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Perspectives of State Medicaid Officials**

Prepared by

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Kaiser Commission on Medicaid and the Uninsured

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EXECUTIVE SUMMARY

Although nursing home care still consumes most public program spending for long-term care in the U.S., several forces have contributed over the past two decades to a decline in the nursing home resident population and an increase in provision of long-term care in home and community-based settings. Among these are state efforts to reduce overall Medicaid long-term care spending, the preferences of consumers and family members for non-institutional care, and pressures on state governments stemming from the 1999 Supreme Court decision (*Olmstead v. L.C.*) which required that people with disabilities receive community-based services, where reasonable, rather than be subjected to “unjustified institutional isolation.” Nursing home transition programs were initiated with federal support in the late 1990’s and targeted to Medicaid-eligible nursing home residents who are candidates for returning to community care settings. Previously, only a few states had procedures for identifying and assisting individuals in nursing homes in moving back to the community. More recently, in the Deficit Reduction Act of 2005 Congress granted \$1.8 billion over 5 years for states to provide 12 months of long-term care services in a community setting to individuals who currently receive Medicaid services in nursing homes.

This report draws on interviews with state Medicaid program officials for insight into the policy issues that arise in establishing programs to move individuals with significant long-term care needs from institutional to community settings. The five states that participated in this study -- Florida, Louisiana, New Jersey, Ohio and Washington -- each received federal grants for nursing home transition activities and varied in their experience with transition programs. This brief provides an overview of findings on state’s experiences with nursing home transition programs by reviewing state’s shared programs goals and considerations in implementing these programs and by discussing aspects of Medicaid long-term care eligibility policies that can present obstacles to transition.

Overview of Findings

States vary in their enthusiasm for nursing home transition programs. Washington and New Jersey are examples of states that give high priority to this issue by using state resources to employ care planners who identify and counsel nursing home residents on community care options. Both Washington and New Jersey had nursing home transition programs in place prior to the initiation of federal grant support for these activities. States such as Louisiana and Ohio represent a middle ground, with resources going toward efforts to inform people about options for transition (e.g. 800 numbers to call, in Louisiana a state-wide registry for individuals requesting home and community-based services), but an approach that is primarily responsive to family members or nursing home discharge planners who contact care planners regarding individuals who want to transition, rather than one that is proactive. Florida is concentrating on transitioning individuals from nursing homes to assisted living, rather than to home and community-based services. Florida also has chosen to concentrate resources on nursing home diversion as its primary means of reducing unnecessary institutionalization. Regardless of these differences, however, officials in these five states also held many views in common regarding nursing home transition.

Program Goals

- *Nursing home transition programs are viewed as one strategy to help reduce the high levels of Medicaid spending associated with nursing home care.* Individuals who transition from nursing homes typically receive services in the community through Medicaid programs that are limited in terms of per person spending and/or hours of care. In no instance would an individual in any of the study states, who transitioned out of a nursing home, be eligible for 24-hour care.
- *State officials believe that nursing home transition programs provide individual Medicaid beneficiaries with more options, and often more appropriate options, for meeting their needs, in addition to achieving cost savings.* State Medicaid officials emphasized that while cost savings were an important driving force, many individuals who are in nursing homes could be cared for appropriately in the community. In some states, the 1999 Olmstead decision was seen as a major factor in developing a nursing home transition program, although programs in New Jersey and Washington predated Olmstead.

Considerations in Implementing Nursing Home Transition Programs

- *Motivation of individuals and their families, and the availability of a community support system that could supplement formal services, were seen as key factors in who transitions back to the community from nursing homes.* These two factors were consistently mentioned by state Medicaid officials as the most important in who can transition back to the community from nursing homes. Although there was agreement that nursing homes were the least appropriate care site for younger people with disabilities, by and large, state policy-makers did not view diseases or age as useful criteria for targeting who could successfully transition from nursing home to community-based care.
- *Policymakers see the need for nursing home transition programs as a remedy for perceived bias in favor of discharges to skilled nursing facilities for post-acute care.* As one New Jersey official stated, “Nursing home placement is a quick, safe discharge for the hospital.” Arranging for in-home or outpatient post-acute care through Medicare or Medicaid home health in terms of authorizing coverage and coordinating services can be time-consuming and complex. Once Medicaid or Medicaid-eligible individuals are admitted to nursing homes, nursing home transition programs represent one mechanism for effectuating their discharge.
- *States without residential alternatives such as adult family homes or assisted living placements have fewer options available to nursing home residents who want to transition.* Community housing options for low-income people, such as subsidized public housing, are often limited and waiting lists of longer than a year are not uncommon. In addition, some states do not allow Medicaid to pay for services in an assisted living facility, while in others, even if Medicaid pays for services, the high costs of room and board (which individuals must pay) puts assisted living out of reach for Medicaid recipients. For individuals who need specialized housing to accommodate their disabilities, there are often additional housing constraints.

