LTCCC LONG TERM CARE COMMUNITY COALITION
Working to improve long term care through research, education & advocacy

Comments on MRT Waiver - Reinvestment Strategy:

INVEST IN MONITORING AND OVERSIGHT OF LONG TERM CARE

The Long Term Care Community Coalition (LTCCC), a coalition of over 20 statewide consumer, civic and professional organizations working to improve long term care in New York State, urges the state to consider an additional investment expansion: monitoring and oversight of long term care.

The MRT Action Plan is a major change for the state's long term care consumers. Over time, all Medicaid/Medicare recipients over 21 needing over 120 days of community based long term care services and nursing home residents will be required to join a mandated managed long term care plan or other care coordination model. In addition, within a few years, all nursing homes wanting to serve such a population will be required to have a contract with a managed long term care plan that will pay them for their costs. As a result, quality oversight will become much more complex and challenging.

At the same time as these Medicaid program changes are being implemented, due to fiscal issues, government oversight offices, already understaffed and, in our opinion, unable to ensure adequate protections, will have to deal with these changes with the same or diminishing resources. A number of our reports over the years have indicated a need for more and better trained inspectors. [1]

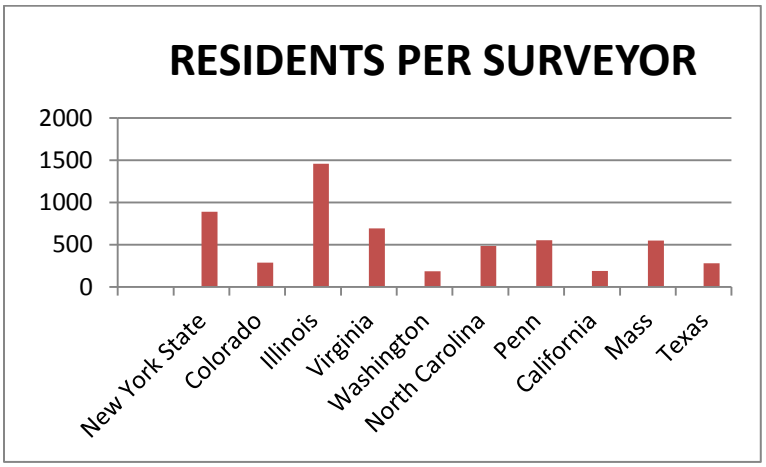
Although we understand that staff will be transferred from other fee-for-service sections once these have moved to managed long term care in order to oversee the transition, we are still concerned. The speed of this transition as well as the number of people needing protection will increase substantially and more staff, especially well trained field and supervisory staff, will be needed.

In addition, although plans will contract with nursing homes and have responsibility for overseeing the care they provide within that context, only the state can offer nursing home residents in a plan the protections they need and are entitled to under state and federal law. Plans have a vested interest in both limiting service and conserving money spent on care Thus, there is still a need for the state to oversee nursing home quality care and life. In order to see how other states have handled nursing home oversight, LTCCC conducted a survey of ten states to gain insights into their nursing home surveillance systems.[2] The

[1] Care and Oversight of Assisted Living, May, 2011; Nursing Home Oversight in New York State: A Regional Assessment, 2006; and Nursing Home Residents at Risk: Failure of the NYS Nursing Home Survey and Complaint Systems, 2005. Click on the name of each report to download.

[2] One state from each Center for Medicare and Medicaid Services (CMS) region was asked to provide 2010 information on an on-line survey. 2010 was chosen since that is the latest data available from the Kaiser Family State Facts (http://www.statehealthfacts.org/comparemaptable.jsp?ind=419&cat=8). We wanted to

data indicate that NYS needs more inspectors in the field. NYS had the second highest ratio of residents per surveyor in the sample with each NYS surveyor responsible for monitoring the care of 889 residents.



Source: Kaiser Family State Facts: 2010.

