



October 16, 2014

Mr. Jason A. Helgerson  
Medicaid Director  
New York State Department of Health  
Corning Tower, Empire State Plaza  
Albany, New York 12237

Re: Provision of hospice care in New York State licensed Assisted Living Programs (ALPs)

Dear Mr. Helgerson:

We submit this letter together as a request that the Department of Health reconsider and change its policy with regard to the provision of hospice care for Medicaid-eligible individuals residing in Assisted Living Programs (ALPs). The policy set forth in Administrative Directive 02 OMM/ADM-6, dated November 22, 2002 to local Commissioners of Social Services (attached), essentially prevents a Medicaid-eligible person from accessing both ALP services and hospice at the same time. We feel strongly that it is time to revisit this issue and find a better solution to ensure that all individuals, regardless of payer source, have access to the services they need. We would appreciate the opportunity to meet with you and your staff to discuss the topic in more detail.

As part of the Medicaid Redesign Team (MRT) process, Governor Cuomo and the New York State Legislature accepted MRT proposal #209 with the stated goal to “expand hospice” for Medicaid recipients. In addition to being consistent with the tenets of Medicaid redesign, increasing and/or improving access to hospice services is both socially and fiscally responsible. It affords individuals who are at the end of life the opportunity to choose to receive palliative care and symptom management using hospice rather than receiving very costly curative treatment that may not work and/or improve their quality of life.

The Department’s 2002 guidance that an ALP provider may not receive Medicaid reimbursement while a resident is receiving hospice services has created a significant barrier to access. As a result, ALP residents have not had access to end-of-life care because they may not be able to continue living in the ALP while receiving hospice services, have given up hospice services that they were receiving prior to becoming Medicaid eligible, or have had to relocate to a more costly nursing home or hospice residence in order to access the hospice benefit. We know that transitions for seniors are extremely stressful, often resulting in severe transfer trauma. Such a transition at the end of life, from a place they consider home, is often harmful to the person and his/her family. It is also fiscally detrimental to the payer.

Most ALP residents are dually eligible, and the current State policy denies them appropriate access to their Medicare entitlement. This is inconsistent with the State’s goal to achieve the triple aim of better health, better care and lower costs. We are not aware of any other state where such a barrier exists in the assisted living setting. Moreover, the Department’s position that hospice services and many ALP services are duplicative, as stated in the 2002 Administrative Directive, is not correct.



There are a number of facts and factors that, we believe, support our position that the policy should be revisited and changed, and it would be beneficial to meet with you to discuss them in Detail. We would greatly appreciate the opportunity, and will contact your office soon to make the arrangements.

In the meantime, thank you for your time and consideration.

Sincerely,

Lisa Newcomb  
Executive Director  
Empire State Association of Assisted Living

Kathy A. McMahon  
President and CEO  
Hospice and Palliative Care Association of NYS

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cc. Dan Sheppard  
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