- *State Medicaid officials were well aware that the nursing home industry has concerns about programs that could potentially reduce occupancy levels.* Concerns by providers of institutional care were reported by all state officials. Stakeholder meetings with nursing home industry organizations were common in connection with state efforts to develop nursing home transition programs. Although a CMS letter to State Medicaid Directors in August, 2004, encouraged states to reduce nursing facility beds “to assist a state in rebalancing its long-term care service system,” the letter also indicated this was not a requirement. None of the five states in this study had (or was seeking) the authority to close nursing home beds, and thus reduce institutional care capacity, as part of their transition programs.

Obstacles to Nursing Home Transition

State officials recognize that some aspects of Medicaid long-term care policies often designed with nursing home care in mind, can present obstacles to a return to the community. Several were identified as important:

- *Spousal impoverishment protections favor institutional care in some states.* Federal law requires that a community-resident spouse of a nursing home resident covered by Medicaid, be allowed to keep a minimum amount of income per month (\$1,603 as of July 2005) and to retain a share of the couple’s assets (the greater of \$19,908 or half of the couple’s joint assets up to \$99,540). Some states extended these same protections to spouses of individuals in Medicaid community-based care programs, others did not.
- *Requirements to liquidate assets in exchange for Medicaid coverage of nursing home care may prevent retention of community housing.* Lack of affordable community housing can be a major obstacle to leaving a nursing home. Washington is one of the few states that allows an individual on Medicaid who enters a nursing home to retain income for purposes of maintaining a community residence (for 6 months). Other states in this study did not have policies to address the potential conflict between asset liquidation and return to the community.
- *Barriers related to use of Medicaid funds for community housing expenses are being addressed, but remain an issue.* Recognition that expenses related to setting up a household in the community were a potential obstacle to re-establishing community residence led to a CMS policy clarification in 2002 that Medicaid could pay for certain one-time expenses, such as security deposits and essential household furnishings, for individuals transitioning out of nursing homes. All of the states in this study had or planned to add one-time relocation costs to Medicaid waiver program services; New Jersey and Washington also use state funds for this purpose.
- *Nursing home residents face uncertainties about Medicaid eligibility and the extent of services they can qualify for if they return to the community.* Eligibility for home and community-based services for nursing home residents who return to community settings often has to be re-established. Furthermore, until residents are evaluated, the amount of care they will receive (e.g. hours of service) cannot be determined. New Jersey and Washington use state funds to pay for social workers to evaluate individuals while they

are still nursing home residents since Medicaid does not cover case management services to individuals in nursing homes for purposes of determining eligibility for home and community-based services.

- *Waiting lists for community-based care are a significant problem in some states (but not all), and a potential barrier to nursing home transition.* Waiting lists for community-based long term care are a significant problem in some states, but they also fluctuate over time. Where waiting lists exist, they may delay transition to the community even if nursing home residents receive priority for home and community-based services. In Louisiana, for example, individuals whose income is low enough to qualify for the personal care optional benefit program can transition and receive services immediately, but those who qualify for waiver services face a waiting list.

Conclusion

Nursing home transition programs are one of several strategies being pursued by states to reduce Medicaid long-term care expenditures, comply with the Olmstead decision, and respond to preferences of consumers and their families. Most programs have relocated relatively small numbers of nursing home residents. Nonetheless, officials in the study states viewed these programs as worthwhile. Obstacles to the effectiveness of nursing home transition programs also were identified and included various disincentives that arise from Medicaid long-term care policies and limited community-based care options. States like Washington and New Jersey have invested in reducing these disincentives, for example by using state funds to assess service options and eligibility prior to discharge (thus removing uncertainties and eliminating potential gaps in services). The existence of a broad array of community-based service options in these states also makes transition from nursing home care a more viable option. Other states with significant waiting lists for community-based services have implemented more limited transition activities, such as Florida, which focused on relocation to assisted living. As more states consider adopting nursing home transition programs, and other states consider whether to expand them, their effectiveness as a strategy for reducing unnecessary institutionalization will depend on the extent to which these disincentives are reduced or eliminated.

INTRODUCTION

Although nursing home care still consumes most public program spending for long-term care in the U.S., several forces have contributed in the past two decades to a decline in the nursing home resident population and an increase in provision of long-term care in home and community-based settings. Among these are state efforts to reduce overall Medicaid long-term care spending, the preferences of consumers and family members for non-institutional care, and pressures on state governments stemming from the 1999 Supreme Court decision (*Olmstead v. L.C.*, 2004) which required that people with disabilities receive community-based services, where reasonable, rather than be subjected to “unjustified institutional isolation.”

Medicaid finances nearly half of spending for long-term care services in the U.S.¹ The percentage spent for home and community-based services under Medicaid, as opposed to nursing home care, more than doubled between 1990 (13%) and 2002 (30%).² Nursing home transition programs which are being undertaken with active federal encouragement³ are targeted to Medicaid-eligible nursing home residents who are candidates for returning to community settings. They represent one of several strategies being undertaken by states to shift resources for long-term care from institutional to community settings.⁴ This and a related report⁵ draw on interviews with state Medicaid program officials and care planners for insight into the broad range of issues that arise at both the policy level, and on the front-lines of care planning, in moving individuals with significant long-term care needs from institutional to community care settings.

