Long Term Care Coordinating Council

FULL COUNCIL MEETING

Wednesday, June 14, 2006

Room 313 – State House

Providence, Rhode Island

10:00 a.m. to 11:30 a.m.

Minutes

I. Call to Order – Chairman Fogarty

Chairman Fogarty called the meeting to order at 10:05 am

In Attendance were:

Lt. Gov. Charles Fogarty, Chairman Elizabeth Morancy

Maureen Maigret, Executive Director Sen. Elizabeth Roberts

Maria Barros Karen Beauchesne (rep. Nancy Roberts)

Cynthia Conant-Arp Paula Parker (rep. Dir. Russo)

Neil Corkery, Vice Chairman Al Santos

Bob DiCenso Bonnie Sekeres

Jim Flanagan Karen Smith

Don Williams (rep. Dir. Gifford) Susan Sweet

John Young (rep. Dir. Lebel) Steve Jennings (rep. K. Connell)

Bill Jackson

Chairman Fogarty noted that he was pleased to see that the newspaper had reported that Antonio Giordano had entered into a plea agreement with the federal court regarding violations of HUD

procedures and that the Council's Nursing Facility ClosureTask Force had found a significant number of questionable financial activities on the part of Mr. Giordano and recommended HUD investigate these matters.

Chairman Fogarty also noted that at the last meeting the issue of medication technicians was discussed and that a work group would be put together by the Department of Health per discussion at the Council's May meeting. He asked Mr. Williams if HEALTH would advise Ms. Maigret of when this work group commenced its work so that the Council may be kept informed of its progress and participate.

II. Approval of Minutes of May 10, 2006

Upon motion of Mr. DiCenso, seconded by Mr. Flanagan, the minutes were unanimously approved as distributed.

III. Presentation and Discussion

– Deficit Reduction Act of 2005 and Long Term Care

Jacqueline Kelley, Dept. Human Services Legal Counsel

Ms. Jacqueline Kelley, Legal Counsel from the Department of Human Services, provided two handouts to Council members and gave a presentation on salient features of the Deficit Reduction Act of 2005 (DRA) and its impact on long term care (See Attachments #1 & #2)

The DRA was signed into law by President Bush on February 8th. Some of the provisions took effect immediately while others will be effective on July 1st of this year. DHS has issued regulations as necessary to implement the DRA. Some of the provisions that will effect long term care recipients include:

1. A cap on home equity of $500,000 (there are exceptions for this if a

disabled minor is living in the home)

2. Community spouse resource allocation is changing to use income first as opposed to resources first which will not impact eligibility.

3. The penalty or "lookback period" has been extended from 36 months to 60 months regarding asset transfers that take place after February 8th.

The impact of the last change will not be felt for three years. The important point regarding the penalty period is what date a person, eligible based upon meeting institutional level of care, becomes financially eligible. The date the application for Medicaid is made or the person becomes financially eligible is when the penalty period begins. There is some fear that this may trigger more applications in order to start the "clock" for the 60 months. Other changes include those related to annuities which call for the State of Rhode Island to be named as the remainder beneficiary up to the amount paid on behalf of the beneficiary. There is an "undue hardship" provision in which DHS can waive the transfer rule in certain circumstances and the nursing home itself could apply for such an exemption for a person who is already a resident. RI added a separate section to its regulations for transfers of assets taking place between February 8th and May 8th which permit DHS to waive the transfer rules as persons may not have known about the DRA during that period of time.

Ms. Maigret asked Ms. Kelley to talk about the new requirements regarding documentation of legal status. Mr. Young reported that this documentation requirement would apply to both new applicants for Medicaid and persons being renewed. There are five levels of

documentation to check and CMS may penalize states if it is not done correctly.

DHS has looked at its Medicaid recipients and determined that 99% of the elders meet legal status requirements. However, there are about 250 persons on Medicaid using long term care services that may not have proper documentation. This presents a problem, as there are currently no alternatives to provide payment for services for these individuals.

