

National Citizens' Coalition for
NURSING HOME REFORM

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The Honorable Billy Tauzin, Chairman
The Honorable John Dingell, Ranking Member
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Representative Tauzin and Representative Dingell:

Over the past several decades, the Congress of the United States has made tremendous strides in legislation to preserve the dignity, health and safety of Americans when they need long term care. These laws were enacted, often, after years of government studies and congressional testimony had demonstrated tragic consequences of the federal government's failure to use its protective authority. As you consider Medicaid reform, we urge you not to weaken or eliminate these hard-won protections.

Any proposal to grant states flexibility in the care of optional beneficiaries must recognize that eighty-five to 90 percent of Medicaid recipients in nursing homes are optional beneficiaries. Many of these are "medically needy," people whose incomes are too high for public assistance but who qualify for Medicaid because their life savings are depleted and their nursing home costs exceed their income.

Why Current Medicaid Law Is Important to Nursing Home Residents and Their Families

- Medicaid supports the care of about 70 percent of nursing home residents. About half of these Medicaid beneficiaries spent their life savings on nursing home care before they became eligible for Medicaid.
- Medicaid provides the foundation for the regulation of nursing homes through the Nursing Home Reform Amendments of 1987. This foundation includes health and safety standards, resident assessment and data collection, residents' rights, annual inspections, and enforcement. All residents of Medicaid facilities benefit from these protections.
- "Spousal impoverishment" provisions enacted by Congress in 1988 ensure that spouses of nursing home residents can retain enough of the couple's resources to meet their own needs. Before Congress changed the law, elderly women, especially, were forced into dire poverty so their spouses could qualify for Medicaid nursing home benefits.
- Current law protects the adult children of nursing home residents – who may be paying for their children's education, even be retired themselves – from being forced to contribute to their parents' nursing home care.

- Under current law, states cannot discriminate in the amount or adequacy of services they provide. All beneficiaries must receive the same benefits, and benefits must be sufficient in “amount, duration and scope.”

NCCNHR believes that Medicaid should provide greater options for the elderly and disabled to receive long term care in non-nursing home settings. However, expanding coverage of home and community-based care will not work if the only purpose is to move people into less expensive services and not to provide viable, safe alternatives to nursing homes. People who qualify for Medicaid long term care coverage have multiple health care problems, frequently including dementia. Nursing homes are regulated and inspected at least annually to ensure that health and safety standards are met. Assisted living and personal care homes, on the other hand, are poorly regulated in most states and often admit or retain residents whose needs they cannot safely meet.

Congress should not encourage redirection of Medicaid funds to home and community-based care until it enacts minimum federal standards to ensure that beneficiaries do not have to forfeit access to services and protections they need.

Finally, NCCNHR urges the Committee not to approve any Medicaid plan that would diminish federal funds over time or force children and the elderly and disabled to compete with each other for services that both need.

It has been NCCNHR’s privilege over the years to work with the Energy and Commerce Committee on efforts to improve the care of long term care residents. There is still much to be done – a year ago the Department of Health and Human Services sent you a report showing that 90 percent of nursing homes are understaffed, more than half of them critically so. With the population rapidly aging, we must find real solutions to funding long term care and ensuring the quality of services for all who receive them. We look forward to continuing to work with you on these issues.

Sincerely,

Donna R. Lenhoff, Esq.
Executive Director

Janet C. Wells
Director of Public Policy