

# FOCUS

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## NCAL Secures House Introduction Of Part D Co-pay Bill

House Democrats seeking to improve the Medicare Prescription Drug benefit introduced their signature legislative package on the issue that also contains NCAL's top legislative priority—the elimination of co-pays for dual eligibles in assisted living and other residential care settings.

Rep. Lloyd Doggett (D-Texas) introduced Medicare Prescription Drug Savings for Our Seniors Act (Medicare Prescription Drug SOS Act) of 2007 (HR 3025). Sec. 202 of the act would eliminate Part D co-payments for about 1 million dual-eligible beneficiaries—people eligible for Medicare and Medicaid—including residents of assisted living and residential care centers, as well as other licensed facilities such as group homes for people with developmental disabilities. Dual eligibles receiving services under home- and community-based services (HCBS) waivers in a home setting would also be relieved of Part D co-payments under the bill.

“We appreciate Doggett’s leadership and his recognition of this vulnerable population,” says David Kylo, executive director of NCAL. “Rep. Doggett’s bill includes a provision that would cover a growing group of beneficiaries who in some instances don’t have the financial means to meet all their co-pays. If you need eight medicines a month and only have a limited Medicaid personal allowance, which in some states can be as little as \$1 a day, you’re going to have to make some tough choices about your medicines. We believe the intent of Congress was to provide coverage to all beneficiaries—especially frail, low-income seniors—so that they would not have to make these choices. Rep. Doggett’s bill corrects this oversight.”

Section 202 mirrors the Senate’s bipartisan S 1107, which has also gained more support from Sens. Tim Johnson (D-S.D.), Carl Levin (D-Mich.), and Bernard Sanders (I-Vt.), who recently have

*NCAL, continued on page 2*

## Life Safety Act Introduced In House Includes Assisted Living

The Long-Term Care Life Safety Act of 2007 (HR 2882), introduced by Rep. Michael Arcuri (D-N.Y.), included assisted living after NCAL suggested assisted living and residential care facilities would also benefit from funds. The bill would provide funds for retrofitting assisted living and other long term care facilities with fire safety, fire prevention infrastructure, and fire equipment.

The legislation would provide \$40 million in grants annually for federal fiscal years 2008 to 2012 to assisted living, residential care, board and care facilities, hospice facilities, and other facilities determined appropriate by the secretary of Health and Human Services.

The legislation would give priority to applicants that demonstrated a financial hardship. In determining hardship, the secretary could consider factors including the age and condition of facilities, the need for beds in the community, and requirements imposed to meet fire safety regulations under federal programs or state or local licensing or building code standards. Funds could be used to install smoke detectors, sprinkler systems, and other fire protection systems.

NCAL sent a letter to Rep. Arcuri, thanking him for including assisted living in the legislation and for his leadership on the life safety issue.

NCAL’s Board of Directors has already supported the installations of fire sprinkler systems in new assisted living facilities and retrofitting older facilities where economically and physically feasible. NCAL also supports the installation of smoke detectors in all rooms and common areas in buildings that are not equipped with fire sprinklers.

### Inside Focus

**2. Finance:** Loans to Assisted Living Increase 263 Percent

**3. Caregiving:** Traumatic Brain Injury Training Reduces Caregiver Stress

**4. State:** Ohio’s Assisted Living Medicaid Waiver Evaluated

**6. Clinical:** Newer Diabetes Drugs



## Major Increase In 2007 Loans To Assisted Living, A Strong 1st Quarter Performer, NIC Says

Comparing first quarter 2006 to first quarter 2007, the amount of loans to assisted living increased 263 percent, according to key financial indicators released by the National Investment Center for the Seniors Housing & Care Industry (NIC).

For all seniors housing and care sectors, loan volume placed during first quarter 2007 was \$2.28 billion, up slightly from the \$2.22 billion placed in fourth quarter 2006.

“The amount placed this quarter represented a 172 percent increase from the first quarter of 2006, when the loan volume was \$838 million,” says Robert Kramer, president of NIC. “Year-over-year loan volume amounts were impressive for all sectors, especially for assisted living, with a 263 percent increase and skilled nursing with a 185 percent increase.”