BACKGROUND

Initiation of Nursing Home Transition Programs

The initiation of formal nursing home transition programs began in the late 1990’s. Prior to this point, only a few states had procedures for identifying and assisting individuals in nursing homes in moving back to the community. Several federal initiatives spurred development of programs to promote nursing home transition:

Nursing Home Transition Demonstration Program made grants to 12 states between 1998 and 2000 to provide transition options to nursing home residents who wished to move back to the community. Funded by the Center for Medicare and Medicaid Services and the Office of the Assistant Secretary of Planning and Evaluation, grants could be used for direct services or administrative items that assisted transition. Common uses included methods for identifying interested patients and their families, paying one-time costs related to transition (e.g. security deposit for an apartment), and coordinating needed services in the community.⁶

Nursing Facility Transition Grants under the Systems Change Grants Initiative were funded in 2001 and 2002. These were of two types: grants to state programs to help individuals make the transition from nursing facilities to community care (12 awarded in 2001; 11 in 2002), and grants to Independent Living Centers to promote partnerships between states and these centers to support individuals in transitioning from institutions to the community (5 awarded in 2001; 5 in 2002).⁷ A variety of other activities aimed at

enabling people with disabilities to live independently in the community also were (and continue to be) supported under the Systems Change Grants.

New Freedom Initiative announced in 2001 called for a comprehensive assessment of federal policies, programs and regulations to identify barriers to independent community living for persons with disabilities.^{3,8} CMS announced a clarification in policy to allow Medicaid to pay for one-time expenses related to nursing home transition, such as security deposits and essential household furnishings.⁹

Some state nursing home transition efforts also are supported under other initiatives such as the *Money Follows the Person Rebalancing Initiative* which encourages broader redesign of long-term care and *Real Choice Systems Change Grants* intended to expand and improve community-based long-term care systems.¹⁰ Finally, predating these federally funded efforts was a 1997 initiative in Maine funded by the Robert Wood Johnson Foundation through its Building Health Systems for People with Chronic Illness Program to assist a small number of people between the ages of 18 to 59 in moving out of nursing homes.¹¹

Impact of Programs

Estimates of the number of individuals who have returned to community settings as a result of nursing home transition programs vary, but are generally small, in the low hundreds in most states.¹² This may reflect the newness of formal programs to encourage transition, as well as the challenges outlined in this report. At the same time, states such as Washington, have substantially reduced their nursing home population over the past 10 years through a combination of initiatives that included nursing home transition. An issue brief on Washington's nursing home transition activities reports that 200 individuals a month are assisted in moving from nursing facilities in Washington using a combination of transitional supports, and that Medicaid nursing facility residents declined by 1,400 over a 4 year period from 2000 to 2004.¹³

Nursing Home Transition Activities in Study States

Five states were selected and agreed to participate in this study: Florida, Louisiana, New Jersey, Ohio and Washington. Federal grants to support nursing home transition programs were awarded to each of these states in recent years, but the Olmstead Decision also figured prominently in some. The 1999 decision by the Supreme Court (*Olmstead vs. L.C.*)¹⁴ was seen as a major factor in developing a nursing home transition program in Louisiana, where the state was sued in 2000 by 5 individuals with long-term care needs (*Barthelemy v. Louisiana*) in one of the first Olmstead-like law suits. The settlement of the case resulted in substantial expansions to Louisiana's community services options including adding the personal care option to its Medicaid program, revising its long-term care eligibility assessment procedures, and developing strategies for identifying nursing home residents for transition to home and community-based services. Ohio's Access Success project also was a product of strategic planning by various state agencies that also involved a consumer-led Olmstead Task Force. In Florida, Olmstead was identified as "a backdrop" for nursing home transition activities. In both New Jersey and Washington, however, nursing home transition activities predated the Olmstead decision.

Federal grant support for nursing home transition and programs objectives in each state were as follows:

Florida received a Nursing Home Transition grant in 2000 focused on individuals with traumatic brain injuries and spinal cord injuries between the ages of 18 and 55;¹⁵ a transition program for this population continues to function through a state-established trust fund. Beginning in 2001, a nursing home transition program to relocate Medicaid nursing home residents to assisted living facilities via the Assisted Living for the Elderly Medicaid waiver program was established and is administered by the Department of Elder Affairs.

Louisiana received a Real Choice System Change Grant for Nursing Home Transition in 2002. The goals were to establish an infrastructure to assist nursing home residents to choose to return to their local communities, establish outreach and awareness campaigns to train and educate citizens and the media about long-term care options, and to develop educational tools to use in this process. Two nursing home transition coordinators, one in the north of the state and one in the south, were working on outreach and community education with the goal of moving 150 people out of nursing homes by the end of 2005.

New Jersey received a Nursing Home Transition Demonstration Grant in 1999, 18 months after the state initiated Community Choice, a program intended to counsel nursing home residents about home and community-based service alternatives and assist those who wanted to move out of a nursing home to do so.¹⁶ The grant was used to improve the program's infrastructure and to create an assistive technology fund.¹⁷ CMS awarded two new nursing facility transition grants in 2002 to improve supports for people under age 65 in leaving nursing homes.

