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Edward Alan Miller

University of Massachusetts Boston, [edward.miller@umb.edu](mailto:edward.miller@umb.edu)

Cynthia Rudder

Long Term Care Community Coalition, [crnhcc@aol.com](mailto:crnhcc@aol.com)

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## Consumer Involvement in Medicaid Nursing Facility Reimbursement: Lessons from New York and Minnesota for State Policymakers<sup>i</sup>

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Edward Alan Miller, Ph.D., M.P.A., University of Massachusetts Boston  
Cynthia Rudder, Ph.D., Long Term Care Community Coalition (LTCCC)

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### INTRODUCTION

Medicaid is the major purchaser of nursing home care in the United States. State governments design their methods of reimbursing nursing homes to achieve desired policy objectives related to facility cost and quality, access to care, payment equity, service capacity, and budgetary control.

Often, participation in the process of developing Medicaid payment policy is limited to state agency officials and providers of care and, occasionally, union representatives and state legislative staff. Invited less frequently to reimbursement policy discussions are consumer representatives. Lack of consumer involvement in the development of state rate setting systems has the potential to result in the adoption of methodologies that favor industry and government interests at the expense of issues important to residents and their families. It also has the potential to result in less creative changes to state reimbursement systems than might otherwise have been possible. All stakeholders, including consumer advocates, must be at the table if truly informed reimbursement policy reform is to take place.

New York and Minnesota are two states where policymakers have prioritized consumer involvement in the development and implementation of Medicaid nursing home reimbursement policy. This has contributed to improvements in each state's payment system to better encourage access, care quality, and quality of life. To understand the consumer role in Medicaid nursing home reimbursement, 24 in-depth interviews were conducted with 27 individuals in these states, including state agency officials, state legislators and legislative staff, consumer advocates (including ombudsmen), union staff, and nursing home industry representatives. Pertinent documents were reviewed as well.

## PURPOSE OF THIS BRIEF

The purpose of this brief is to draw lessons from our case studies of New York and Minnesota to convince you, as a state policymaker, to reserve room “at the table” for consumers and their representatives when Medicaid nursing home reimbursement is being discussed, developed and implemented. This is important because reserving a place for consumers and their advocates will further the promulgation of reimbursement systems with attributes that more effectively promote the welfare of current and future nursing home residents and their families.

## THE IMPORTANCE OF CONSUMERS BEING “AT THE TABLE”

It is important that consumer advocates participate in reimbursement because:

- They represent the constituency that the system is all about;
- They can serve as a counterpoint to the nursing home industry;
- They can serve as a counterpoint to state government; and
- Reimbursement is critical to encouraging quality and other desirable outcomes.

***“Instead of the discussion being just about cost and labor and that kind of stuff [the advocates have] been able to keep the patient voice at the table...[They do so] whenever we kind of stray, and start talking more about the technical aspects or like the business of nursing homes instead of about the patients, or the client.”***

--State Official, New York

***“It’s really helpful that the consumers do get involved as much, and in the ways that they do, because it makes it real obvious to everybody that when an industry representative is telling us what’s obvious, that everybody knows that there are other opinions that exist out there and it isn’t just us bureaucrats who have to say that. They’re at the table, also, to say it. I find that to be a helpful thing.”***

--State Official, Minnesota

***“[What consumer advocates] have that to some extent [providers] don’t is they have a white hat that allows them to leverage relationships with legislators in different ways than the self-interest that we sometimes associate with a provider organization like our own. The white hat is that we’re [consumer advocates] here to make things better for the older person. We have no other agenda.”***

--Provider Representative, Minnesota

***“You have providers in this situation who always want more money. You have the state that is looking for any way to cut money. And we’re kind of in the middle saying, ‘maybe both sides have some reason, but it has to be done in a way that protects the consumer.’”***

--Consumer Advocate, New York

***“The key to this assuring that residents and consumers are well cared for is directly related to the dollars in the system, and how those dollars are allocated...[They have] been good about focusing on the connection between quality of care and the money. Form follows finance.”***

--State Official, New York

## CONSUMERS AND PROVIDERS HAVE DIFFERENT VIEWS

It is important for consumer advocates to have equal weight with providers in any discussion about reimbursement. They often have different views.

- Industry representatives prefer nursing home payment systems that maximize payment while delegating as much freedom and flexibility to providers as possible.
- Consumers prefer nursing home payment systems that promulgate and incentivize quality by holding providers accountable for performance, including improving staffing levels and time spent with residents, promoting culture change innovations, and emphasizing positive clinical and quality of life outcomes.