This loan volume represents the quarterly lending activity of major national lenders (not including real estate investment trusts) that make permanent and short-term debt invest-

ments in seniors housing and care, including Fannie Mae, Freddie Mac, and several of the larger credit companies and banks.

Mean occupancy rates for 2007’s first quarter softened slightly for most sectors, with a percentage point or less drop compared to the previous quarter

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*“The industry continues to be strong and is holding steady with its performance levels from the fourth quarter of 2006, which in itself was the best quarter that the industry has seen since we started keeping track of these indicators in the late 1990s,” says Kramer.*

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for assisted living, skilled nursing, and continuing care retirement communities. Independent living went from 92.5 percent in the fourth quarter of 2006 to 91 percent in first quarter 2007.

“The industry continues to be strong and is holding steady with its perform-

ance levels from the fourth quarter of 2006, which in itself was the best quarter that the industry has seen since we started keeping track of these indicators in the late 1990s,” says Kramer.

NIC draws its occupancy rate data from market-rate properties open at least 24 months. More than 3,200 properties and 376,500 units were reflected in this quarter’s data summary.

During the first quarter of 2007, average occupancy rates for stabilized properties in these markets were the same or slightly higher for skilled nursing, assisted living, and independent living compared to the fourth quarter of 2006. Mean capitalization rates changed very little in the first quarter of 2007 versus the fourth quarter of 2006. Rates were up slightly for assisted living to 8.8 percent. Each quarter, the nation’s leading senior living lenders, owners/operators, and appraisal professionals report their key financial and performance data to NIC. The results can be found at [www.NIC.org/](http://www.NIC.org/).

*NCAL, continued from front page*

become co-sponsors. The total number of co-sponsors for S 1107 is now at 13.

According to an analysis of the Part D co-payment legislation done for NCAL by the Lewin Group, by 2008 the HCBS dually eligible population impacted by this legislation will be larger than the number of dual-eligible beneficiaries living in nursing facilities and other institutions.

“We salute Rep. Doggett for introducing legislation that would make the Medicare Part D program affordable for all dual-eligible beneficiaries no matter what segment of long term care they live in,” says Bruce Yarwood, president and chief executive officer of AHCA. “AHCA and NCAL believe that all long term care settings must best meet the needs and preferences of each individual—including their prescription drug needs.”

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## Training On Traumatic Brain Injury Improves Residents' And Employees' Quality Of Life At Denver Facility

Some two years ago, Harmony Residence, a 48-unit assisted living facility for young adults, began admitting more residents with traumatic brain injuries (TBI).

Located on the 26-acre campus of Marycrest Assisted Living in north Denver, the residence is the only facility in Colorado that offers individuals 18 to 55 years old the opportunity to live in an assisted living environment with others in their own age cohort.

Harmony Residence, which is part of a nonprofit organization run by the Sisters of St. Francis, serves a diverse group of young adults, including individuals with multiple sclerosis, developmental disabilities, and other genetic disorders. The campus also includes Serenity, a sister facility that houses 90 seniors, ages 55 years and older. The

ministry offers assisted living services to both private and low-income residents, with its facilities managed by Health Dimensions Group.

Since stepping up its admissions of individuals with TBI two years ago, Harmony Residence found itself unprepared to deal with the special problems associated with TBI—namely, bouts of inappropriate verbal abuse. Such disruptions were causing staff members to exhibit higher levels of stress and job burnout.

Individuals with TBI—in addition to being unable to control abusive impulses—may also present difficulties with communication. This can further exacerbate stress on caregiving staff, as well as on housekeeping, maintenance, and dietary employees.

These staffers also needed help in

learning how to interact and maintain the day-to-day routines of residents with TBI.

To better serve the 26 percent of its resident population with TBI and reduce staff burnout, Marycrest applied for a state education grant.