Ohio qualified in 2002 for a preliminary 3-year award in response to their application for a Nursing Home Transition Grant. The Ohio Access Success Project was initiated in 2003 with the goals of developing a protocol to identify residents who are good candidates for transition, providing assistance with transitioning to community services and housing, building an ongoing database on community resources, and providing results of an evaluation to stakeholders. An initial 4 county pilot effort was planned. (Subsequent to this study Ohio began development of a waiver to transition nursing home residents to assisted living starting in 2007).

Washington has had a Nursing Facility Relocation program in place since 1995, predating recent federal initiatives. Nursing Facility Case Managers ensure that residents know about long-term care options and supports for transition. Funding sources to assist with transition include the Medical Institution Income Exemption Fund, the Residential Care Discharge Allowance, and the Assistive Technology Fund.^{13,18} A Nursing Facility Transition Grant received in 2001 was targeted to transitioning 300 people under the age of 65 to community care settings and strengthening the capacity of independent living consultants to provide support with community-living skills for such individuals.

STUDY APPROACH

The states selected for this study varied in how active and experienced they were in nursing home transition activities. Geographic diversity and variation in home and community-based Medicaid care options also were considered in selecting states for this study.

As Table 1 below indicates, the number of nursing home residents in each of the states selected for this study ranged from a low of about 20,000 in Washington to a high of almost 80,000 in Ohio. All states operated Home and Community-based (HCBS) waiver programs for elderly

people, but the numbers receiving services varied widely by state, as other studies have shown.¹⁹ The personal care option has been a Medicaid benefit in New Jersey and Washington for over two decades. Louisiana began offering the personal care benefit in 2003 as part of the settlement of an Olmstead-based lawsuit that challenged waiting lists for home and community-based waiver programs in the state. Unlike waiver services which can have limited slots available, the personal care option must be available to all individuals who are categorically eligible for Medicaid and meet eligibility criteria for the benefit (typically based on functional assessments to determine whether individuals meet a nursing home level of care).²⁰ The proportion of Medicaid long-term care spending going to nursing home care also varied across states, from a low of 42% in Washington to highs of 64% in Florida and 63% in New Jersey.

Table 1. Long Term Care System Characteristics of States (2003)

	Nursing home residents (#)	Elderly people on HCBS waivers (#)	Medicaid Personal Care Option	% of Medicaid LTC \$ spent on nursing home care
Florida	71,987	18,019	No*	59.3%
New Jersey	44,356	6,951	Yes	60.0%
Washington	19,968	30,519	Yes	38.1%
Ohio	79,839	24,448	No**	53.1%
Louisiana	29,151	992	Yes	48.7%

*Florida offers personal care services to low-income persons (no assets, ≤ \$671 a month) who need an integrated set of services on a 24-hour basis who live in licensed assisted living facilities, mental health residential treatment facilities, or adult family care homes through a program called Assistive Care Services.

** Ohio offers nursing, ADL assistance, and skilled therapy to individuals who qualify for Medicaid under two programs: Core Benefit (≤14 hours a week of nursing and ADL assistance combined) and Core Benefit Plus (over 14 hours a week with dollar limits).

Sources: Kitchener M, Ng T, Harrington C. Medicaid 1915c Home and Community-Based Services Waivers: A National Survey of Eligibility Criteria, Caps, and Waiting Lists. *Home Health Care Services Quarterly: The Journal of Community Care* 23 (3): 55-69, 2004. Kaiser Commission on Medicaid and the Uninsured and Urban Institute analysis of CMS-64 FY 2003 data.

Nursing home transition activities are located in different areas of government across states, but typically state Medicaid program officials are involved since a key objective is to reduce Medicaid expenditures for institutional care. In each of the states selected, interviews were conducted between July and December 2004, with state Medicaid officials who were knowledgeable about, and often responsible for, nursing home transition and related Medicaid long-term care services programs. Multiple officials participated in each interview which lasted on average about 1 hour. The interviews revealed several themes, but also considerable variation in approaches to implementing nursing home transition programs.

STUDY FINDINGS

Program Goals

Nursing home transition programs are viewed as one strategy to help reduce the high levels of Medicaid spending associated with nursing home care. Individuals who transition from nursing homes typically receive care in the community through Medicaid programs that are limited in

terms of per person spending and/or hours of care. In no instance would an individual in any of the study states, who transitioned out of a nursing home, be eligible for 24-hour care. Washington requires that community-based care not exceed 90% of the monthly nursing home rate with average spending per client at substantially less. Ohio uses 80% of monthly nursing home care costs as the ceiling on community care costs for nursing home residents who transition to the community. New Jersey caps per person spending and numbers of slots under its waiver programs. In Louisiana, New Jersey, and Washington the personal care option offers another source of funding for home and community-based services, but income and asset eligibility criteria are more stringent than for HCBS waiver programs. Louisiana also caps hours in the state’s personal care program at 56 per week.

