

POLICY POSITION
PENNSYLVANIA ASSOCIATION OF AREA AGENCIES ON
AGING, INC.

Long Term Living Services

(Final, Ratified October 27, 2009)

BACKGROUND NARRATIVE

Since the 1970's Pennsylvania's local Area Agencies on Aging, commonly referred to as the Aging Network, have played a significant role in what has been traditionally called the Long Term Care system. Since its inception, the Aging Network" has worked diligently to develop a wide range of services designed to meet the medical, personal and social needs of older adults (individuals age sixty and over).

While traditionally the term "Long Term Care" causes most to think of care and services provided to older adults in an institutional setting, such as a nursing home or personal care home, in reality the Aging Network works to coordinate and render services to older adults in a variety of settings, including private homes, senior community centers and adult day centers. Help received in such settings is called Home and Community Based Services. The image of Long Term Care services being available only in an institutional setting was fostered in part by the Commonwealth's history of allocating public funds (i.e., Medical Assistance dollars) primarily to services provided to older adults in a nursing home, rather than in the comfort of their own home. This long standing practice enabled Pennsylvania to develop a reputation as being neither supportive of, nor committed to, exploring funding service alternatives to institutional-based care.

In recent years, however much effort has gone into reversing this practice whereby , Pennsylvania has begun to take the steps necessary to commit itself to 'rebalance' the Long Term Care system. This 'rebalance' is being accomplished through policy development and program enhancements designed to provide older adults with access to publicly funded services in one's own home as opposed to in an institution. As a result of these efforts, Pennsylvania replaced the term "Long Term Care Services" with "Long Term Living Services"; and in 2006 the Office of Long Term Living, which operates under the Department of Aging and the Department of Public Welfare, was created. The co-positioning of the newly formed Office of Long Term Living illustrated the State's historical reliance to provide publicly funded services in an institutional setting; demonstrates its new commitment to allow publicly funded services to be provided in a home and community based setting rather than in an institutional one; and takes into consideration that in addition to older adults, adults with physical disabilities also utilize home and community based services as alternatives to institutional care.

Currently, there is pending legislation in the General Assembly to combine the responsibilities of the current Department of Aging and Office of Long Term Living into a single, cabinet level Department of Aging and Long Term Living. The Aging Network continues its commitment to serve older adults in the setting of their choice and is poised to enable the Commonwealth to move forward so that Pennsylvania alters its reputation by continuing on the path to becoming a leader in providing person-centered home and community based services which support service recipients who desire to live independently in the setting of their choice.

PROBLEM STATEMENT

In addition to older Pennsylvanians, persons with disabilities under 60 years of age need to access home and community based services as an appropriate alternative to institutional care. It has been recognized that these service recipients often struggle to navigate the long term living system and have difficulty in identifying, coordinating and receiving services in a setting they prefer - home. Grassroots efforts by the Aging Network and community agencies, such as the Centers for Independent Living, have made some progress in recent years to work collaboratively in order to improve the ability of individuals in need of services to enjoy the freedom and comfort of living in their own homes while receiving quality, appropriate and affordable care through the provision of Home and Community based services.

Beginning with anecdotal history documented by a report of the Pennsylvania Intragovernmental Council on Long Term Care, and reinforced by a recent AARP study, it has been consistently emphasized by focus groups held throughout the Country and across the Commonwealth, that the three values most highly agreed upon by participants are:

1. Remaining at home as long as possible
2. Respect and dignity for the individual
3. Consumer choice

Furthermore, the tangible evidence bears out the critical need for the Commonwealth to develop and adequately fund a full continuum of services via a system that supports and funds a wide variety of programs/services, rather than not solely relying on high-cost institutional care.

What does the tangible evidence include?