Although NYS has been able to meet the federal requirement for the mandated frequency of surveys, LTCCC questions whether it is able to sufficiently identify problems, including potentially serious care issues, with the number of surveyors it has. Meeting the number of required surveys with the number of inspectors available may mean rushing through surveys and missing important quality problems.

Compared to other states, New York State does not seem to be identifying as many serious nursing home problems and we believe this is due to too heavy a load for the number of available inspectors. Data from the Kaiser Family Foundation's State Health Facts website indicate that fewer facilities in New York State are cited with serious deficiencies than most of the other states. Only California, for which there has been recent reports of serious oversight problems, was lower.[3]

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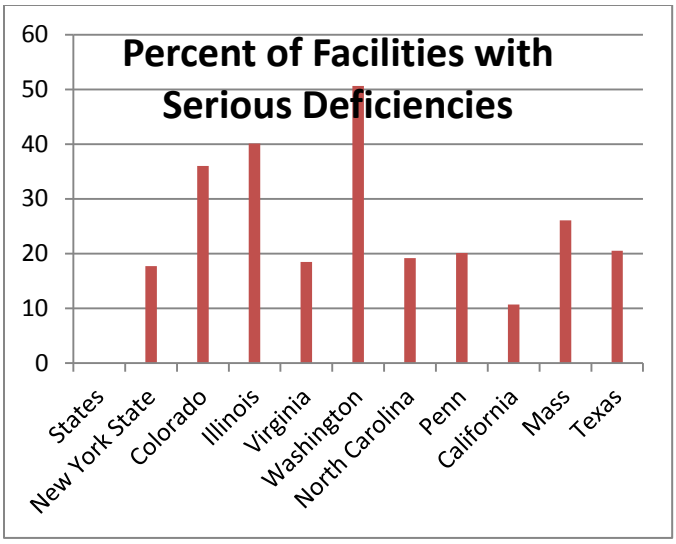
use comparable data. In addition, financial information from CMS was received under the Freedom of Information Act and the latest data from the Brown University's LTC Focus.org was gathered. All regions responded except the Kansas Region even after we substituted a new state. Follow up emails and phone calls were made for additional information.

[3] California Watch: Oversight of California Nursing Homes Lacking, Report Finds, March, 2012 (http://californiawatch.org/dailyreport/oversight-california-nursing-homes-lacking-report-finds-15189) and Office of Inspector General: Federal Survey Requirements Not Always Met For Three California Nursing Homes Participating In The Medicare And Medicaid Programs, February 2012, A-09-11-02019 (http://oig.hhs.gov/oas/reports/region9/91102019.pdf).



Source: Kaiser Family State Facts: 2010

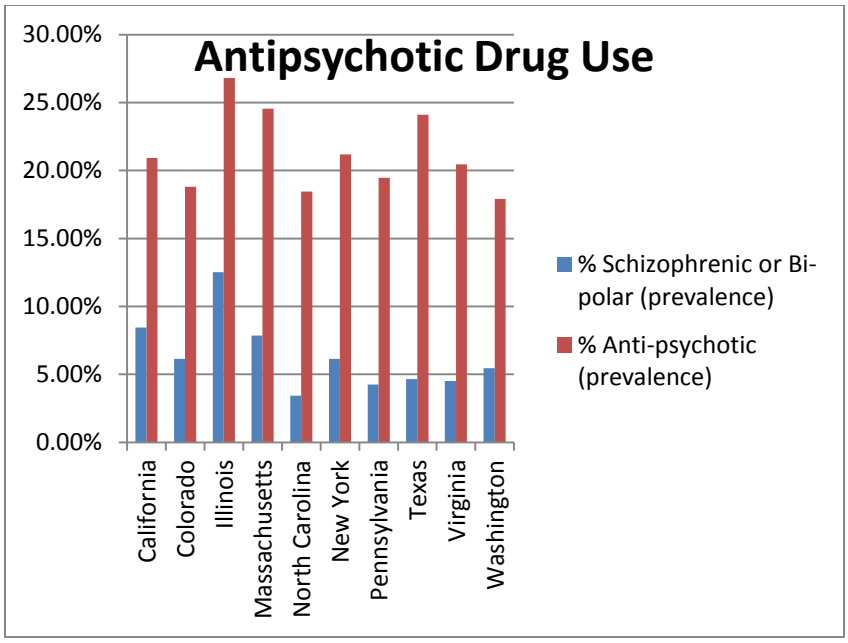
Furthermore, data indicate that this difference is not due to New York facilities possibly giving better care than those in the other states. The latest data from Brown University's LTCFocus.org indicate that NYS's nursing home residents are similar to the residents in the other studied states.