State officials believe that nursing home transition programs provide individual Medicaid beneficiaries with more options, and often more appropriate options, for meeting their needs, in addition to achieving cost savings. State Medicaid officials emphasized that while cost savings were an important driving force, many individuals who are in nursing homes could be cared for appropriately in the community. An official in Ohio “wanted a nursing facility transition program that is consumer-directed; that enables choices about where the resident wants to live.” In New Jersey, the role of staff for the Community Choice Counseling program was described as “providing ongoing education and information to nursing facility staff to improve understanding of choice for the consumer to return to community living.” In Washington and New Jersey, officials stated that the potential pool of individuals who could transition appropriately was large and limited primarily by “personal motivation” and community supports.

“Nursing home transition programs are needed because people get stuck (in nursing homes).”
(New Jersey)

Considerations in Implementing Nursing Home Transition Programs

Motivation of individuals and their families, and the availability of a community support system that could supplement formal services, were seen as key factors in who transitions back to the community from nursing homes. These two factors were consistently mentioned by state Medicaid officials as the most important in who can transition back to the community from nursing homes. Officials in Washington and New Jersey, states with the most experience in nursing home transition, both emphasized that a key factor in successful transition was being “highly motivated to return to community living.” In Washington, seeing each Medicaid or Medicaid-eligible individual admitted to a nursing home soon after admission in order to discuss options and alternatives to nursing home care was seen a much more important than focusing transition activities on individuals with particular problems or care needs.

Like Medicaid home and community-based waiver programs, some nursing home transition programs are targeted to special populations. Florida initiated a program for individuals with traumatic brain injury, and both New Jersey and Washington initiated programs focused on individuals under age 65 in nursing homes. There was agreement among state officials that nursing homes were the least appropriate care site for younger people with disabilities. By and large, however, state policy-makers did not view diseases or age as useful criteria for targeting who could successfully transition from nursing home to community-based care. Dementia was not seen, for example, as precluding transition, although mental health issues and mental retardation were acknowledged as presenting greater challenges.

Policymakers see the need for nursing home transition programs as a remedy for perceived bias in favor of discharges for post-hospital care to skilled nursing facilities. Medicare routinely pays for post-hospital care in skilled nursing facilities (for persons who are dual eligibles). Arranging for in-home or outpatient post-acute care through Medicare or Medicaid home health in terms of authorizing coverage and coordinating services can be time-consuming and complex. Washington addresses this issue by having state-employed case managers visit all new Medicaid nursing home residents (or those likely to become Medicaid-eligible) within seven days of admission to review community-based options and supports for transition. This comprehensive approach was unique among the states in this study. New Jersey attempted to intervene even earlier in the process by sending trained individuals into hospitals in an attempt to influence discharge placement decisions. The circumstances under which these decisions were made often did not allow for planning and exploration of alternatives, however, and this initiative was dropped. Florida policymakers noted that intermediate access to waiver services after a hospital stay would make community-based care a more viable option.

“Nursing home placement is a quick, safe discharge for the hospital.” (New Jersey)

States without residential alternatives such as adult family homes or assisted living placements have fewer options available to nursing home residents who want to transition. Community housing options, such as subsidized public housing, are often limited and waiting lists of longer than a year are not uncommon. Washington offers adult family homes, in addition to assisted living placements, as residential alternatives but most states do not. The role of assisted living as an alternative, less institutionalized, residential setting for individuals transitioning from nursing homes varies across states.²¹ In Ohio, for example, Medicaid does not pay for personal care in an assisted living facility (although this would change under an Assisted Living Medicaid waiver being planned for 2007 to transition individuals from nursing homes). Florida, on the other hand, has used a Medicaid waiver program to transition individuals from nursing homes to assisted living facilities. New Jersey also can pay for services in assisted living under one of its waiver programs. In both states, however, the individual must pay room and board. In many areas of New Jersey these costs are high, and as a result, assisted living is not an option for Medicaid recipients.

State Medicaid officials were well aware that the nursing home industry has concerns about programs that could potentially reduce occupancy levels. New Jersey chose to avoid using “nursing home transition” in naming its program (Community Choice Counseling), in order to make it less threatening to the industry. Concerns by providers of institutional care about the implementation of nursing home transition programs were reported by all state officials. This was true even in Louisiana, where nursing homes also have a major role in staffing community-based care programs including those providing in-home meals, personal care attendants, and other HCBS waiver services. Stakeholder meetings with nursing home industry organizations were common in connection with state efforts to develop nursing home transition (or diversion) programs.

“Our approach is evolution not revolution. We don’t see closing beds.” (Ohio)

Stronger characterizations of the interaction between state program officials and the nursing home industry also were expressed (“we are battling the nursing home industry all the time about money” was how one state official described the response of nursing home providers to efforts to redirect more resources to community-based care). Although a CMS letter to State Medicaid

Directors²² encouraged states to reduce nursing facility beds “to assist a state in rebalancing its long-term care service system,” the letter also indicated this was not a requirement. None of the five states in this study had (or was seeking) the authority to close nursing home beds, and thus reduce institutional care capacity, as part of their transition programs.

