

June 23, 2025

The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201

The Honorable Dr. Mehmet Oz
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd
Baltimore, MD 21244

Re: HHS's Critical Role in Protecting Nursing Facility Residents' Health and Quality of Life

Dear Secretary Kennedy and Administrator Oz:

Our organizations represent the interests of older Americans and persons with disabilities. We write today on behalf of the over one million Americans who live in nursing facilities. We would like to meet with you to discuss the important issues discussed in this letter.

The Department of Health and Human Services (HHS) plays a large role in ensuring that residents receive quality care and enjoy a healthy quality of life. Through the Medicare and Medicaid programs, the Centers for Medicare & Medicaid Services (CMS) pays all or part of nursing facility expenses for over 76% of residents nationally.¹ As a condition of receiving Medicare or Medicaid funding, facilities must comply with federal standards enacted in 1987 with the signature of then-President Ronald Reagan.

The Department of Health and Human Services (HHS), as well as the federal government more broadly, recently has requested that the public identify regulations to be eliminated. We urge you not to eliminate any nursing facility standards, and instead continue CMS's active enforcement of long-standing federal standards. Residents depend upon these standards, and facilities agree to them as a condition for reimbursement under Medicare and Medicaid.

We also urge you to continue robust funding for two crucial activities: surveying of facilities to ensure compliance with the law, and the counseling and assistance for facility residents provided by the Long-Term Care (LTC) Ombudsman Program pursuant to the Older Americans Act. Both surveying and ombudsman assistance are often a lifeline for facility residents who otherwise have nowhere to turn.

We note that the HSS proposed FY 2026 budget calls for a slight increase for nursing facility surveying and a continuation of current funding levels for the LTC Ombudsman Program. We

¹<https://www.kff.org/other/state-indicator/distribution-of-certified-nursing-facilities-by-primary-payer-source/>

appreciate the increase and the continued funding, but also emphasize that funding levels are insufficient to address current need.

An Aging Population and the Need for Nursing Facility Care

The United States's population is steadily aging. Currently, over 16 percent of Americans are over age 65.² This percentage is anticipated to increase to 21 and 25 percent by 2040 and 2065, respectively.³

Along with age comes the prevalence of dementia and other chronic diseases. Over 85% of seniors live with at least one chronic condition, commonly hypertension, arthritis, or diabetes, and more than half manage multiple conditions, which adds layers of complexity to their care.⁴ Roughly 1 in 9 seniors is living with dementia, and prevalence increases notably with age, reaching around 13% among those 85 and older.⁵

Because of these chronic illnesses, many Americans on a daily basis need health care along with assistance with activities of daily living such as dressing, eating and bathing. At any one time, over one million persons receive necessary assistance in nursing facilities. Some residents are in the facility for a few weeks or months, often as part of a rehabilitation process following a hospitalization. More frequently, residents have chronic conditions that require a nursing facility stay of months or years. The nursing facility becomes their home and, while they rely upon the facility for necessary services, it also is essential that they have the freedom and autonomy to experience a healthy quality of life.

Ensuring Quality Nursing Facility Care

The Medicare and Medicaid programs have paid for nursing facility care since the programs' inception in the 1960's, but low-quality nursing facility care was an ongoing problem. Residents too often received poor care in an overly-institutional environment, despite the significant federal expenditures.

The Institute of Medicine addressed the problem in a 1986 report entitled *Improving the Quality of Care in Nursing Homes*. In response, Congress on a bipartisan basis enacted the Nursing Home Reform Law, which was signed into law by President Reagan in 1987.

As implemented by CMS, the Reform Law follows two foundational principles. First, the resident should receive the care they need in order to reach the highest practicable level of functioning. The nursing facility and its staff never should assume that decline is inevitable. Some residents

² <https://www.census.gov/library/stories/2023/05/2020-census-united-states-older-population-grew.html>

³ <https://www2.census.gov/programs-surveys/popproj/tables/2023/2023-summary-tables/np2023-t2.xlsx>

⁴ <https://publichealth.jhu.edu/sites/default/files/2023-04/jhdaai-chartbook-2010.pdf>

⁵ <https://www.alz.org/getmedia/ef8f48f9-ad36-48ea-87f9-b74034635c1e/alzheimers-facts-and-figures.pdf>

are capable of improvement, while others can maintain their current condition, while still others can experience a more moderate rate of decline. For example, a resident with regular physical therapy can better retain the ability to walk and to perform routine tasks such as dressing and bathing.

