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Executive Director

August 11, 2010

Attention: CMS - 2435 - P

I am writing on behalf of Illinois Citizens for Better Care, the Illinois nursing home residents' advocacy organization, www.illinoiscares.org, to comment on the proposed CMS rules on Civil Money Penalties for Nursing Homes, published at 75 F.Reg. 39641 et.seq.

Illinois Citizens for Better Care joins in the comments made by the Sarah Wells on behalf of NCCNHR and the co-signatories to its comments. In addition, we have three brief comments of our own.

1. The 50% CMP reduction for self-reporting:

We agree with the conditions CMS has proposed for granting a 50% reduction. We do suggest, however, that -- either as part of the meaning of "self-reporting," or as a separate condition, any CMP reduction be conditioned on the facility fully cooperating with any survey and other follow-up to the self-reporting. In other words, for a facility to receive a reduction in CMP, the facility would have to promptly provide any requested documentation and access to staff, and facility staff could not lie to surveyors or otherwise deceive or attempt to deceive them about any issue raised by the self-reporting.

Our experience, unfortunately, is that attempts at deception -- sometimes successful ones -- occur as a matter of course during surveys. Encouraging the virtuous behavior of self-reporting is a fine idea, but it should happen only when the behavior is consistent.

2. Participation in the IIDR.

The proposed rules would allow written comments to be submitted by "an involved resident or resident representative," or by the ombudsman. It is not clear to us whether the IIDR might sometimes occur as a meeting or conference of some kind. If it does, the resident/resident representative/ombudsman should be able to participate in the same manner as does the facility.

3. Use of CMP funds for joint training

In addition to allowing joint training for facility staff and surveyors, any training using CMP funds should allow for participation of the ombudsmen. It should also allow for training of members of the public such as the AARP, citizen advocacy organizations, or family council members. Obviously there would be space limitations, but the states should make an effort to hold training under circumstances that allows for at least some public participation.

Thank you for your consideration of these comments.

Wendy Meltzer

Executive Director, Illinois Citizens for Better Care