Obstacles to Nursing Home Transition

State officials recognize that some aspects of Medicaid long-term care policies designed with nursing home care in mind, can present obstacles to a return to the community. Several were identified as important:

Spousal impoverishment protections favor institutional care in some states. Federal law requires that a community-resident spouse of a nursing home resident covered by Medicaid, be allowed to keep a minimum amount of income per month (\$1,603 as of July 2005) and to retain a share of the couple’s assets (the greater of \$19,908 or half of the couple’s joint assets up to \$99,540).²³ States make the determination concerning whether to extend these same protections to spouses of individuals in Medicaid community-based care programs. Ohio, Washington and Louisiana extend nursing home spousal protections to married Home and Community-Based waiver participants. New Jersey does not however. Florida which limits its nursing home transition program to individuals who are moving from nursing homes to assisted living facilities, also does not protect against spousal impoverishment for married individuals who make this transition. An evaluation of Florida’s program noted that this may be one reason that the percentage of married Medicaid recipients is substantially higher in nursing homes than in assisted living (21% of the Medicaid long-stay nursing home population were married compared to 5% of the Medicaid Assisted Living for the Elderly waiver population²⁴).

Requirements to liquidate assets in exchange for Medicaid coverage of nursing home care may prevent retention of community housing. Lack of affordable community housing can be a major obstacle to leaving a nursing home. Washington addresses this issue through a Medical Institution Income Exemption which allow individuals on Medicaid who enter a nursing home to retain income for purposes of maintaining a community residence for 6 months with a physician’s certification that the resident is not likely to require a stay beyond that time period (individuals who enter and spend-down to Medicaid are not eligible for this exemption until covered however). Other states did not have policies to address the potential conflict between asset liquidation and return to the community. For example, initially Ohio’s plans for a transition program were focused on individuals who had been nursing home residents for 18 months or longer (this length of stay requirement was removed in October 2005). Asset liquidation rules, however, require Medicaid-covered nursing home residents to sell their house (unless a spouse is in residence) after one year.

Barriers related to use of Medicaid funds for community housing expenses are being addressed, but remain an issue. Recognition that expenses related to setting up a household in the community were a potential obstacle to re-establishing community residence led to a CMS policy clarification in 2002 that Medicaid could pay for certain one-time expenses, such as security deposits and essential household furnishings, for individuals transitioning out of nursing homes. Ohio, Florida and Louisiana have (or plan) to add one-time relocation costs to Medicaid waiver program services. New Jersey and Washington have state funds available for this purpose (and receive federal Medicaid matching funds to defray some of the costs.) In Washington up to \$800

per client per move can be used for anything that is a barrier to discharge. As a policymaker from Ohio noted, however, working with vendors who are not traditional providers under Medicaid, such as the Salvation Army for home furnishings, or utility companies, is a challenge. Ohio's solution is to look for a fiscal management entity to handle payments to these nontraditional vendors. The amounts available for relocation costs range from \$600 per person in New Jersey to \$2,000 in Ohio.

Individuals in nursing homes still have advantages in qualifying for Medicaid over nursing-home eligible community residents. Access to Medicaid coverage for community-based services, relative to nursing home care, is more restricted even when eligibility criteria are the same because of caps and waiting lists for waiver programs. For Medicaid's personal care optional benefit programs, states use financial eligibility criteria that remain much stricter than for nursing home care. Eligibility for Medicaid programs offering LTC services is based on financial criteria (income and assets) and functional criteria (requiring nursing home level of care based on a functional assessment).²⁵ Financial criteria are usually the same for nursing home residents and Medicaid Home and Community-based waiver programs, and set at higher income (e.g. 300% of SSI) and asset levels than for the personal care optional benefit. In addition, spend-down criteria which represent another pathway to Medicaid eligibility in nursing homes often are not available to persons seeking coverage for community-based services. In New Jersey, for example, individuals in nursing homes (or applying for admission) with incomes above the Medicaid qualifying limit can qualify based on spend-down criteria for coverage (under the Medicaid Medically Needy Program). There is no comparable spend-down program available to community-resident individuals seeking services through the home and community-based waiver program. Washington's Medically Needy Residential Waiver program (new in 2003) extended the criteria for spend-down to Medicaid eligibility beyond nursing home residents, to include individuals in the community, but only those in adult family homes, assisted living, or enhanced adult residential care facilities.

“You have to have a waiver to live in the community, but you can go right in to a nursing home.” (Louisiana)

Nursing home residents face uncertainties about Medicaid eligibility and the extent of services they can qualify for if they return to the community. Eligibility for home and community-based services for nursing home residents who return to community settings often has to be re-established. Furthermore, until residents are evaluated, the amount of care they will receive (e.g. hours of service) cannot be determined. In addition, at present Medicaid does not cover case management services to individuals in nursing homes for purposes of determining eligibility for home and community-based services. This creates something of a Catch-22 in which it cannot be determined whether an individual will qualify for the services needed to transition out of a nursing home, until the person has already moved. To avoid this problem, Washington and New Jersey use state funds to pay for social workers to make these evaluations for individuals while they are still nursing home residents. Other states feel they do not have the resources to review all nursing home residents for potential to transition, and instead focus their efforts on individuals who are referred by family members or nursing home discharge planners. States that rely on referrals to community-based care planners as a means of identifying individuals who want to transition, such as Florida and Louisiana, have requirements that these individuals be evaluated for waiver (or other programs) within a specified time frame after return to the community. Nonetheless gaps in services result due to the process of determining eligibility, assessing needs, and getting services in place.