Second, care must be focused on the individual resident — federal law uses the term “person-centered” care. Care in the facility is based on a comprehensive care plan that is developed through a person-centered planning process. The care planning team includes the resident and/or resident’s representative, along with the resident’s doctor and facility staff members, with the resident or resident’s representative having the right to request particular persons. The team develops a plan that addresses the resident’s “medical, nursing, and mental and psychosocial needs.”

One of the clearest testaments to the success of the Reform Law is the dramatic reduction in the use of physical restraints. Prior to the Reform Law, residents were routinely subjected to physical restraints—often for staff convenience, not medical necessity—resulting in injuries, loss of mobility, psychological trauma, and premature death. After the implementation of the law’s person-centered care requirements and resident rights protections, the use of restraints plummeted.

HHS’s Role in Ensuring Nursing Facility Quality

By its terms, the Nursing Home Reform Law became effective in October 1990. Most federal nursing facility regulations were adopted that same year or in the following years of the early 1990’s. To a great extent, the regulations repeat and also flesh out the Reform Law’s statutory standards.

Residents across the country rely upon the federal nursing facility law to maintain their own health and quality of life. If problems arise, they have two primary sources of assistance. First, they can consult with a representative of the Long-Term Care Ombudsman Program. The Ombudsman Program advises the resident on their options and, if the resident chooses, assists the resident in resolving the matter with facility staff.

In addition, the resident can file a complaint with the survey and certification agency, which is a state agency (often the Health Department) under contract with CMS to monitor nursing facility quality. Survey agencies investigate complaints and, if they substantiate the complaint’s allegations, require the facility to correct the problem. For more severe violations, the survey agency can assess remedies (for example, money penalties) to ensure facility compliance and deter future noncompliance.

In addition, the survey agency is responsible for conducting the comprehensive inspections required by the Reform Law. On average, these inspections must be performed annually and, for any one facility, no more than 15 months apart.

Federal funding for surveying has been flat for ten years, even though complaints in recent years have increased steadily. We are pleased to see that the HHS proposed budget for FY

2026 proposes an 11.2% increase for state survey and certification — from roughly \$397 to \$442 million. For the Ombudsman Program, however, the HHS proposed budget calls for flat funding of just less than \$22 million, despite increases in requests for assistance in recent years.

The Need for HHS’s Continued Support for Nursing Facility Residents

As discussed above, the Reform Law’s standards have been in effect for over 30 years, and focus significantly on residents’ ability to improve or maintain their conditions, and to make decisions regarding their care and lives. Facilities accept these standards as a condition of funding through the Medicare and Medicaid programs. Importantly, the Medicare and Medicaid programs are voluntary, meaning nursing facilities are not compelled to participate. The standards have played a pivotal role in improving residents’ lives and should not be considered for potential revision or elimination as part of the HHS’s current regulatory review. In particular, HHS should not revise the current standards for timely facility inspections, to ensure that facilities maintain standards of quality care. Annual inspections are vital to residents’ health and quality of life. Frequent changes in ownership can result in precipitous declines in conditions in nursing homes, making annual surveys essential to ensuring quality of care.

For the same reasons, we urge HHS to increase funding for both facility surveying and the LTC Ombudsman Program. We work with and for residents on a daily basis, and they can often feel despondent and powerless when dealing with a nursing facility that is cutting corners in providing care — for example, by not assisting the resident to move in a bed or chair every two hours, leading to the development of bed sores that often become infected. Timely intervention by surveyors and the Ombudsman Program can make all the difference in the world in ensuring that residents receive the competent quality care that they are entitled to under both the federal law and basic standards of decency.

Thank you for your leadership and for your commitment to protecting those who cannot easily advocate for themselves. We look forward to your response and for an opportunity to meet with you regarding these issues. Please feel free to contact us if we can ever be of assistance in your work.

Sincerely,

California Advocates for Nursing Home Reform
Center for Medicare Advocacy
The Geriatric Circle
Justice in Aging
Long Term Care Community Coalition
National Association of State Long-Term Care Ombudsman Programs
National Consumer Voice for Quality Long-Term Care

cc: Dr. Dora Hughes, David Wright, Eimiee Casal