

March 25, 2021

**TESTIMONY OF THE CENTER FOR MEDICARE ADVOCACY
APPROPRIATIONS COMMITTEE HUMAN SERVICES SUBCOMMITTEE
REGARDING S.B. 1054
AN ACT ESTABLISHING A STATE HOME HEALTH AND HOSPICE OMBUDSMAN**

1. Introduction

Senator Moore, Representative Abercrombie, Ranking Members, and Members of the Human Services Sub-Committee, thank you for the opportunity to provide this testimony. I am Kathleen Holt, associate director and attorney of the Center for Medicare Advocacy (the Center). My legal practice focuses on access to Medicare-covered home health care. The Center is a non-profit, non-partisan law organization that works to advance access to Medicare, health equity, and quality health care for older people and people with disabilities.

I am here to speak to Senate Bill 1054, An Act Establishing A State Home Health and Hospice Ombudsman. The Center supports such an Ombudsman to assist Connecticut residents navigate obstacles to care at home, prevent mis-use of public funds, and protect residents in their homes – especially Connecticut’s vulnerable older or disabled residents.

2. Center for Medicare Advocacy

For 35 years, the Center for Medicare Advocacy has provided free legal assistance for Connecticut’s older people, people with disabilities, and their families. We also offer outreach, education, and technical support for the CHOICES program, as well as federal health care policy analysis, engagement, and litigation on behalf of all Connecticut’s Medicare beneficiaries. During this time the Center has also represented the Department of Social Services, the state Medicaid agency, to appeal Medicare denials for care provided to residents dually eligible for Medicare and Medicaid – largely for home health and nursing home care – to ensure costs are not inappropriately shifted from Medicare to Medicaid.

The Center for Medicare Advocacy is authorized by Connecticut General Statute 17a-314 to provide a comprehensive Medicare advocacy program that provides free assistance to Connecticut residents who are Medicare beneficiaries. The Center’s work is increasingly important as the state’s population is aging and more and more residents rely on Medicare to access health care.

3. The Need for an Independent Home Health and Hospice Ombudsman

The Center hears regularly from Connecticut’s Medicare beneficiaries who have difficulties obtaining or retaining home health care services, have been improperly discharged from Medicare-covered home health care services, or who have concerns about the services they are – or are not - receiving.

Ms. D’s case illustrates the need for an independent home health and hospice ombudsman in Connecticut. Recently I spoke with a woman from Branford, her mother, Ms. D, was admitted to home health care after a hospitalization for treatment of pancreatic cancer. She could not get out of bed by

herself. Her doctor ordered 6 home health visits a week for 6 weeks, including skilled nursing, physical and occupational therapy, and a home health aide. Each week Ms. D only received 3 of the 6 ordered visits, a nurse, therapist or aide. She wasn't even given a schedule of when to expect a visit – someone from the agency just dropped by. Ms. D's daughter didn't report it to the Department of Public Health. She was afraid the home health agency would retaliate and remove the few services they were providing. Even though Ms. D still qualified for Medicare-covered home health care, the agency stopped coming after 3 weeks, without agreement by Ms. D's doctors. Pursuant to Medicare payment rules, the agency is allowed to keep the lump sum Medicare payment for a full 6 weeks of services because the agency provided a required minimum 4 visits.

We already have a shining example of the benefits an ombudsman's program provides to Connecticut residents in our Skilled Nursing Facility Ombudsman's program. We work closely with the Ombudsman and her regional offices. Under the leadership of Mairead Painter, and Nancy Schafer before her, the program has evolved into a trusted, productive, efficient, and effective role in this state. The need for a Home Health and Hospice Ombudsman is equally important because there is even less transparency for what happens in people's homes. There is no similar federal oversight for home health or hospice as there is for nursing homes.

An ombudsman for community-based programs may be seen as a critical extension of the existing ombudsman's program in Connecticut - advocating for Connecticut residents and assisting patients navigate complex cases, rules and requirements. A trusted ombudsman would help to address the current difficulty residents have accessing covered services and bring any problems forward to be explored. The ombudsman would be welcomed into someone's home life to uncover and address abuse and neglect and ensure ordered services are received. With an ombudsman, residents would have less fear services would be lost through possible retaliatory action if reported directly to the Department of Public Health.

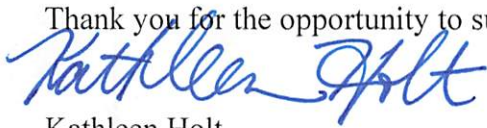
The value a Home Health and Hospice ombudsman would bring to the state also includes a necessary oversight and correction function to address the shifting of Medicare-covered services onto state Medicaid programs for individuals who are dually eligible for both programs. The Center is concerned that home health aide services that should be appropriately covered by Medicare – up to 28 to 35 hours per week by law – are being inappropriately covered by Medicaid. While Medicare coverage laws have not significantly changed in over 20 years, Medicare visits by episode of home health care declined from 48% to 6%.ⁱ While there is a difference in coverage for Medicare Home Health Aides and Medicaid Personal Care Assistants, too many home health aide tasks that should be Medicare covered are not properly accounted to Medicare, but billed to Medicaid.

The Center also recommends consideration for the ombudsman's program to be established at the Department of Aging and Disability Services. The Nursing Home Ombudsman's program is well-known and respected in the state and the Home Health and Hospice Ombudsman would be viewed as a parallel program for community-based services. Or the Center recommends consideration to establish this program under the jurisdiction of the existing, but expanded, Skilled Nursing/Home Health/Hospice Ombudsman.

4. Conclusion

The Center for Medicare Advocacy urges the legislature to establish a state Home Health and Hospice Ombudsman program. There is significant need for protection, oversight, accountability and reform that the program can accomplish.

Thank you for the opportunity to submit this testimony.



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ⁱ http://www.medpac.gov/docs/default-source/reports/mar21_medpac_report_to_the_congress_sec.pdf?sfvrsn=0
See Chapter 8.