- The number of persons needing long-term care services is growing. Pennsylvanians age 60+ grew nearly twice as fast as the rest of the population in the last 20 years. Projections indicate that between 1990 and 2010, people age 85+ will increase by 83%, which typically is a segment of the population needing vast amounts of services and support
- Government is the primary payer of services rendered and the costs are increasing at an alarming rate.
- People prefer to be served in home and community based settings.

- People want to exercise their right to choose how and where they will receive needed services.

In addition, the still evolving process toward implementing a broad-based long-term care services system has brought new burdens and challenges to employers and the workforce. With 75-80% of long-term care provided by friends and family members, particularly women; and considering that Pennsylvania has more home health aides and nursing aides per 100,000 people age 65 + compared to the U.S., but fewer personal care aides, the challenges and pressures of balancing work with family while maintaining an adequate work force to staff the service needs of those desiring to receive their care at home will continue to increase.

Critical also to this discussion is the 1999 Supreme Court decision, *Olmstead v. L.C.*, which has accelerated the shift of state and national policy toward home and community-based services. In *Olmstead*, the Court ruled that the unnecessary segregation of individuals in long-term care facilities constitutes discrimination under the Americans with Disabilities Act. States are required, when it is appropriate and reasonable, to serve individuals with disabilities in community settings rather than in institutions. *Olmstead* affects those at risk of institutionalization as well as those currently institutionalized. Therefore, any reform efforts brought on by the decision must involve changes not only to the provision of services but also to housing, transportation and other fundamental support services that are essential to fully integrate individuals with disabilities of all ages into the most least restrictive settings.

GOAL:

The Aging Network's goal is to continue to build upon its solid foundation while embracing the State's new direction to build and support person-centered alternatives to institutional care while improving how and where long term living services are provided.

Recognizing that the Aging Network is host to a local service provider network which works to provide a coordinated and broad range of home and community based services that addresses the medical, personal and social needs of the individual, the need to continue to collaborate with the Commonwealth in order to achieve consistency in our responsiveness to meeting the needs and desires of the individuals we strive to serve. In order to remain responsive to the stated values of those we serve and to those who will be served in the future, it is our intent to continue to treat individuals in need of long term living services with dignity and respect while, remaining supportive of their right to choose where their services and supports will be delivered.

THE POSITION

The Pennsylvania Association of Area Agencies on Aging (P4A) has adopted the following specific elements of its policy position on Long Term Living Services:

1. **Develop a Long Term Living System that is Person-Centered**

P4A has long held, and strongly endorses, the “Principles of the Ideal Long Term Living System for Pennsylvania’s Older Adults” formalized by the Southwestern Pennsylvania Partnership for Aging (SWPPA). The core among these principles is that the ideal long term living system must be person-centered, maximizing individual dignity and autonomy. Quality of life must be the primary consideration in the development and administration of programs and services for all long term living recipients.

2. **Provide Fair and Consistent Access to Medicaid funded Home and Community Based Services (HCBS) and Nursing Facility Services**

In determining financial eligibility for Medicaid (also called Medical Assistance) Long Term Living services, income is treated differently for Nursing Facility Care than it is for home and community based services (HCBS) under a Medicaid waiver. While the monthly income limit for both is set at \$2,022 (300% of the SSI payment level), CMS rules allow states to anticipate the cost of nursing home care for residents of a facility and to use that anticipated expense as a deduction in order to make individuals eligible for nursing home payment. However, for HCBS, CMS does not allow anticipated costs and therefore, individuals whose income exceeds the 300% limit are ineligible, and can not “spend down” the excess income above the 300% level to become eligible. They can become eligible only if

they spend down to the regular Medicaid 2008 income limit of \$664.40/month (100% of the SSI payment level). Pursuing a waiver to bring these eligibility rules in line would make HCBS a viable option for individuals who currently can only qualify financially for nursing facility care.

Another factor that promotes nursing home placement is delayed financial eligibility determination. The requirement of a 24 hour turnaround by the County Assistance Offices on preliminary financial eligibility determinations for HCBS Waiver candidates should be expanded statewide.