In 2002, Colorado established a TBI Trust Fund comprised of the money collected from fines assessed to drivers convicted of speeding, driving under the influence, or driving while impaired. Colorado's TBI Trust Fund offers an education grant program for groups interested in seeking to train and educate people about TBI.

Marycrest Assisted Living applied and secured a \$3,000 grant for a series of eight, one-hour training sessions on TBI. Marycrest used the grant to hire

*Marycrest, continued on page 8*

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## Ohio's Miami University Evaluates State's Assisted Living Medicaid Waiver

While the first nine months of Ohio's assisted living waiver program found most participants were happy with services in assisted living, a slower-than-anticipated enrollment and low facility participation needs to be remedied for the program to be successful, say researchers at The Miami University Scripps Gerontology Center, Oxford, Ohio.

Evaluation of Ohio's Assisted Living Medicaid Waiver program examined four areas: participant eligibility, facility participation, ongoing implementation issues, and evaluation limits from July 2006 through March 2007. During this period, 134 participants were enrolled. As of June 1, 2007, 193 people had entered the program, and another 190 were on the waiting list for the waiver. In addition, as of June 1, 2007, 54 of 279 assisted living residences were certified for participation in the program.

"This study provides an important first look at the program. However, because of the slower-than-expected build-up and the short time frame of the evaluation, results should be viewed as preliminary in nature," researchers summarized in their report. "As the program expands both the number of consumers and the type and number of facilities that participate in the waiver, ongoing monitoring of data on the profile of residents, quality, and costs will be essential."

The waiver is administered by the Ohio Department of Aging and operated through the regional network of PASSPORT Administrative Agencies.

The authors of the report recommended that Ohio's Department of Aging remove the eligibility requirement that waiver applicants must be either in a nursing facility or another

### Key Findings Of Ohio Assisted Living Wavier

Among the key findings:

- Enrollment in the program was slower than originally anticipated, although Ohio's implementation experience is similar to that of other states.
- Participants in the Assisted Living Waiver Program report high levels of disability. Half have four or more impairments in their ability to perform activities of daily living such as bathing and dressing; three-quarters have three or more activity limitations.
- Assisted living waiver participants report high levels of satisfaction with the enrollment process, with 85 to 90 percent rating the help from assisted living facilities and case managers as good or excellent.
- The average monthly reimbursement rate across all regions of the state, combining room and board and service, was \$2,711.

*Source: Miami University Scripps Gerontology Center report on Ohio's Assisted Living Medicaid Waiver*

existing state waiver program. The authors found that Ohio, the 42nd state to implement an assisted living waiver, is the only state with this eligibility requirement.

The eligibility requirement contributed to a slower-than-normal enrollment rate, they said. The state established the requirement to control the growth of the program, but the authors said that the state already has a cost-containment measure in place because the waiver is limited to serving 1,800 residents.

The state's low Medicaid personal needs allowance of \$50 per month, which discouraged some applicants from entering the waiver program, also posed a problem.

"There was wide-scale agreement that the personal allowance was not adequate for many residents, particularly in light of the new Medicare Part D co-pay requirements, which do not apply to nursing [facility] residents," the researchers wrote.

With more than 190 people waiting

for services in a nearby assisted living facility, the authors learned from assisted living staffers that reimbursement rates to providers were too low, a potential cause of low provider participation.

The waiver program classifies residents into three tiers for establishing reimbursement rates to providers. Tier 1 service rates are \$50 per day, Tier 2 rates are \$60 per day, and Tier 3 rates are \$70 per day. The 2007 room-and-board rate of \$573 per month is added to the service rate. The average rate of an assisted living unit across all regions of the state combining room and board was \$2,711 per month.

Assisted living staffers told the researchers that the reimbursement rates were not adequate because of a state requirement to place each resident in a private room, the increase in the minimum wage for all workers, and the cost of administrative requirements such as the bed-hold policy.

"In order for the state to develop a

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viable assisted living program, a plan to increase provider participation is critical," they wrote.

According to the report, none of the residents was placed in Tier 1, and only 10 percent of the residents were classified in Tier 2. The majority of the residents (90 percent) were considered Tier 3, which suggests, "the classification strategy needs to be carefully reviewed as the program moves forward."

