

**Testimony of
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before the
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Good Morning, Chairman Vance, and members of the Senate Aging and Youth Committee.

My name is Dr. Stuart Shapiro, and I am President & CEO of the Pennsylvania Health Care Association (PHCA), a statewide advocacy organization for the commonwealth's elderly and disabled residents and their providers of care. Our mission is to ensure that those who need long-term care receive quality services in the most appropriate setting as they age. The key words are "quality" and "appropriate setting." For many, services at home can be safely and cost effectively delivered. For others, a nursing home is the appropriate setting for safe and cost-effective care.

Our membership --- comprising for-profit and nonprofit providers --- offers services that range from integrated retirement communities and multi-level care campuses to freestanding nursing homes, assisted living/personal care homes, and ancillary care/home-care enterprises. Overall, PHCA represents more than 300 long-term care and senior service providers that serve over 31,000 elderly and disabled individuals across the state.

First, let me commend this committee for its interest in long-term care in Pennsylvania and its commitment to look at some of the financial pressures facing our health delivery system, especially as the baby boomer generation ages and begins to seek services.

In our great country, resources should be available to provide care to all who need it. State governments, and their legislatures, should not have to face the Hobson's choice of who should get care. Unfortunately, they --- and we, for that matter --- must make choices as our collective resources are limited, and we must set priorities for limited dollars. Thus, as difficult and painful as it is to do, I will conclude my remarks with some suggestions for setting these priorities.

Today is not an appropriations hearing, but I believe it is important to first make a few comments on the Governor's proposed budget.

Governor Rendell, when he introduced his proposed 2008-09 budget before a joint session of the General Assembly in February, said, and I quote:

"If you think that the widow of a World War II veteran in a nursing home is not entitled to Medical Assistance you are sorely mistaken"

He's absolutely right. But what the Governor says and what his budget proposes are two entirely different things. The spending plan outlined by the Governor contains **NO** Medical Assistance

rate increase for nursing home care, and the impact of this budget is very serious for the elderly and disabled who live in nursing homes or need nursing home services.

Right now, 2 million of our 12 million Pennsylvania residents are age 65 or older. By 2020, more than 25 percent of our population, or some 3 million Pennsylvanians, will fall into that demographic. That is a 50 percent increase in a little more than a decade --- and it poses significant funding and quality of care challenges for families, caregivers and state agencies whose charge it is to safeguard the elderly and others.

In Pennsylvania, two out of three nursing home residents have their care paid for by Medicaid. In 2007, the national accounting firm B.D.O. Seidman reported that the commonwealth shortchanged those providing care to seniors on Medicaid by an average of \$12 per resident per day, or \$4,300 per resident per year.

Most nursing homes in Pennsylvania, whether for-profit or not-for-profit, lose money caring for Medical Assistance residents. And next year, it could get even worse. Nursing homes face a potential double whammy with cuts proposed at the federal level to both Medicare and Medicaid, and a proposed zero percent increase in Medical Assistance at the state level.

There are few other health-care providers like nursing homes, which are so dependent on state and federal governments for the services they provide. Medicaid and Medicare generate nearly 80 percent of facility revenues. Private resources and long-term care insurance make up the balance. By contrast, private insurance alone accounts for 42 percent of hospital revenues. The ability of nursing homes to cover the underfunding is obviously very limited.

Unfortunately, this shortfall is not just an unusual one-year shortfall. There has been a shortfall every year since the Rendell administration took office, and preliminary calculations indicate that this number will grow by nearly 50 cents per day per resident in 2008.

Recently, the Governor, or members of his Cabinet, have said that nursing homes in Pennsylvania are well reimbursed under Medicaid and that reimbursement to nursing homes has gone up 22 percent since they took office. The 22 percent is right, but the truth is while reimbursement has gone up 22 percent, state-approved costs for nursing home care have gone up 26 percent during this same period. In fact, in the last three years alone, nursing homes have been under-reimbursed, as required in state regulations, by approximately \$290 million.

According to AARP data, residents in Pennsylvania's nursing homes, are older and sicker than the national average, and Pennsylvania nursing homes provide more registered nursing hours per day to their residents than do the neighboring states of Ohio, New York, Maryland or New Jersey.