3. **Explore the Creation of Supported Housing Alternatives**

The desired and necessary growth of home and community based services requires additional housing resources and additional senior and disability supportive services programs. In order for people to remain in the community they will need access to safe, affordable and accessible housing. The commitment of the Commonwealth and the PA

Housing Finance Agency to look at housing as more than a roof over one's head, whereby housing services can provide places of opportunity, growth and hope, combined with the Commonwealth's establishment of a Task Force to address these issues is commendable.

In addition to housing development, the issue of adequate financial support for Personal Care Homes and the pending implementation of Assisted Living in Pennsylvania must also be addressed. An increase in the State Supplement is essential to attracting additional SSI beds; while allowing Personal Care Home residents to 'age in place' with Waiver Services rather than moving into a nursing home would yield immediate Medicaid savings; and a separate Medicaid Waiver for Assisted Living Residents is also necessary since there is the possibility that demand for these services could overwhelm the existing HCB Waiver program.

4. Intervene Early to "Stop the Slide".

It is essential that the AAA Aging Care Managers or the disability service organization Service Coordinator be the point of entry for those seeking long term living services. All too often, anxiety, stress and fear combined with a lack of knowledge forces individuals and families to choose placement into a nursing home rather than home based care; while "temporary nursing home placements" frequently unintentionally and unnecessarily evolve into permanent placement situations. The AAAs and disability service organizations must be positioned to discuss options with everyone - not just engage in conversations with those who have modest or no assets. This early contact does not mean that a Comprehensive Assessment needs to be completed, rather having very early contact (in a home or hospital setting) to help people understand their long term living service would significantly reduce nursing home placements.

The following public policy initiatives are essential to help "stop the slide" into nursing facilities:

- **Enhance the Gate-Keeping role for AAA's** – As a network, Area Agencies on Aging have no financial interest in nursing home growth. While the need for nursing facilities will always be needed, AAAs are committed and motivated to support and counsel individuals and their caregivers who choose to receive care and services in the setting of their choice for as long as possible.
- **Adopt DPW Regulations Requiring Assessments 12-months prior to Spend-Down to Medicaid Eligibility** – Providing screening for individuals who have twelve (12) months of assets is essential as this requirement will allow people be educated about their long term living options while they have still have resources necessary to maximize these choices.
- **Pre-Authorize Nursing Facility services through AAA's** – An individual who is currently assessed as Nursing Facility Clinically Eligible (NFCE) and receives

service in the community must have his/her level of care reassessed annually. Contrary, an individual who is assessed as NFCE and moves into a nursing home with Medical Assistance as primary payer is never reassessed again. It is critical that all MA recipients in nursing facilities participate in a level of care reassessment with an AAA Assessors at least annually and more often for short-term admissions, and that AAAs receive adequate funding to perform these reassessments.

- **Continue to Strengthen and Enhance the Nursing Home Transition Program** - There is a need to continue to provide support for individuals who have been in a facility and desire to return to the community. The success of current efforts shows that there are many individuals who have been in nursing facilities for lengthy periods of time but are unable to return home with appropriate supports. The authority of AAAs and disability service organizations must be strengthened so that access to nursing facility residents is guaranteed.
- **Implement Intensive Care Management of Short-term Nursing Facility placements** – AAAs and disability service organization coordinators must closely follow those individuals who have short term NFCE levels of care. This management will encourage and strengthen their family supports, allowing them to remain in place so the individual can return home after a “short stay”.
- **Maintain Consumer-Friendly Care Management** -- Care Management must be comprehensive, simple and respectful to the individual and his/her family. It is critical that contact by care managers be quickly and easily accessed through a single telephone call. For over thirty years, Pennsylvania’s AAA network has demonstrated their unique qualifications to perform and/or to supervise this function.
- **Emphasize Consumer-Directed Models** – This is a cost effective way to do business and also gives the individual “consumer” increased choice and control. Consumer-Directed Models also expand the direct care worker pool and are frequently better equipped able to provide services at irregular times and on weekends than the traditional Agency Model.
- **Add More Services to the State Medical Assistance Plan** – Services such as Adult Day Care and Personal Care should be added to the State’s Medicaid Plan so that low income individuals could receive the service without having to be eligible and enrolled into a Waiver program.
- **Emphasize Preventive Services** – Judicious use of preventive services through the Options program and Senior Community Centers can prevent or delay deterioration in a consumer’s condition, and therefore the need for more expensive services.
- **Continue the Statewide Expansion of the LIFE Program and Continue Efforts to enhance mutual collaboration between LIFE Programs and the**