State-Level Care Data: 2008

Location	Average Acuity Index
California	11.67
Colorado	10.02
Illinois	9.63
Massachusetts	10.44
North Carolina	11.90
New York	11.33
Pennsylvania	11.20
Texas	11.08
Virginia	12.42
Washington	11.50

Source: www.LTCFocus.org

Residents in NYS either have similar quality indicators or do not fare as well on some of the quality indicators, indicating possible poor care.



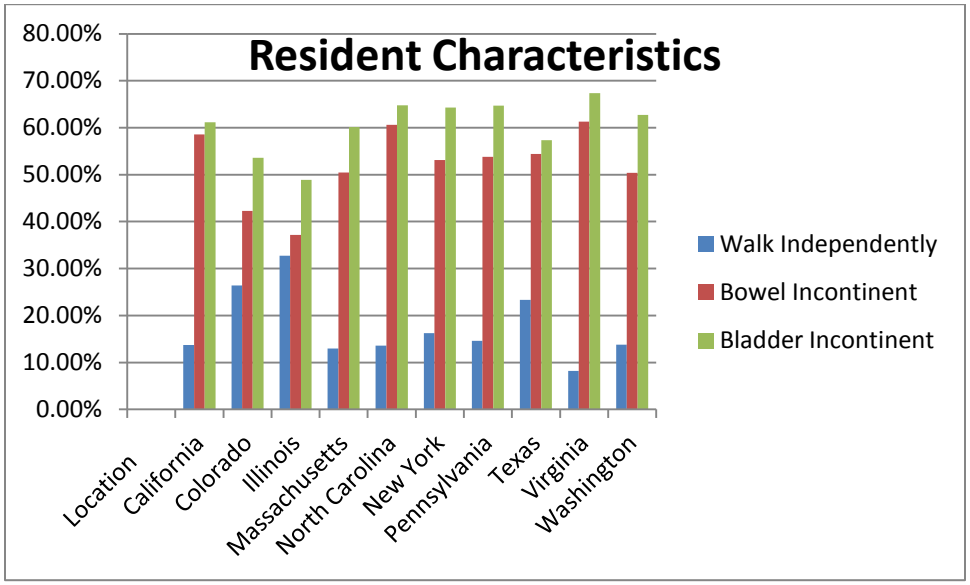
Source: www.LTCFocus.org

For example, NYS has 21.17 percent of its nursing home residents on antipsychotic drugs while only 6.14 percent have a diagnosis of schizophrenic or bi-polar disorder. Using antipsychotic drugs for residents without such a diagnosis is considered "off-label" use, i.e., one not approved of by the Food and Drug Administration. These data indicate that NYS facilities may not be better than other states on the incidence of inappropriate use of antipsychotic drug use. In fact NYS facilities are right in the middle of the sample in terms of antipsychotic drug use without a diagnosis of schizophrenia or bi-polar disease.

Location	Anti-Psychotic Drug Use Without Diagnosis
California	12.48%
Colorado	12.66
Illinois	14.3
Massachusetts	16.68
North Carolina	15.03
New York	15.03
Pennsylvania	15.22
Texas	19.47
Virginia	15.93
Washington	12.445

Source: www.LTCFocus.org

While more of NYS's residents walk independently than four of the other states, they have similarly high numbers of residents as the other states who are incontinent of bowel and bladder.