Waiting lists for community-based care are a significant problem in some states (but not all), and a potential barrier to nursing home transition. Waiting lists for community-based long term care are a significant problem in some states, but they also fluctuate over time. Where waiting lists exist, the issue of whether nursing home residents transitioning to the community receive priority for home and community-based services becomes an issue. In Louisiana, in response to the Barthelemy lawsuit, individuals in a facility or within 120 days of admission to a nursing home now have preference for community-based care slots over others. Nursing home residents who qualify for the Medicaid personal care optional benefit (Long-Term Personal Care Services inaugurated in 2003) are able to return to the community and receive services through this program without delay. There remains a substantial waiting list, however, for those who qualify for Louisiana's waiver program but not for the personal benefit, even though nursing home residents take priority. Florida also gives priority for assisted living facility placement to individuals covered by Medicaid who are transitioning from nursing homes. Due to expansions there are currently no waiting lists for home and community-based waiver programs in Florida, although as recently as 2003 a report to the Florida Senate indicated there were no slots available in the Assisted Living Elderly waiver.²⁶ Ohio has waiting lists for some but not all of its home and community-based waiver programs. Officials in New Jersey and Washington reported no waiting lists at present (New Jersey has waiting lists in the past) but note that all programs have limited numbers of slots available.

CONCLUSION AND DISCUSSION

States vary in their enthusiasm for nursing home transition programs. Washington and New Jersey are examples of states that give high priority to this issue; using state resources to employ care planners who identify and counsel nursing home residents on community care options. (The fact that Medicaid does not pay for care planning of this type within nursing homes was noted by several state officials). States such as Louisiana and Ohio represent a middle ground, with resources going toward efforts to inform people about options for transition (e.g. 800 numbers; in Louisiana a state-wide registry for individuals requesting home and community-based services), but an approach that is primarily responsive to family members or nursing home discharge planners who contact care planners regarding individuals who want to transition, rather than one that is proactive. Florida is concentrating on transitioning individuals from nursing homes to assisted living, rather than to home and community-based care. Florida also has chosen to concentrate its resources on nursing home diversion as its primary means of reducing unnecessary institutionalization.

Regardless of these differences, however, officials in these states also held many views in common regarding nursing home transition. They emphasized the importance of individual and family motivation and the availability of a community support system in successful transition from nursing home to community care (care planners later reinforced the importance of informal caregivers). They perceived the hospital discharge process as biased in favor of nursing home placement. State officials also recognized many of the barriers to nursing home transition that were identified subsequently in interviews with care planners. Some of these, such as lack of affordable housing, are outside their scope of influence, but many have to do with Medicaid policies. Differences in eligibility criteria for nursing home residents and persons in community settings have been substantially reduced but some remain, such as medically needy provisions

that apply in one setting but not the other. In addition, spousal impoverishment protections for nursing home residents are not always extended to spouses of waiver participants, and requirements to liquidate assets in exchange for Medicaid coverage of nursing home care may hinder community return. Not surprisingly, states that place the highest priority on nursing home transition programs, have taken steps to reduce the disincentives to nursing home transition (e.g. Washington's Medical Institution Income Exemption which allows individuals on Medicaid who enter a nursing home to retain income for purposes of maintaining a community residence for 6 months with a physician's certification that the stay is unlikely to be longer).

Availability of placements in Medicaid home and community-based waiver programs is limited in all states. Whether there are waiting lists, and how this affects persons transitioning from nursing homes, varies. Some states had no waiting lists at the time of the study (Washington and New Jersey) although they have had in previous years (New Jersey). Florida had waiting lists for both its home and community-based waiver programs and its assisted living waiver, but these have since been eliminated by expansions to these programs. Louisiana has a waiting list for its waiver program, but enacted the Medicaid personal care optional benefit in 2003 (in response to an Olmstead-like lawsuit) and individuals who qualify can receive services without delay. Ohio has waiting lists for some programs but not all. Where waiting lists and scarce resources (as in some rural areas) occur, they affect nursing home residents who want to transition and community residents seeking home and community-based services alike.

Nursing home transition programs are one of several strategies being pursued by states to reduce Medicaid long-term care expenditures, comply with the Olmstead decision, and respond to preferences of consumers and their families. Most programs have relocated relatively small numbers of nursing home residents. Nonetheless, officials in the study states viewed these programs as worthwhile. Obstacles to the effectiveness of nursing home transition programs also were identified and included various disincentives that arise from Medicaid long-term care policies and limited community-based care options. States like Washington and New Jersey have invested in reducing these disincentives, for example by using state funds to assess service options and eligibility prior to discharge (thus removing uncertainties and eliminating potential gaps in services). The existence of a broad array of community-based service options in these states also makes transition from nursing home care a more viable option. As more states consider adopting nursing home transition programs, and other states consider whether to expand them, their effectiveness as a strategy for reducing unnecessary institutionalization will depend on the extent to which these disincentives are reduced or eliminated.