Those individuals enrolled in the program range in age from 48 to 99 years, with an average age of 78 and a median age of 79.5 years. Most enrollees were female (78 percent), Caucasian (87 percent), and widowed (55 percent.).

The majority of the residents

required assistance with bathing (94 percent), mobility (89 percent), and dressing (64 percent). Almost four in 10 participants required assistance with grooming, and 35 percent needed help with toileting. One in 10 required assistance with eating. In addition, almost one-fourth of participants were identified as incontinent, with one in five requiring some level of supervision, and 12 percent classified as needing ongoing supervision.

Since the report was published, Ohio's legislature has passed a provision expanding eligibility to current residents of assisted living who have made private payments for six months.

However, the state must await approval from the Centers for Medicare & Medicaid Services before implementing the new criteria.

The researchers recommended that the Ohio Department of Aging work together with residents, families, providers, and case managers to refine the program's enrollment procedures, reimbursement rates, provider certification, and program communication.

"Perhaps the most valuable information this evaluation provides us is concrete, supported ideas that will help us assess what we can do differently to increase participation and provide this quality option to as many Ohioans as possible," said Barbara Riley, the Department of Aging's director.

The report, "Evaluation of Ohio's Assisted Living Medicaid Waiver Program: Final Summary Report," is available at [www.goldenbuckeye.com/infocenter/publications/aleval2007.html](http://www.goldenbuckeye.com/infocenter/publications/aleval2007.html).

## Pennsylvania Governor Enacts New Assisted Living Licensing And Regulation

**P**ennsylvania's Gov. Edward Rendell signed a bill into law that defines assisted living facilities, the services they can provide, the training required for caregivers and administrators, and annual surprise inspections.

The new law will help Pennsylvania's long term care consumers distinguish between the state's personal care homes, assisted living, and assisted living offering dementia care services.

Under previous state law, assisted living did not have a separate licensure or regulation that would distinguish it from the state's personal care homes. Residents who live in personal care homes typically need help with activities of daily living, such as bathing, meals, and help with medications, but do not need health care services.

The new regulation for assisted living requires the state's Department of Public Welfare to write regulations requiring caregivers to receive orientation and training and administrators to have certain qualifications. The law also seeks to identify which health care services can be offered in assisted living residences.

The Department of Public Welfare is required to conduct at least one onsite, unannounced inspection of personal care homes and assisted living residences annually.

In addition, assisted living residences offering care for individuals with cognitive impairments are prohibited from advertising their special care needs services unless they have caregivers trained in cognitive impairments and

programs specifically designed to care for individuals with dementia.

This legislation "is a tremendous victory for Pennsylvanian consumers because it assures that they will have access to a new level of care for those who need assistance with more than personal care, but do not yet need round-the-clock skilled nursing home care," said Stuart Shapiro, MD, president and chief executive officer of the Pennsylvania Health Care Association and the Center for Assisted Living Management (PHCA/CALM). PHCA/CALM represents for-profit, nonprofit, and government providers for more than 300 long term care and senior service providers caring for almost 60,000 seniors and individuals with disabilities.



## South Florida University Examines Assisted Living Residents' Perceptions Of Their Health

Recent University of South Florida (USF) research findings indicate that an assisted living resident's mental and physical health can be influenced by the resident's self-perception.

Lead researcher Yuri Jang and a team of USF scholars surveyed 150 assisted living residents' subjective perceptions of their own physical and mental health, and whether their self-perceptions impacted their overall health status. The results support the theory that caregivers who promote positive beliefs and attitudes can impact residents' health despite their physical or mental decline.

Jang and fellow researchers published an article, "The Mediating Role of Health Perceptions in the Relation Between Physical and Mental Health, A Study of Older Residents in Assisted Living Facilities," explaining the

research in a recent edition of the *Journal of Aging and Health*.

The results showed that the adverse effects of chronic conditions and functional disability on depressive symptoms were direct and indirect through the resident's negative health perception.