Source: www.LTCFocus.org

Staffing levels in NYS's nursing homes is not as high as the staffing in the sample states. Since RN staffing levels are closely linked to quality of care;[4] this might indicate problems in quality. According to the Brown University data for 2008 (the most recent available) NYS's average number of RN hours per resident per day is the lowest of the sample states. Although the LPN and CNA hours per resident per day are relatively better, they are still low. NYS's direct care hours per resident per day are the lowest of the sample states and it is also low on the ratio of RNs to LPNs, a very important indicator of supervisory availability.

[4] GAO-02-431R Nursing Home Expenditures and Quality and Castle, N.G., Nursing Home Caregiver Staffing Levels, Quality of Care: A Literature Review, Journal of Applied Gerontology, 2008 and Castle, N.G. et al, Caregiver Staffing in Nursing Homes and Their Influence on Quality of Care: Using Dynamic Panel Estimation Methods, *Medical Care*, June 2011 49(6):545–52.

State-Level Care Data: 2008[5]

Location	RN HPRD	LPN HPRD	CNA HPRD	DC Staff HPRD	RN/Nurses Ratio
California	0.61	0.82	2.52	3.78	0.36
Colorado	0.73	0.74	1.91	3.26	0.43
Illinois	0.77	0.69	2.16	3.19	0.47
Massachusetts	0.65	0.6	2.21	3.46	0.46
North Carolina	0.62	0.98	2.64	3.81	0.34
New York	0.39	0.69	2.07	3.08	0.35
Pennsylvania	0.71	0.75	2.11	3.56	0.44
Texas	0.47	1.18	2.2	3.49	0.19
Virginia	0.44	0.98	2.21	3.54	0.26
Washington	0.71	0.64	2.43	3.67	0.49

Source: www.LTCFocus.org

The average RN hours per resident per day in the country was .55 in 2008; the average LPN was .78; the average CNA was 2.33 and the average Direct Care staff was 3.67.[6]

In addition, the new federal requirement to use a new survey model, the Quality Indicator Survey, (QIS) requires more inspector resource time in the nursing home.[7] For instance, in the QIS, inspectors are interviewing more residents than they did under the previous survey model. New York is one of the early

states to switch to the QIS, which is being rolled out incrementally nation-wide. While we hope that the QIS will result in improvements to the survey process, such as the better identification of resident care and quality of life problems, the switch to the QIS will be labor intensive. All of this points to the need for more inspectors and better trained inspectors.

[5] LTCFocus.org, Brown University. RN HPRD: RNs Hours Per Resident Per Day; LPM HPRD: LPN Hours Per Resident Per Day; CNA HPRD: CNA Hours per Resident per Day; DC Staff HPRD: Direct Care Staff Hours per Resident per Day; RN/Nurses Ratio: Ratio of RNs to LPNs.

[6] Harrington, C.et al, Nursing Facilities, Staffing, Residents and Facility Deficiencies, 2003 Through 2008 Department of Social and Behavioral Sciences, University of California, San Francisco, CA 94118 November, 2009.

[7] The QIS is a two-staged, computer-assisted survey process with Stage 1 consisting of both computer analysis of offsite data as well as data collected by surveyors onsite from observations, interviews, and record reviews of large computer-selected resident samples. Stage 2 consists of systematic surveyor investigations of triggered issues and residents using the Guidance to Surveyors as well as a set of investigative tools known as critical elements protocols. In addition to the Stage 1 and Stage 2 sample-based investigations, the QIS also contains several facility-level tasks that are unstaged and are completed either on every survey or when triggered as areas of concern.

Thus, LTCCC urges the state to consider using some of the funds from the MRT Waiver to invest in more and better trained inspectors for nursing homes as well as more staff to oversee the transition from fee-for-service to mandatory managed long term care.