Endnotes

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² Annual memo by Brian Burwell et al. on Medicaid Long Term Care Expenditures. Available at <http://www.hcbs.org/files/71/3540/Memo.pdf#search='burwell%20long%20term%20care%20expenditures%20memo%202003'>

³ The New Freedom Initiative. Executive Order 13217. Available at <http://www.cms.hhs.gov/NewFreedomInitiative/>

⁴ Summer L. 2005. Diversion efforts in states: Strategies to keep consumers needing long-term care in the community and out of nursing facilities. At <http://www.kff.org/medicaid/upload/Strategies-to-Keep-Consumers-Needing-Long-Term-Care-in-the-Community-and-Out-of-Nursing-Facilities-Report.pdf>

⁵ Nursing Home Transition Programs: Perspectives of Care Planners on Challenges in Returning Nursing Home Residents to Community Care Settings. Kaiser Commission on Medicaid and the Uninsured, March 2006. Available at <http://www.kff.org>

⁶ See reports on various state experiences for the Assistant Secretary for Planning and Evaluation Office of Disability, Aging and Long-term Care Policy. For example, New Jersey at <http://aspe.hhs.gov/daltcp/reports/NJtrans.htm> and Wisconsin at <http://aspe.hhs.gov/daltcp/reports/WItrans.htm>. Reports can also be found at the Centers for Medicare and Medicaid Services Promising Practices in Home and Community-Based Services <http://new.cms.hhs.gov/PromisingPractices/HCBSPPR/list.asp>.

⁷(See www.pascenter.org/systemschange for specific state awardees and grant amounts; reports on grant activities under the Systems Change Grants are at <http://new.cms.hhs.gov/RealChoice/downloads/compendium.pdf>).

⁸ See <http://new.cms.hhs.gov/NewFreedomInitiative/downloads/NFIAccomplishments.pdf>

⁹ State Medicaid Director letter of May 9, 2002 from CMS at <http://new.cms.hhs.gov/smdl/downloads/smd050902a.pdf>

¹⁰ Detailed descriptions of nursing home transition activities at the state-level under all of these programs are provided at www.pascenter.org/systemschange and in the Real Choice Systems Change Grants Compendium Fourth Edition at <http://new.cms.hhs.gov/RealChoice/downloads/compendium.pdf>

¹¹ Saucier PJ, Bolda EJ, Rishards MF, Keith RG. 2001. Evaluation of Alpha One Independent Living Center's Home to the Community Demonstration Program.

¹² See reports on various state nursing home transition programs at www.aspe.hhs.gov/daltcp/reports. Examples include Community Choice: New Jersey's Nursing Home Transition Program; The Homecoming Project: Wisconsin's Nursing Home Transition Demonstration, One-to-One: Vermont's Nursing Home Transition Program.

¹³ Washington – Facilitating Nursing Facility to Community Transitions at <http://new.cms.hhs.gov/PromisingPractices/Downloads/wa-offvar.pdf>

¹⁴ See <http://www.kff.org/medicaid/upload/Olmstead-at-Five-Assessing-the-Impact.pdf>; <http://www.kff.org/medicaid/upload/Olmstead-v-L-C-The-Interaction-of-the-Americans-with-Disabilities-Act-and-Medicaid.pdf> for the impact of Olmstead on states and Medicaid programs.

¹⁵ Schaefer, M and Eiken, S. 2003. Partnerships for Community Living: Florida's Nursing Home Transition Program. At www.aspe.hhs.gov/daltcp/reports

¹⁶ Eiken S. 2003. Community Choice: New Jersey's Nursing Home Transition Program. At www.aspe.hhs.gov/daltcp/reports

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¹⁸ Mollica RL. Building Nursing Home Transition into a Balanced Long Term Care System: The Washington Model. At www.nashp.org

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²² CMS Letter to State Medicaid Directors. August 17, 2004. DHHS. SMDL #04-005 <http://63.241.27.79/states/letters/smd081704.pdf>

²³ http://www.cms.hhs.gov/MedicaidEligibility/09_SpousalImpoverishment.asp#TopOfPage

²⁴ Street D., Quadagno J., McDonald S. and Burge S. 2003. Moving from Nursing Home to Assisted Living: An Evaluation of the Medicaid NH Transition Pilot and its Implications for Policy-Makers. Final Report to the State of Florida, Agency for Health Care Administration, Contract No. M0335.

²⁵ See Schneider, A., Fennel, D., and Keenan, P. 1999. Medicaid Eligibility for the Elderly. Issue Paper for the Kaiser Commission on Medicaid and the Uninsured, May, Pub. No. 2145; Schneider, A., Strohmeyer, V., and Ellberger, R. 2000. Medicaid Eligibility for Individuals with Disabilities. Issue Paper for the Kaiser Commission on Medicaid and the Uninsured, May, Pub. No. 2187;

²⁶ CARES 2003. Comprehensive Assessment & Review for Long Term Care Services (CARES). A Report to the Florida Legislature. December 31, 2003. http://www.fdhc.state.fl.us/Medicaid/deputy_secretary/recent_presentations/cares_annual_report_123103.pdf#search='Florida%20CARES%202003'

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