IV. Reports

1. HEALTH -

Monthly NF Survey Report (April and May)

Don Williams, Associate Director at HEALTH provided this report (See Attachment # 3)

For the month of May, ten nursing homes were inspected. Two were in substantial compliance and eight received reports outlining areas of concern. There were no citations of "actual harm". Harris Health Center in Scituate is closing and Mr. Young reported that of the 32 residents who had been at Harris, only 13 were left and that of those 13, five still needed to find placements. Ms. Maigret reported that she had talked with Roberta Hawkins from the Alliance for Better Long Term Care earlier today and that Ms. Hawkins had indicated that she was not at the meeting because she and her staff were in the process of finding placements for the remaining five residents of Harris.

2005 Long Term Care Reform: Implementation Status

Don Williams, Associate Director at HEALTH provided this report

Mr. Williams reported that the department had held its second public

hearing regarding nursing facility licensing and that the new regulations regarding receivership had been filed on May 23rd. He noted that the department now had a system for tracking plans of correction and one outstanding issue remaining was the Memorandum of Understanding with the Alliance for Better Long Term Care which is still being finalized. The new provisions relating to reports on staffing are pending regulations, and the notification to families has been implemented. In 2005, family members received notification in ten instances and in 2006, family members received notice in 21 instances. Mr. Williams reported that another initiative that was still under development was the "Quality Predictive Model".

In terms of staff positions at Facilities Regulation, he reported that there are four vacancies outstanding. A P.T. position is scheduled to start in July, and of the six new hires, three have finished surveyor training. However, he has concerns that budget restrictions relating to FTE's may hamper the department's ability to fill all vacancies.

Ms. Maigret also reported for Roberta Hawkins, Director of the Alliance for Better Long Term Care, that in regards to implementation of the initiative to promote and support family councils, the Alliance was pleased to report that ten family councils had been established through their work at nursing homes.

Legislation Committee – Maureen Maigret

Ms. Maigret reported for the Legislation Committee (See Legislative Tracker - Attachment # 4)

Ms. Maigret reviewed the status of a number of bills being monitored by the

LTCCC, and also reported on items that had been included in the budget passed by the House Finance Committee. She noted that the 2.2% provider increase that had been withdrawn from Governor Carcieri's budget had been restored and that most community grants at DEA had been funded at a 95% level as opposed to the 25% cut recommended by Governor Carcieri.

She noted that the DHS budget included $318,000 in state and federal funds to develop new models for dental services in nursing homes. Also, Article 9 of the budget expands RIPAE to include injectible drugs to treat MS.

She noted that Article 42 provided for the creation of the Office of Health and Human Services and that the DEA budget had a $1 million decrease for home and community care services. She further noted that the MHRH budget restored $5 million to services for the developmentally disabled that had been proposed for cutting by Governor Carcieri.

Finally she noted that the "circuit breaker tax program" was being increased from $250 to $300 to be effective next year.

There was some discussion regarding the DEA waiver program and the proposed cuts, Ms. Parker noted that there were 42 persons in a queue waiting to receive assisted living services in this program and that the number of persons in the assisted living waiver program had grown from 97 to 148 over the past year.

2. LTCCC Budget Report FY2005 – Maureen Maigret (Attachment # 5)

Ms. Maigret reported that the total year-to-year spending had

increased by 3% which was under the 3.4% CPI for 2005. Institutional spending increased 2% and comprised 88% of long term care spending included in the report. This was a 1% decrease from the 89% ratio in FY 2004.

Home and Community care increased by 13% and comprised 10% of long term care spending, a 1% increase from the 9% FY2004 ratio. Regulatory and administrative expenses increased by 3% and continued to comprise 2% of total long term care spending, which is the same ratio that this category has had since the Council began doing its annual Long Term Care Budget reports. Ms. Maigret noted that Medicaid-funded nursing facility bed-days continued to decrease. There was an 8% decrease from 2004 and a 15% decrease going back to 2000.

Ms. Maigret noted that in terms of long term care regulatory activity, the department had not been able to comply with the annual licensing inspections for assisted living during the reporting period. However, since then, the department has added additional surveyors and all facilities have been inspected in calendar year 2005.

The area that continues to lag behind in annual surveys is that of home care. Ms, Maigret reported that the department is still not able to comply with the annual inspection requirement and asked Mr. Williams to report on the status of these surveys. Mr. Williams responded that this remained an outstanding issue at the department.

