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Medicaid Payment for Assisted Living Barriers to Admission of Medicaid-Eligible Applicants

The Problem: An Example

Ms. Lee is a widow who can no longer live in her own home. She has little money and as a result is eligible for Medicaid benefits. Her care needs would qualify her for nursing facility care, so she can obtain Medicaid coverage of assisted living care under her state's Home and Community-Based Services waiver.

Her problem is that the local assisted living facility will not admit her. It is certified to accept Medicaid reimbursement and has had recent vacancies, but Ms. Lee's application to the facility was denied. Her friend, who still has some savings left and currently is able to pay the facility's private-pay rate, submitted an application and was accepted within a week.

In short, Ms. Lee is eligible for Medicaid reimbursement, but the local assisted living facility is refusing to readmit her, even though the facility is certified for Medicaid reimbursement.

Discussion

Summary: In most states, a resident eligible for Medicaid reimbursement has no assurance that a Medicaid-certified facility will agree to admit her, even if the facility has a vacancy. A limited number of states offer consumer protections such as requiring a facility to accept a resident after a referral from a relevant state agency, or to maintain its Medicaid-eligible residents as a specified proportion of its licensed capacity.

Assisted living facilities often refuse admission to applicants who have relatively more intensive care needs and/or are Medicaid-eligible. As a result, Medicaid beneficiaries with higher care needs can find themselves effectively shut out of necessary services.



A limited number of states have addressed this problem. Texas requires assisted living facilities to justify decisions to deny admission to Medicaid-eligible applicants. A Medicaid-certified facility must accept a referral from the Texas Department of Human Services, unless 1) the referral would put the facility over its capacity, or 2) the facility cannot meet the referred person's needs and has followed specified procedures with an interdisciplinary team including the resident or resident's representative.

New Jersey also has addressed these issues, requiring Medicaid-certified assisted living facilities to reserve at least ten percent of their occupied beds for use by Medicaid-reimbursed residents. The law applies only to those facilities licensed in or after September 2001.

Illinois also requires facilities to maintain a certain percentage of Medicaid-eligible residents, but the Illinois requirements apply regardless of the date of the facility's licensure or certification. Facilities generally must reserve at least twenty-five percent of their units for Medicaid-reimbursed residents.

Recommendations

Medicaid beneficiaries have very limited financial resources, and are dependent upon Medicaid eligibility and the availability of Medicaid-certified providers. Thus, Medicaid certification for assisted living care should carry with it an appropriate obligation to provide reasonable access to Medicaid beneficiaries. It would be inappropriate for a certified facility to have complete discretion to refuse admission to Medicaid beneficiaries.

The current requirements employed by Texas and Illinois should be adopted by other states' Medicaid programs. As is currently the case in Texas, a Medicaid-certified assisted living facility should be required to accept a referral of a Medicaid-eligible applicant by the relevant state department. Also, as is the case in Illinois, a Medicaid-certified assisted living facility should be required to maintain its Medicaid-eligible census at a level of at least 25 percent of the facility's capacity.

The National Senior Citizens Law Center is a non-profit organization whose principal mission is to protect the rights of low-income older adults. Through advocacy, litigation and the education and counseling of local advocates, we seek to ensure the health and economic security of older adults with limited income and resources, and access to the courts for all.



The Assisted Living Policy Issue Brief Series

With support from the Commonwealth Fund, the National Senior Citizens Law Center (NSCLC) recently undertook an extensive study of federal and state Medicaid policies for assisted living coverage, focusing on how those policies impact the lives of assisted living residents.¹ The results of this study are laid out in a series of policy issue briefs being released by NSCLC from Fall 2010 through Spring 2011. Each of these policy issue briefs discusses problems with the status quo, and makes recommendations for change. In many instances, a policy issue brief has a companion white paper that discusses the same or related issues in greater detail.

This paper is the fifth in the policy issue brief series. This policy issue brief recommends changes in public policy to improve access to assisted living care by Medicaid-eligible applicants. A companion white paper discusses the same issues with more detail from the study findings. Both the policy issue brief and the white paper are available at NSCLC's website, www.nsclc.org.

The study and the development of this paper were supported by The Commonwealth Fund, a national, private foundation based in New York City that supports independent research on health care issues and makes grants to improve health care practice and policy. The views presented here are those of the author and not necessarily those of The Commonwealth Fund, its directors, officers, or staff.

1 The research included a survey of respondents in the 37 states that pay for assisted living services through a Medicaid Home and Community-Based Services waiver, as well as more in-depth research of policies and practices in five of those states: Arkansas, New Jersey, Oregon, Texas, and Washington. The research was conducted in cooperation with the University of California at San Francisco. This paper, however, is written by the National Senior Citizens Law Center, which is solely responsible for the findings, opinions, and recommendations expressed herein.

