

## Meeting summary for OHCA AL Member Call (04/24/2024)

### Quick recap

pete led a discussion on two legislative bills in Ohio affecting assisted living, with a focus on potential impacts and ongoing efforts related to visitation rights and the medicinal aid program. Erin then provided updates on various topics including training of med techs, new minimum staffing rules for skilled nursing facilities, and the specifics of the A/C HCC and HCBS waiver services. Issues related to the level of care assessment, Medicaid eligibility, and the launch of a new nursing Assistant Career Advancement program were also discussed.

### Next steps

- Erin will send George the specific rule for Medicaid-certified medication aids and schedule a call to discuss it further.
- Erin will reach out to George after the call to discuss the Medicaid access rule and its impact on assisted living.
- Erin will follow up with Steve Buck to address the delay in the waiver approval process for new residents.

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### Summary

#### Discussing Ohio Legislative Bills for Assisted Living

pete led a discussion about two legislative bills affecting assisted living in Ohio. The first bill, Lauren's Law, aims to expand Esther's Law, currently only applicable to skilled nursing facilities, to include ICS and create a vaguely defined Medicaid waiver program for family members to care for their loved ones at home. The bill, introduced by a passionate member of the House, has had multiple hearings and seems poised to move out of committee. The second bill, Never Alone, was not discussed in detail. The potential impact of these bills on assisted living was a primary concern.

#### Expanding Esther's Law and Camera Concerns

pete discussed the possibility of expanding Esther's law to cover assisted living. While this expansion is not expected to happen, it is a possibility as advocacy voices have been pushing for it. There were concerns raised by ICF members about Lauren's law and the camera part of it, but pete suggested focusing on resident rights and trying to make it as limited as possible. The 'Never Alone' bill, which is in a different committee, could potentially apply to assisted living and other provider types, including hospitals. However, this bill could make it difficult to deny visitation, which could lead to operational and safety issues.

### **Legislative Efforts and Medication Aid Program Update**

pete discussed ongoing legislative efforts aimed at addressing issues related to visitation rights and the medicinal aid program. He highlighted the efforts to pass legislation to restrict advocates for medical freedom's ability to challenge providers, and to exempt their members from potential legislation. pete also noted that the legislative environment was tense and unpredictable, with the potential for the bills to be passed or not. Erin then spoke on the challenges faced with the Board of Nursing's approval of the medication aid program and announced a new upskilling program to be launched in May. pete added that they were drafting legislation to reduce barriers in the program and that this would likely be addressed in the lame duck session after the November election.

### **Upcoming Changes and Staffing Rule Discussion**

George inquired about upcoming changes regarding the training of med techs and where they could work. Erin informed him that she would send him the specific rule for this, and they could discuss it further in a subsequent call. Erin then highlighted the new minimum staffing rule for skilled nursing facilities in Ohio, which would require nearly 6,000 nursing assistants and 800 registered nurses. This rule, effective from May, does not apply to assisted living. Erin also mentioned that the National Association of HCA is using legislative actions to try to stop the implementation of the rule, with a legal solution in the works. Lastly, Erin mentioned the finalization of the Medicaid access rule.

### **A/C HCC and HCBS Waiver Services Discussion**

Erin discussed the specifics of the A/C HCC and HCBS waiver services, noting that assisted living services, which their organization provides, are not included in the 80% Medicaid reimbursement allocation for direct care worker reimbursement. She mentioned that Ohio's 1915 waiver application lists their services as 'other residential services', exempting them from the payment adequacy part of the Medicaid Access rule. Erin highlighted upcoming activities for compliance in the state of Ohio, including the creation of a Medicaid Advisory Committee and a Beneficiary Advisory Council, and the development of a grievance and incident management system. She also discussed the impact of the Department of Labor's overtime rule finalization, which increases salary thresholds for exemption from overtime pay requirements, and the automatic future increases based on wage data.

### **Erin's Updates and George's Concerns**

Erin provided updates on several topics including the assisted living waiver, the Buckeye situation, healthcare incident breaches, and a virtual career fair. She also announced the launch of a new nursing Assistant Career Advancement program. George expressed his concerns about the waiver program, particularly the potential for acuity creep and the need to carefully manage the delivery of care. Erin acknowledged these concerns and suggested that a different PA one rate might be needed to counteract potential issues.

**Medicaid Eligibility and Level of Care Assessment**

Erin and George discussed issues related to the level of care assessment and Medicaid eligibility, particularly in the context of area agencies on aging. Erin clarified that the responsibility for this assessment should not be a problem if the patients are already Medicaid eligible. Steve, another participant, raised concerns about long wait times for waiver approval, which Erin committed to addressing by connecting the necessary parties. Erin also extended an invitation to Steve and all attendees to meet her at an upcoming convention.

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