Ms. Maigret also noted that the number of nursing facilities and nursing facility beds had continued to drop and that there had also

been a drop in assisted living residences during the reporting period. The increase in adult day service slots in 2005 was a result of the opening of the PACE program. Ms. Maigret noted that the number of home nursing care providers and home care providers had remained relatively static during the reporting period.

3. Status of Public Quality Reports on Nursing Homes and Home Health

Sue Oberbeck, HEALTH (Attachment # 6)

Ms. Oberbeck reported that the nursing home satisfaction surveys should be completed this month. Following this, the data will be analyzed and a report that will be web-based will be made available in late September or October. She shared a new, simplified, one-page draft report that is under development by the nursing home quality sub-committee. Chairman Fogarty complimented Ms. Oberbeck on the work being done on this report. Ms. Oberbeck also reported that the home health sub-committee had been meeting over the last year to develop a satisfaction tool. Press Ganey is the vendor for the project which will start with a pilot. RI would be the first in the nation to undertake such a survey.

Mr. DiCenso commented on the need for consumers to understand the language being used in the nursing home report. Ms. Maigret asked him if he would volunteer to advise the work group regarding this issue and he agreed to do so.

Ms. Morancy brought up a new "Carefinder" program being offered by the National Alzheimer's Association that will link consumers to appropriate information regarding finding services throughout the

country. The link to this website is available on the Alzheimer's Association website. Ms. Maigret reported that she would email this information out to LTCCC members.

1. Home Care Emergency Preparedness Study Group – Karen Beauchesne

(Attachment # 6)

Ms. Beauchesne reported that the work group, which consisted of herself, Elaine Stevens, Maria Barros, Bob Caffrey, Al Tavares and Don Williams had met several times and reviewed the current home care regulations regarding emergency preparedness. They also looked at regulations from Florida as well as Medicaid and Medicare requirements. Ms. Beauchesne noted the complexities faced by home care agencies in developing emergency preparedness plans. Many home care agencies provide services on a statewide basis which presents issues in that the agencies need to be coordinating with local EMA agencies in developing plans. Based upon the workgroup's review they are making the following recommendations to the Council.

Home health emergency plans should:

1. Be reviewed annually

2. Plan for patient continuity of care during emergencies

3. Establish a plan to maintain communications during a disaster

4. Include a list of prioritized patients by acuity

5. Plan for recovery after an emergency/disaster

6. Plan for informing patients based upon priority before and following disaster

7. Take into consideration state emergency plans

8. Take into consideration local, ethnic diversity and special communication needs of patients.

Ms. Beauchesne also noted that home health agencies are not included in the state emergency plan and this is a matter that needs to be addressed.

1. Special Needs Task Force of Emergency Management Advisory Council

Paul Choquette, Chairman

(Attachment # 7)

Mr. Choquette handed out a PowerPoint presentation describing the work of the task force. He noted that Al Tardy from the Emergency Management Agency had instigated formation of the subcommittee's workgroup on special needs. The workgroup includes state agencies and community organizations. It was formed in late 2005 and has been meeting monthly since then. The initial work of the work group has been focused on developing a special needs registry and enhancement of that registry. This is a self-initiated registry being developed through the E-911 in which information can be relayed to first responders based upon the information contained in the registry as submitted by persons with special needs. E-911 and HEALTH are working to restructure the process to further automate it and direct data transferred to first responders. The work group is also looking at special communications for emergency alerts using sign language to be added to emergency broadcasts. The work group will be guided by a review of best practices from other states.

The next step for the work group is to work with HEALTH which is contracting with a vendor, "PSI", to develop a messaging and public awareness plan for the special registry. The work group will also be involved in reviewing local EMA plans to make sure they are responsive to "special needs" persons.

Chairman Fogarty and a number of members of the Council thanked Mr. Choquette for his outstanding work in chairing the group and for the significant accomplishments they have made to date.

IV. Public Announcements and Public Comments

No public comments or announcements were offered at this time

VII. Adjournment – Next Scheduled meeting – September 13th

Upon motion of Ms. Barros, seconded by Ms. Conant-Arp, the meeting adjourned 11:55 am.