

FOR IMMEDIATE RELEASE

January 14, 2011

Contact: Scott L. Parkin, NSCLC, (202) 683-1996 sparkin@nsclc.org

Under Current Law

Assisted Living Residents Can Be Evicted They Need to Be Hospitalized Temporarily

WASHINGTON --- Low income older adults who rely on Medicaid to assist them in paying for care in an assisted living facility risk eviction if they leave the facility because of a temporary hospitalization or for some other reason.

Medicaid payments for assisted living are based on a belief that such facilities provide a home-like alternative to nursing homes. But, federal and state Medicaid rules governing such issues as holding a room if a resident is absent temporarily are often inadequate.

“Assisted living facilities want to be perceived as a homelike setting, not as a long-term care facility.” said NSCLC Executive Director Paul Nathanson. “An assisted living resident should be able to return after a short hospitalization without fear that her unit has been rented out to someone else.”

Under federal law, nursing home residents who are Medicaid-eligible must be permitted to return to the home if they need to be in the hospital temporarily. Federal law, however, gives no such rights to assisted living residents and state Medicaid programs rarely provide rules to ensure that a resident can return home.

In the absence of federal rules related to this issue, most state Medicaid programs do not pay for room holds in assisted living. But some states, such as Montana and Georgia do so because they see the practice as authorized by federal guidance related to the U.S. Supreme Court’s Olmstead ruling, which sought to ensure that people with disabilities get care in the least restrictive environment.

“It’s good that some states do the right thing, but sadly many assisted living residents elsewhere find themselves in a housing crisis even after a short hospital stay and this has to change,” said NSCLC Directing Attorney Eric Carlson, who authored papers on this topic.

The issues are described more fully in a policy issue brief and white paper on the topic, each entitled, “Medicaid Payment for Assisted Living: Residents Have a Right to Return after Hospitalization.” The papers contain the following recommendations:

- Room holds should apply regardless of the reason for an absence.
- Federal law should be changed to establish a duty for Medicaid-certified assisted living facilities to readmit temporarily absent Medicaid-eligible residents to the next available room.
- The federal government should clarify that Medicaid-funded retainer payments are available for temporary absences from an assisted living facility.
- State governments should authorize retainer payments up to the federally allowed maximum.

The issue brief and white paper are part of a series developed with support from 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. To see the series, visit the assisted living section on www.nsclc.org.

###

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 those with limited income and resources, and access to the courts for all. For more information, visit our Web site at www.NSCLC.org.

Media Inquiries: Scott L. Parkin, NSCLC, (202) 683-1996 sparkin@nsclc.org