Yet the fact is, the Medicaid rates for nursing homes in Pennsylvania are below those of Delaware, Connecticut, New York and Hawaii, and virtually identical to Maryland, New Jersey.

In other words, nursing homes in Pennsylvania are providing more care than in nearby states, to sicker and older residents, and not being paid any additional dollars.

Because of the reality of Medicaid funding, many nursing homes are dedicating more beds to short-term Medicare rehabilitation residents, where reimbursements are greater. If this trend continues, and facilities continue to increase their proportions of Medicare replacing Medicaid, those individuals who are Medicaid eligible on day one, will begin to face a serious access to care issue in many part of the state.

Nursing home residents will continue to receive high-quality health care, but make no mistake: the deficit in Medical Assistance payments clearly and adversely affects their quality of life. Activities that allow residents to enjoy the same things that the rest of us enjoy --- such as special music, picnics, movies, community outings or something as simple as an occasional ice cream cone --- are being reduced because there is no money to fund them. Nursing homes will continue to be forced to delay capital improvements and beautification projects that would provide residents with a more home-like atmosphere.

Another unintended side effect of low Medical Assistance reimbursement is on those who have resources to pay for their care. When government reimbursements go down or fail to compensate for the care that is provided, the cost of nursing home care goes up for our private pay population. Self-paying older and disabled Pennsylvanians have to pay more to make up the shortfall. This is not by choice, but rather necessity for many facilities across the commonwealth. And it's becoming an all too familiar story --- seniors and their families watch helplessly as their life savings are wiped out to cover the rising costs of nursing home care due to Pennsylvania's inability to live up to its responsibilities.

Caretakers also pay a price when facilities receive fewer and fewer resources. Their wages and benefits are directly affected by state reimbursement deficiencies that don't appreciate the physically challenging and emotionally draining job they do. Studies show that inadequate wages affect turnover, and, as you would expect, low wages (and low rates of wage increase) directly correlate with turnover. And high turnover is an indicator of lower quality of care.

While I have focused primarily on nursing homes and the impact of the Governor's proposed budget, it is important also to talk about the expansion of home and community-based services (HCBS) and their relation to nursing home funding as a good faith effort is made to further balance our long term living system.

I believe in a broad continuum of care that enables people to age in the most appropriate place. Because of that belief, I commend the Governor for wanting to expand home and community care for low-income seniors and disabled residents who aren't sick enough to need a nursing home or transition from a facility back to the community. We have dedicated staff at our nursing homes who work closely with local Area Agencies on Aging to do just that.

Based on data from the Department of Public Welfare, since the 2002-03 fiscal year, the annual number of nursing home residents on Medicaid has remained relatively constant, around 80,000. Over the same period, however, the number of HCBS beneficiaries has more than doubled, from 17,467 users to a projected 37,031 users. Some argue that without expanded HCBS programs, these 20,000 individuals would be in nursing homes. That simply isn't true.

The acuity (or “sickness”) level of most individuals being added to HCBS does not appear to rise to a level of care that those in nursing homes need. What the Medicaid HCBS program really has done is expand long-term care eligibility and coverage for a broader population. Most of these individuals previously would have been cared for by family members, friends or the community. Now their care is paid for with Medicaid dollars. While we fully support HCBS, the dollars for it should not be taken from those needed to provide quality nursing home services.

The theory that nursing-home utilization will decrease as seniors are moved toward home care has likewise not panned out in other states --- and is even less likely to do so in states like ours where the elderly population will rise.

Put another way, and based on data, rebalancing is great in theory, but what really happens is that few individuals move from one setting to the other, and that the “rebalancing” is achieved only with many new entrants into the system. Most of this increase in case load is from individuals previously cared for by family and friends who will now receive services paid for with limited Medicaid dollars.

This is not to say that these expenditures are not valid, or that in some circumstances the payments may have delayed a nursing home admission. But we must address this issue with all the data in hand because it is very important to understand fully who is receiving services under the Pennsylvania Department of Aging waiver,

Nursing homes know what the level of acuity is for every nursing home resident. Acuity for every resident is tracked quarterly, when there is a change of the resident’s condition, and annually for all residents. Comparable data --- which is audited under the same standards as in nursing homes --- needs to be collected in the home setting.