Researchers also found that positive health perceptions could positively influence the effects of chronic conditions and functional disability.

"The results emphasize the importance of promoting mental well-being among older adults," Jang wrote, explaining that assisted living facilities should help residents attain a positive attitude about their conditions.

"In addition to disease/disability prevention and health promotion efforts, attention should be paid to ways to enhance older individuals' positive

beliefs and attitudes toward their own health and to promote healthful behaviors," Jang wrote. However, the challenge for caregivers "is where a positive stance in the face of adversity can be promoted," he wrote.

Among Jang's recommendations was that caregivers should focus on how to alter negative perceptions associated with physical health decline and promote healthful behaviors.

Jang wrote that strategies could include teaching residents to assume responsibility for aspects of their care, such as maintaining compliance with their medical regimens, and educating families to offer appropriate support.

A balanced approach identifying remaining strengths and functional abilities and acknowledging limitations and impairment is important, he wrote.

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## Newer, More Expensive Drugs For Type 2 Diabetes Not Necessarily Better

New analysis of type 2 diabetes drugs shows that older and less expensive drugs may be safer than and as effective as the newer, more costly drugs known as Avandia and Actos, according to a Johns Hopkins University study and *Consumer Reports*.

Johns Hopkins University researchers led by Shari Bolen in Baltimore, published their results in the *Annals of Internal Medicine*. Based on those results, *Consumer Reports* issued "CR Best Buy Drugs Report."

Recently, a federal drug safety officer suggested Avandia be withdrawn from the market due to a higher risk of heart attacks. The "CR Best Buy Drug Report" cites other reasons that

Avandia and pioglitazone (Actos) are not the best first choice for most people with diabetes.

Assisted living clinicians may want to recommend that people with diabetes first talk with their doctors about taking metformin (Glucophage and generic). According to *CR*, the drug controls blood sugar as effectively as all other diabetes drugs but also reduces the "bad" LDL cholesterol levels, does not cause weight gain, and is less likely than most diabetes drugs to cause dangerously low blood sugar (hypoglycemia). Moreover, the generic version of metformin costs range from \$38 to \$60 per month compared with \$142 to \$262 for Actos and Avandia,

depending on the dose, *CR* says. The *CR* report also recommends alternatives to metformin if there are some residents who cannot take it or do not tolerate it well or if it does not adequately control the blood sugar level. The *CR* report recommends trying or adding either glimepiride (Amaryl and generic) or glipizide (Glucotrol and generic). While those drugs called sulfonylureas do pose a higher risk of hypoglycemia than Actos and Avandia, they are less like to threaten the heart.

The new analysis appears online at the Web site of the journal *Annals of Internal Medicine*. For the full Best Buy Drugs Report, go to [www.CRBESTBuyDrugs.org](http://www.CRBESTBuyDrugs.org).

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*Marycrest, Continued from page 3*

Creative Training Accelerating Talent, an organization specializing in conducting the educational seminars on TBI.

The seminars helped employees learn first-hand what an individual with TBI experiences, as well as strategies and approaches for managing the abusive behavior, sexual aggression, and obsessive-compulsive manifestations associated with TBI.

Employees also learned to identify the onset of abusive behaviors, to manage problems better, and to intervene before such behaviors can escalate into a bad result. The final seminar presented a resident case study, with the goal of getting staff to work with two residents.

The training was so successful, it has provided employees with the necessary tools to eliminate such drastic measures as the need for police intervention when residents with TBI exhibit potentially

threatening behaviors. In addition, Harmony Residence staffers have created an incident log to help identify possible triggers for behaviors.

All the employees use the same boundary-setting and calming techniques taught at the seminars, which helps residents with TBI receive a consistent and clear message.

According to one Harmony Residence employee, the training in how sights and sounds can trigger an individual with TBI has helped to increase caregivers' tolerance of TBI behavior as well as reducing employee stress in dealing with these residents.

"The understanding of why the residents behave in the manner they do has provided the biggest impact from the training program in terms of curtailing employee frustration and burnout," says Pamela Wright, marketing director of Marycrest Assisted Living.

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