care Residents Protection, DLTCRP).

1. Call to Order.

Brian Posey, Acting Chairman, called the meeting to order at 10:03 a.m.

2. Approval of the Minutes of September 9, 2003.

The Minutes were approved with the inclusion in "Others Present" of Linda Brittingham, Director of Social Work, Christiana Care Health System.

3. Discussion of "State of Delaware, DHSS Division of Social Service, Medicaid State Plan for Bed-Hold" with Philip Soulé, DSS Deputy Director.

Mr. Soulé stated that DSS State Medicaid has been in the throes of revenue shortfalls since 2001 and he does not expect any huge influx of money soon. DSS Medicaid is trying to keep the program together and not get into dire straits as some other states have done. In order to do this the state has tightened up the program as opposed to cutting services or eliminating individuals who are optional eligibles.

Mr. Soulé said one of the things that has remained constant over the past 5 years is that individuals eligible for the program have increased especially in the area of elderly and disabled. DSS Medicaid is proposing to put a co-payment on pharmaceuticals and also is proposing to change the bed-hold policy. Medicaid has received more comment on bed-hold days than on pharmacy co-payment.

Mr. Soulé explained that Delaware has a relatively liberal bed-hold policy. The DSS Medicaid State Plan allows 14 days in a 30-day period. Some states allow nothing; others have a maximum number of days per year for bed-hold days. Among the options Delaware Medicaid is discussing to tighten up the program is to shorten the bed-hold policy to 7 days. The average length of stay in a hospital is 7-8 days. Medicaid is fully aware that hospitals don't have a lot of beds and that some Delaware long-term facilities have curtailed some of their beds based on Medicaid payment changes. One of the points discussed by Medicaid is when a patient is hospitalized the facility is relieved of some expenses since the individual is no longer residing there. Mr. Soulé discussed the bed-hold policy payments of several states. The area of bed-hold payments seems to be an area that is amenable to cutting costs without eliminating services. Mr. Soulé said many letters received were critical of the proposed bed-hold days but no one suggested private pay to the facility. An individual can pay for any service that is not covered. Mr. Hoyle said it appears that Medicaid is reducing benefits to the neediest and poorest members of our society where other states have chosen different paths. Mr. Soulé said the proposal for reducing bed-hold days creates a Medicaid savings of about \$350,000 a year. The proposal hasn't been decided yet because several other options are

being reviewed. One proposal is to allow 14 bed-hold days and pay half the rate with either the client paying the other half or the nursing home absorbing this as a loss.

Presently, the 14-day bed-hold proposal is under discussion at a high level and no decision has been reached. A letter from Chairman McGonigle to Mr. Soulé states that the Commission suggests a more flexible approach, where the number of bed-hold days is based on the acuity levels of the patients or a waiver process from the 7-day limitation.

Mr. Soulé stated that a patient who is returning to a facility after a 14-day hospitalization, by regulation, is to be given the first appropriate bed available. If an appropriate bed is not available the patient goes on a waiting list. Ms. Valentine read the comments of Mary Anne Colbert, Statewide Nursing Facility Administrator, about the 14-day bed-hold. Facilities not accepting patients back from beyond a 14-day hospitalization is not a widespread systemic problem in long term care facilities.

Behavioral issues are a major concern; Mr. Soulé also noted that geriatric-psychiatric patients are sent out of state because there are no geriatric psychiatric nursing home beds. The state facility, the Carvel Building at Delaware Psychiatric Center, is an aging facility and difficult to keep up to standards. It handles patients who have had major mental illnesses and whose physical needs have overtaken their need for psychiatric care. Mr. Soulé said that an out-of-state facility would receive Delaware Medicaid dollars when admitting a patient over 65 years old needing psychiatric services, and receiving Delaware Medicaid. The referring state has the responsibility by law, to check on the care of such a patient.

Ms. Engelhardt questioned not seeing the proposed changes to the state's number of bed-hold days under Legal Notices in the newspaper. Medicaid is not required to have a legal notice of proposed regulation changes to be published in the newspaper. Delaware has a state Register of Regulations where these proposals are currently published. The proposal to change the number of bed-hold days was published in the July 1, 2003 Register of Regulations followed by a comment period. A motion was passed for the Commission to receive a list of appropriate websites for the referral of regulations.

4. Old Business/New Business

Ms. Gallagher attended a meeting where DART stated that there could be Sunday bus service only if they eliminated evening bus service. It was felt by Commission members that this was not a trade-off. Rep. Maier will write a letter to DART requesting Sunday bus service.

5. Public Comment

Ms. Dole thanked the Commission for their support of the Annual Residents' Rights Rally and Conference. Ms. Engelhardt, representing the Commission, attended the rally.

6. Next meeting will be Wednesday, November 12, 2003, at 10:00 a.m. The location will be the Smyrna Rest Stop, Smyrna, Delaware.

7. Adjournment

The meeting was adjourned at 11:17 A.M.

Final Minutes approved on Wednesday November 12, 2003