



U.S. SENATE COMMITTEE ON

Finance

SENATOR CHUCK GRASSLEY, OF IOWA - CHAIRMAN

<http://finance.senate.gov>

MEMORANDUM

To: Reporters and Editors
Re: GAO report on Medicaid waivers
Da: Monday, July 7, 2003

Sen. Chuck Grassley, chairman of the Committee on Finance, was one of two requesters of a new report from the General Accounting Office, "Long-term Care/Federal Oversight of Growing Medicaid Home and Community-Based Waivers Should Be Strengthened," GAO-03-576. Grassley made the following comment on the report.

"These waivers should be put on hold until the department gets a handle on the quality of care going to older and disabled Americans. Right now, there's no accountability, and that's wrong."

The text of a letter Grassley and Sen. John Breaux sent to the Health and Human Services Department on this issue follows.

July 3, 2003

Via mail and telefax (202) 690-7380

The Honorable Tommy G. Thompson
Secretary
Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Thompson,

The purpose of this letter is two-fold: first, to discuss the importance of quality and oversight in home and community based settings (HCBS); and second, to voice our concern regarding the findings of a recent report issued by the General Accounting Office (GAO) entitled "Federal Oversight of Growing Medicaid Home and Community-Based Waivers Should be Strengthened."

The Medicaid HCBS waivers granted by you and your predecessors helped to create a diverse range of options in states' Medicaid long-term care programs. As a result, our nation's elderly and

disabled have many options available to them when looking for public assistance with long-term care. Repeated surveys have shown that people want to stay home for as long as possible, even when their long-term care needs increase. With the aging of the 77 million baby boomers, this stated preference will be all the more evident. Whereas at one time our choices for care assistance were limited to nursing homes, today's seniors are receiving needed assistance in their homes, adult day care facilities, adult foster care homes or other community-based settings.

From a financial perspective, it is telling to note that over the past ten years, Medicaid spending in the arena of long-term care has more than doubled, and the share of such spending allocated to HCBS waivers has grown considerably. HCBS waivers grew from a mere five percent to 19 percent of Medicaid long-term care expenditures between 1991 and 2001 to \$14.4 billion. In the years between 1992 and 1999, the total number of persons served through waivers nationwide nearly tripled to 700,000 beneficiaries.

Accordingly, we applaud the intent of your work, which gives long-term care patients choices that in the past were not regularly available. At the same time, we are troubled by the GAO's findings and request your immediate attention to its recommendations. Providing options in long-term care through Medicaid is a laudable goal, but the available options must ensure quality care to beneficiaries.

The GAO report identifies many systemic failures on the part of the Department of Health and Human Services (HHS) in assuring quality of care in its waiver program. Failure to provide necessary services, weakness in plans of care, and inadequate case management are just a few of the concerns outlined by GAO. The GAO recommends that both state quality assurance systems and federal oversight of Medicaid HCBS waivers must improve.

We strongly agree with these recommendations. According to the GAO's findings, states may obtain waivers to provide services to the elderly and disabled without a detailed plan for how quality will be assured in such programs. In fact, waiver applications and annual waiver reports often contain little, if any, detailed information on state quality assurance mechanisms -- there is no minimum level of feedback which states are required to provide HHS. Such lapses in guidance to the states may result in impaired quality care for waiver beneficiaries -- something that is antithetical to HHS' mission to provide for the health and welfare of its beneficiaries. It is imperative that HHS review its current policies for guidance to the states and work toward guaranteeing that all Americans have access to quality long-term care in their homes and communities.

In addition to improved guidance to the states, the GAO also recommends that HHS strengthen its oversight of the growing HCBS programs, providing clear and convincing evidence to support this. For example, HHS is not holding regional offices that are responsible for the direct oversight of all HCBS waivers accountable for conducting and documenting periodic reviews of waivers. Alarming, once a state establishes the need for a waiver and the waiver is granted, the GAO's findings indicate such a waiver might go years without review by the Center for Medicare and Medicaid Services (CMS) regional office within HHS. According to the report, as of June 2002, 228 HCBS waivers for all target populations had been in place for three years or longer and should have been reviewed by CMS regional offices. However, 42 waivers serving 132,000 beneficiaries

either had never been reviewed or were renewed without review. The GAO goes on to state that for an additional 36 waivers, reviews actually conducted by summary reports were never finalized, raising the question as to whether weaknesses that had been identified had been corrected. In sum, although mandated by both statute(s) and regulation(s) to do so, HHS is not requiring evidence that beneficiary safeguards are established before renewing waivers.

In conclusion, we are very concerned about the oversight mechanisms in place for the HCBS waiver program. We strongly believe that waivers provide individuals with long-term care needs, some valuable options when it comes to receiving the services they need. We will continue to support the current trend toward home and community-based services and away from unnecessary institutionalization. However, if we are going to continue to build those waiver programs, we must simultaneously ensure sufficient oversight and quality assurance mechanisms.

We look forward to hearing from you no later than July 28, 2003, regarding the concerns set forth in the GAO report, and some specific ideas for ways the concerns laid out in the report can be allayed. We anticipate receiving a response that includes a detailed plan, including implementation dates, of how the oversight weaknesses identified in this report will be addressed. After all, HHS has jurisdiction for protecting the health and welfare of each and every waiver beneficiary receiving services through these home and community-based waivers. Without improved guidance to the states and strengthened oversight activities such assurances will continue to be compromised. That is unacceptable.

In closing, thank you for your attention to this important matter.

Sincerely,

Charles E. Grassley
Chairman

John B. Breaux
Member