I am not suggesting that the nursing home Minimum Data Set (MDS) assessment forms be used in the home setting. I am suggesting that an auditable instrument be used that will permit the data to be “cross-walked” to the MDS. The Department of Aging has begun work on this, and we believe that the full implementation of a comparable data instrument to the MDS by June 30, 2009, be a condition of any funding by this legislature under the PDA waiver or any future assisted living waiver. It is important to collect this data if we are to understand the cost of these programs and the citizens served.

Nursing homes are inspected at least annually, a process that was established under Medicare, Medicaid and state Department of Health regulations. All providers of HCBS services should be subject to a comprehensive quality assessment program that is transparent to the public and posted on a Department of Health and a CMS Web site. These transparent quality assessment programs should include providers hired directly by consumers.

I testified to these points in January, when the Office of Long Term Living held its listening sessions on Aging’s waivers, and would be happy to provide that testimony to the committee if it wishes additional background.

Let's now turn briefly to some HCBS funding and cost issues that I believe this committee should consider as it considers rebalancing the long term living system.

Because the theory that nursing-home utilization will decrease as seniors are moved toward home care has not panned out in Pennsylvania, it is important that we have the necessary data to effectively monitor the HCBS program if it is expanded, as is proposed in the budget. Data should include looking at population based utilization rates, quality outcomes and costs for both home and community-based and nursing home care.

Ideally the full state, federal and individual out-of-pocket costs of care to those receiving HCBS and nursing home care would be tracked, including housing, meals, housekeeping, routine health-care services and therapies, social services, transportation, non-prescription drugs, respite care, etc. Most of these costs are included in the nursing home daily rate.

It would also be interesting to gather data on the rate of hospitalization, and days of care provided in hospitals, primarily funded under Medicare for acuity-matched individuals in nursing homes and in the HCBS program. Our working theory is that hospitalizations, as well as length of stay, are reduced for those in nursing homes, but this needs to be fully studied.

Similarly, it would also be interesting to compare prescription drugs utilization, and quality outcomes, in acuity-matched individuals in both settings. Given that the care of each nursing home resident is generally coordinated by one physician, in partnership with a consulting pharmacist, it is again our working hypothesis that prescription drugs are more effectively managed with better quality outcomes as well as less cost in the nursing home setting.

It is essential that we understand the full costs to the Medicaid program as well as Medicare, and to the citizens of Pennsylvania through other government-financed programs, whether they be state, federal or local dollars. It is not enough to track just Medicaid dollars. We would hope that either the commonwealth's Department of Aging or the Department of Public Welfare would fund these important studies, and I believe the legislature should direct that these studies be undertaken. Without data, programs are being expanded blindly.

While my comments today were primarily related to budget issues and the HCBS program, issues of comparable clinical and cost data, as well as a leveling of the playing field for all providers, should be equally applied to the upcoming and separate "Assisted Living" Waiver that will be submitted over the next year.

Conclusion

Let me conclude by re-emphasizing PHCA's position that consumers should have choices where they receive care and both home and community-based care providers and nursing home care providers should be appropriately and fully reimbursed for the care they deliver. Facility care and home care are not mutually exclusive; they are complementary --- and each must be adequately funded as part of the entire long-term care continuum.

We support this because our own organizational mission is ensuring the delivery of quality health-care services to Pennsylvania's frail, elderly and disabled residents, regardless of setting, so they can age in the most appropriate place at each stage of their life,

In a country like ours, there should be adequate reimbursement for funding the entire continuum of long-term living. We should not rob Peter to pay Paul. Unfortunately, neither the Governor, nor the legislature, has historically found the dollars to fund the entire continuum. Thus, I painfully propose that if there are limited resources, then we collectively prioritize these resources and fund services for the sickest and frailest Pennsylvanian's first. When they have been cared for, then, and only then, do we utilize our resources for the younger, more ambulatory, less sick who require services.

Furthermore, there should certainly be **NO** new, or expanded, programs until current obligations are met, and maintaining the quality of life and quality of care for our "Greatest Generation" in nursing homes is a current obligation that should not be sacrificed.

Thank you. I will be pleased to answer any questions.