*"[The consumer] role is not just to ask for more money, but to make sure that the money gets to the workers, because they feel that only when workers' lives are improved are the residents going to see the difference in their quality of care...Because otherwise it's very easy for nursing homes to advocate in areas where they're implying that we would be improving the lives of nursing home residents when really we might not be; we might be improving the bottom line for our nursing home owner."*

--State Legislator, Minnesota

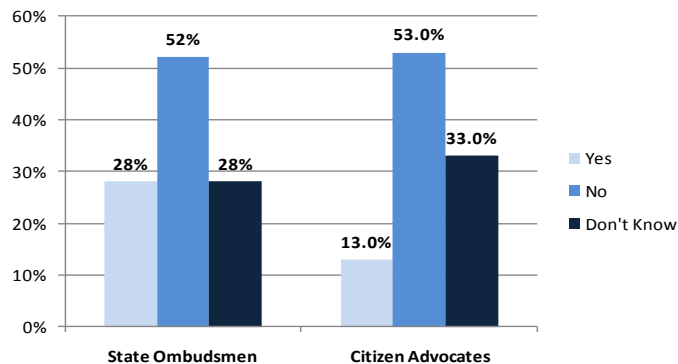
*"[The consumer] role was...arguing pretty constantly that if the nursing homes are going to get more money, make sure there's language in there that guarantees that it gets down to the patient level. Don't let it just go into management salaries and carpeting in offices, or profit. Things like setting aside pools of money...for institutions that meet various quality standards is something they've been very vocal for."*

--State Legislator, New York

## CONSUMERS DO NOT BELIEVE REIMBURSEMENT ENCOURAGES QUALITY

More than 70% of consumer advocates and policy experts surveyed as part of the Commonwealth Fund Survey of Long-Term Care Opinion Leaders rank the quality of care provided by the average nursing home as "fair" or "poor." In a survey conducted by the Long Term Care Community Coalition (LTCCC), state ombudsmen and citizen advocates were asked if their state's system for reimbursing nursing homes under Medicaid encouraged quality care. A majority of both groups said, "no."

**Does Your Reimbursement System Encourage Quality Care?**



Source: 2008 Survey of State Ombudsmen and Citizen Advocacy Groups in Case-Mix States, LTCCC

## CONSUMERS CAN HELP STATE LEGISLATORS

Interviewees in both New York and Minnesota felt that consumers were helpful to state legislators and their staffs. Useful roles include:

- Educating legislators/legislative staff about the consumer point-of-view;
- Sharing information with key legislators/legislative staff;
- Testifying before legislative hearings;
- Making issues “real” and “local” by having constituents tell their stories; and
- Mobilizing grassroots resources for policies both legislators and consumers support.

*“Over the years we’ve learned that when an issue falls in our lap, we don’t wait to hear from the [LTCCC]. We reach out to them...We try to touch base with them on almost everything, because I think we’ve learned over the years that almost everything in the field has consumer and quality implications, even if we don’t see it on the face of it. And frankly, I am certain as can be that New York, and me in particular, would have taken numerous wrong turns or stalled in our path without the Coalition.”*

--State Legislator, New York

*“[The LTCCC] were very helpful in putting together a couple of reports that were effective in demonstrating the way [pay-for-performance] was done around the country. Really helping at least me understand and parse out some of the facts. One of the critical things is always fact versus rhetoric. Some of the reports that the advocates put together were helpful in saying this has been done in 32 other states, and the sky hasn’t fallen, so would New York be different, versus, yeah, this would actually cause a rather negative outcome.”*

-Legislative Staffer, New York

*“Legislators [such as myself] are desensitized by our never-ending quest to balance the bottom line on a spreadsheet, and those bottom lines on those spreadsheets are pretty impersonal, and when somebody looks at you in the eye, and can tell you that your potential decision will make a difference or have an impact on their lives, it personalizes the issue.”*

--State Legislator, Minnesota

*“The biggest and most effective thing is the localization of the issue...[If] residents within a nursing home in a legislative district are calling and are direct constituents and are able to express how a potential decision is going to impact them, it takes the personalization one step further [than having one] elderly man testifying in committee [because the latter] is only one legislator’s constituent.”*

--State Legislator, Minnesota

## CONSUMERS CAN HELP STATE AGENCY PERSONNEL

Interviewees in both New York and Minnesota felt that consumers were helpful to state agency personnel. Useful roles include:

- Informing state officials about the consumer experience;
- Sharing information with key officials and other state staff;
- Helping to relieve the workload burdens of state agency officials; and
- Contributing to reimbursement taskforces, advisory panels, and workgroups.

