



NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE BUILDING
RALEIGH 27601

March 1, 2012

The Honorable Kathleen Sebelius
Secretary of the United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Madam Secretary:

We write to respectfully request that you work to immediately exempt or set aside the Center for Medicare and Medicaid Services' (CMS) requirement that North Carolina's Personal Care Services (PCS) Program for adults in adult care homes/assisted living communities be addressed in a manner comparable to services provided by home care agencies in "in home" settings. For a number of years North Carolina has developed and operated its system of care utilizing two approaches to PCS, one for in-home care and the other for adult care home / assisted living care. These two approaches were previously approved by CMS and are reasonable considering the differences in serving individuals in their homes versus the 24 hour seven day a week care provided in adult care homes / assisted living facilities. Now CMS mandates that only one approach may be utilized. Shifting North Carolina's system to one PCS program will result in significant budgetary problems for the State and/or a rapid loss of services for thousands of elderly and disabled citizens as well as a financial destabilization of the adult care home / assisted living industry in the State and loss of jobs. You will see from the information below that this is a matter of urgency. We respectfully request that you take steps toward such an exemption with all due haste.

While the Secretary of the North Carolina Department of Health and Human Services (DHHS) requested additional time until late this year to identify a solution to this problem, on February 22, we are told that DHHS was contacted by representatives of CMS with the information that after April 30, 2012, the Medicaid supported program to provide PCS for low income adults in North Carolina will cease. We understand that the program serves more than 22,000 North Carolinians, many of whom are elderly and frail and many of whom suffer with dementias, including Alzheimer's disease. Because of the efforts to comply with CMS' mandate, more than half of that population - over 11,000 vulnerable North Carolinians - will be disenfranchised from the program, facing displacement and homelessness.

We understand that the primary reason for the end to the program is that North Carolina's PCS program is noncompliant with CMS' requirement that the program in adult care homes is not comparable to the program as it is delivered through home care agencies in "in home" settings. We observe the following:

- North Carolina has operated its PCS programs in adult care homes for more than 15 years. The issue of comparability was not pushed by CMS until about 2 years ago, requiring North Carolina to change

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an approach that had been approved by CMS earlier. Over the 15 years adult care homes/assisted living communities were established in North Carolina providing an array of service choices for individuals and families that sought this level of care for their elderly and disabled. Adult care homes/assisted living communities are an important part of the continuum of care, not to mention an important industry in North Carolina that provides jobs and pays taxes.

- Throughout the 15 years, adult care homes/assisted living communities have provided a good value for North Carolina taxpayers. On average, service through adult care homes is less costly than serving consumers in nursing home beds, and considering all related costs is an economical approach to care for individuals who have lost the ability to live independently in their homes. This is especially true for Special Care Units that serve persons who suffer with dementia, including Alzheimer's disease. SCUs are specifically designed to serve those with dementia who would otherwise be served in nursing homes, which often do not have the special programming and infrastructure to appropriately serve such patients. Adult care homes/assisted living communities offer a choice to consumers. Families typically opt for adult care homes for their family member because they can no longer care for them safely in their own homes. Often this choice occurs following a stint of receipt of services through home care in their homes. This is not an institutional bias, it is a choice made by consumers in consultation with their health care providers.

- Both levels of service - in home and adult care homes - are available to private pay consumers. Absent a significant increase in available state dollars to provide care for these vulnerable individuals, or the creation of an alternative funding source, CMS' action will have the effect of eliminating the adult care home option for low income seniors, potentially making more than 11,000 frail elderly persons - including those who suffer with dementias, including Alzheimer's disease - homeless

For these reasons and others, we believe the best course of action is to exempt North Carolina's Medicaid program from the comparability issue raised by CMS or to clarify comparability provisions of the law to make certain that services provided in a 24/7/365 residential program may be reimbursed by Medicaid in a different manner than periodic in-home assistance visits. If that were achieved - quickly - efforts could be directed toward development of a plan to allocate resources more efficiently and effectively to serve the low income residents who currently use adult care homes/assisted living communities. No current residents would face displacement. At the same time, efforts could continue to ensure that quality services are available and sustainable for the burgeoning number of seniors who may need such services as North Carolina's baby boom population ages.

This problem is about people, not numbers on a page or spreadsheet. The people - people who worked their entire lives, paid taxes and served in their communities - need these services. Please help us to not turn these people out.

Sincerely,

Sen. Phil Berger
President Pro Tempore
North Carolina Senate

Representative Thom Tillis
Speaker
North Carolina House of Representatives