

May 15, 2009

The Honorable Russ Feingold
Senate Finance Committee
Washington, DC

Subject: WAHSA Comments on the Senate Finance Committee's Document: *Transforming the Health Care Delivery System: Proposals to Improve Patient Care and Reduce Health Care Costs*

Dear Senator Feingold:

Thank you for seeking our comments on the above referenced document. I respectfully offer the following brief observations and suggestions on three selected long term care related items contained in the document.

- **Medicare Home Health Agency and Skilled Nursing Facility Value-based Purchasing Implementation Plans (page 5):** WAHSA supports efforts to link payments to quality. In the provision of long term care, WAHSA believes that two factors must be considered as potential quality measures or indicators. First, it is impossible to provide high quality care and enhanced quality of life for persons in need of long term care without adequate staffing. In Wisconsin, we have experienced a near complete disconnect between staffing and payment for our skilled care facilities. The federal Department of Health and Human Services released a study in 2000 that it conducted at the Congress' direction which concluded the optimal nursing staffing level is 4.10 nursing hours per resident day. Yet, the Wisconsin Medicaid program reimburses nursing homes, on average, at a rate sufficient to staff at 2.78 nursing hours per resident day. We need to better link payments with staffing. Second, value-based systems should ask the consumer about their level of satisfaction with the care and services provided. By incorporating resident satisfaction measurements we can ascertain a firsthand account of how well providers are performing.
- **Hospital Readmissions and Bundling (page 13):** WAHSA urges the Senate Finance Committee to reject proposals to bundle acute and post-acute Medicare payments, particularly if doing means that hospitals will be given the responsibility to "manage" these dollars. Simply bundling these dollars is not an effective way to manage the long term care needs of elderly persons. This idea narrowly and wrongly embraces the notion that long term care is about managing short-term (30-day), episodic care. Most elderly persons in need of long term care often have ongoing, complex needs. After a hospital stay, these individuals frequently require extensive rehabilitation or restorative services, medication assistance and monitoring, assistance with activities of daily living, and ongoing medical care.



Instead of bundling short-term payments, the Committee should pursue ways to expand the PACE and Partnership programs, as implemented under Wisconsin's Family Care program. These programs, effectively integrate the delivery of health *and* long term care for frail elderly and people with disabilities with the goals of: improving the quality of health care and service delivery while containing costs; reducing fragmentation and inefficiency in the existing health care delivery system; and increasing the ability of people to live in the most appropriate setting and participate in decisions regarding their own health care. WAHSA strongly urges the Committee to reject the limited bundling concept and instead provide funding/authorization for non-profit organizations to expand PACE and Partnership programs. {See: <http://dhs.wisconsin.gov/wipartnership/>}

- **Nursing Home Transparency (Page 29):** WAHSA and its national association, the American Association of Homes and Services for the Aging (AAHSA), have previously voiced support for national reporting on nursing home staffing (note above comments on staffing, quality and payment). We also support transparency efforts related to ownership, projects to expand nursing home culture change and building the use of technology in long term care.

With respect to the Nursing Home Compare Website, we question the value of posting the entire Form 2567 on the website. Increasingly, the state survey results are often not an accurate reflection of the overall quality of care provided by many facilities. If this survey information is posted in its complete form, however, then we respectfully ask that along with posting the facility's plan of correction, the facility also be allowed to offer a statement on the survey findings, including an indication of their appeal plans and quality improvement efforts.

Nursing homes should not be required to pay CMP fines before completion of the appeals process. This is a fundamental right that should not be dismissed.

Finally, we strongly encourage the Committee to evaluate whether the current nursing home regulatory enforcement system is working. Twenty plus years after passage of the OBRA Nursing Home Reform provisions, our conclusion is that it is not. Too often nursing homes are punished for actions that could not have been prevented, predicted or avoided. No other quality improvement system in the world has as its foundation the notion that quality is best assured by punishing well-meaning providers incapable of attaining perfection. Nursing homes that intentionally cut corners, staff below acceptable levels or are chronically/habitually compromising the health and safety of its residents should be compelled to improve or be required to exit the field. However, punishing the vast majority of providers that are committed to resident care and service and are serious about quality improvement is not acceptable by any measure. These providers should not be subjected to an enforcement system sadly described by one highly respected non-profit Wisconsin administrator as embracing the philosophy, "The beatings will stop when morale improves." {See: *Broken and Beyond Repair: Recommendations to Reform*, AAHSA Survey and Certification System Task Force, June 2008, www.aahsa.org/WorkArea/showcontent.aspx?id=3306} WAHSA respectfully urges the

Committee to conduct an evaluation of the nursing home enforcement system. Such an evaluation should broadly solicit the input of state regulators, ombudsman, advocates, providers, residents and staff (especially caregivers, including nursing assistants, nurses and directors of nursing). Perhaps the Institute of Medicine could be asked to complete this task.

Thank you for the opportunity to submit our comments on the Senate Finance Committee's Document: *Transforming the Health Care Delivery System: Proposals to Improve Patient Care and Reduce Health Care Costs*. WAHSA and its members stand ready to assist the Committee in its efforts to improve our long term care delivery and regulatory systems. Should you have any questions, comments, or desire additional information, please do not hesitate to contact me at 1-800-466-7011.

Sincerely,

John Sauer
Executive Director
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cc Senator Herb Kohl

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The Wisconsin Association of Homes and Services for the Aging (WAHSA) is a statewide membership association of 200 not-for-profit long-term care organizations. WAHSA member corporations own, operate and/or sponsor 183 not-for-profit nursing homes, of which 41 are county-owned and operated, 9 facilities for the developmentally disabled (FDD), 76 community-based residential facilities (CBRF), 60 residential care apartment complexes (RCAC), and 113 senior apartment complexes, as well as community service programs ranging from home care, hospice, Alzheimer's support and child and adult day care to Meals on Wheels. Our members employ over 38,000 dedicated staff who provide care and services to over 48,000 residents and tenants.