*"We have a good working relationship with state Medicaid officials. It's because not only do we meet but we show concern for their workload...we do try to help them...We were saying to the Department...that they should be looking at staffing levels in nursing homes related to reimbursement on payroll, not on self-reported information. And the Medicaid people said to me, 'Well, how do we collect that?'...I went to [another state] and I got their schedule on how they collect [it] and I sent it to [them]. It's now in the cost report."*

--Consumer Advocate, New York

*"We're always confronted with limitations...to do extended long-term care projects that take a lot of staff, a lot of number crunching, a lot of time. That's where [this one advocate] is helpful, because she has had the ability to go out and do some of this work for us and do it on reports, and it's something that we can learn from without having to throw a lot of staff at it...I feel that if I needed to get [her] opinion on something or pull her into something, that she would be more than open to doing that."*

--State Official, New York

*"We've had a number of stakeholder groups that we worked with. Some were more or less ad hoc to deal with specific projects, as we worked through them, and others are an ongoing advisory group that has been reconstituted in a variety of ways. We've always included consumer advocates in those. The ombudsman has participated...I have always valued their input. I valued their perspective."*

--State Official, Minnesota

*"The important committees and meetings, and advisory groups that have been created by the state...to talk about reimbursement and other issues...the large number of people at the table are nursing home providers with, of course, a lot of state agency representatives, and usually the lone consumer voice has been [this one advocacy group], but they've been absolutely essential in winning a seat at the table, and nobly under great odds, providing a consumer voice."*

--Consumer Advocate, New York

## CONSUMERS HAVE INFLUENCED REIMBURSEMENT POSITIVELY

Due, in part, to the value placed on consumer input by state policymakers, consumers in New York and Minnesota have been influential participants in Medicaid nursing home reimbursement policy development and implementation in their respective states.

**Minnesota** consumers have been influential in:

- Enacting and defending **rate equalization**, which stipulates that facilities cannot charge private pay residents more than the Medicaid rate;
- Adopting **wage encumbrance**, which earmarks increases in nursing home reimbursement toward wages and benefits for direct care workers; and
- Instituting restrictions on what **temporary nursing services** could charge for their assistance given concerns about the quality of care provided by those services.

*"Where there have been inflation adjustments allowed by the Legislature, the consumers and the workers, their Coalition, has been completely effective in an agenda item that's important to them, which is that the money has to be used for specified purposes. New money has to go to compensation related costs for workers' salaries and benefits and associated taxes."*

--State Legislator, Minnesota

*"The industry has a proposal just about every year to eliminate, repeal rate equalization, and that motivates the consumer advocates to get out there and kick butt. They provide a very effective consumer voice in that context."*

--State Official, Minnesota

**New York** consumers have been influential in:

- Developing **case-mix reimbursement**, which improves access/quality for medically complex nursing home applicants by adjusting payments for resident acuity;
- Promoting consideration of **quality pools**, whereby a portion of a facility's reimbursement is based on achieving desired outcomes; and
- Promulgating **add-ons** for dementia and other high need nursing home residents while ensuring that added funds go to patient care.

*"The [LTCCC] entered the fray and it began talking about quality pools being an important priority, and continued to do that very single-mindedly and repetitively. [It has since] consistently [been] a part of the conversation...You could probably draw a dotted-line connection there [between] the effort that the [LTCCC] has put into advancing quality pools...and almost a presumption [by the State] that quality pools...have to be part of the discussion."*

--Provider Representative, New York

*"I was convinced...that you had to spend more time with [dementia] residents and therefore [providers] should be paid more [for caring for them]...I worked with the head of Medicaid at the time [to find] some extra money to add add-ons [to the rate for this population]...I was instrumental in getting a regulation in the code...that facilities had to show how they used this extra [money] for dementia residents. Though I agreed with providers that they should get more money, I didn't want to just give the money; I wanted them to show how they used that money."*

--Consumer Advocate, New York

## PUTTING IT ALL TOGETHER

In conclusion, the experience of policymakers in New York and Minnesota highlights the importance of reserving a prominent role for consumers in Medicaid nursing facility reimbursement. Consumers bring a unique perspective to the table that is not adequately represented by other constituency groups. They also provide useful assistance to legislators and agency personnel charged with developing and implementing state policy in this critical area. This includes educating policymakers about the relevance of resident and family experiences to state rate setting decisions. It also includes the provision of timely information and data, not to mention the potential mobilization of grassroots support. Ultimately, as one Minnesota state official explained, "[consumers] represent what we are doing this for. If we don't care what the consumers want, what's the point of all this?"

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<sup>i</sup> November, 2011. For more information, contact: Edward Alan Miller, Ph.D., M.P.A., Associate Professor, Department of Gerontology and Gerontology Institute, University of Massachusetts Boston, 100 Morrissey Blvd., Boston, MA 02125-3383, 617-287-7313, [edward.miller@umb.edu](mailto:edward.miller@umb.edu); and Cynthia Rudder, Ph.D., Director of Special Projects, Long Term Care Community Coalition, 242 West 30<sup>th</sup> St., Suite 306, New York, NY, 1001, 212-385-0355, [cynthia@ltccc.org](mailto:cynthia@ltccc.org). This project was funded by The Commonwealth Fund, Grant #20110033.