AAAs. -- The LIFE Program offers a unique combination of supports and services. It is essential that AAAs and LIFE programs continue collaborate and build relationships in order to ensure that individuals who meet the eligibility requirements for the LIFE Program have the opportunity to choose to participate in this nursing home diversion program.

- **Ensure that Financial Management Services (FMS) Contractors Take Full Responsibility for Servicing Consumers.** -- FMS contractors must have the capacity to fully meet the financial management needs of their consumers, even if a home visit is required. FMS contractors must not be allowed to evade their responsibilities in a manner that places undue and unfunded burden on other agencies.

5. **Provide for Adequate Funding of Home and Community Based Services.**

Increased Lottery budget requests and appropriations should be used to fully fund the intrastate funding formula, while maintaining the hold harmless provision, and thus place all AAAs at an “equity” funding level. In addition, the need for funding for HCBS should be reviewed annually to ensure adequate appropriations of Medicaid State Match Aging Block Grant, General Fund, Lottery, Tobacco Settlement and HSDF (Human Service Development Fund). Continuing to shift the use of public long-term care dollars to lower-cost home and community based service alternatives for people of all ages will uphold the values of every Pennsylvanian as documented in reports by the Pennsylvania Intra-governmental Council on Long Term Care and AARP. Requiring all state agencies to implement and enforce the mandates of the OLMSTEAD decision will ensure provision of the most desired, least restrictive, and most economical long-term care services to Pennsylvania citizens.

6. **Support legislation currently under consideration regarding Family Caregiver Support Program**

The State-funded Family Caregiver Support Program has more restrictions than the Federal portion, resulting in under spending. Legislation has been introduced to make the State portion similar to the Federal side. Enactment of this legislation is essential to the development of the FCSP, which enables families to stay together in a very cost-effective manner.

7. **Continue and Reinforce Workforce Development Efforts, including Support the for Working Caregivers and their Employers.**

Recruiting and retaining a qualified workforce is necessary in order to facilitate a comprehensive system of HCBS. This will also ensure that their caregiving is recognized and maintained as an integral and necessary segment of this long-term care services system. Rates continue to escalate for personal care, adult day care, and home health at a time when workforce issues necessitate more competitive salaries and

benefits for all home care workers. These costs continue to rise disproportionately to the cost of living, yet critical staffing shortages exist at all levels of the service delivery network.

CONCLUSION:

While significant progress has been made in developing a system of home and community based care in Pennsylvania that allows individuals over 60 years of age and adults with physical disabilities to access support services designed to enable them to live independently in the community, work still needs to be done to remove the policy barriers which impede progress and to create the flexible funding streams needed to curb nursing home expenditures. A critical element in the progress achieved to date has been the gate keeping and care management role performed by the Aging Network. We believe that Area Agencies on Aging, with their experience and expertise, their trusted and strong community presence, will continue to be uniquely positioned to provide the needed care and service coordination in the most efficient, consistent and cost-effective manner.

P4A

Representing Pennsylvania Network of 52 AAAs & the Older Pennsylvanians They Serve

525 South 29th Street

Harrisburg, PA 17104

Telephone: (717) 541-4214; Fax: (717) 541-4217

Website: www.p4a.org