

## IN BRIEF: ASSISTED LIVING IN UNLICENSED HOUSING: THE REGULATORY EXPERIENCE OF FOUR STATES

Assisted living is regulated differently in each state. In most states, assisted living is licensed as *a single entity that provides housing and services to residents*. However, in a growing number of states a new model of assisted living has emerged, in which the housing and services are separate. In this model, the building is not licensed, but instead makes arrangements with *licensed service agencies* to provide services to residents. Findings are based on a review of the laws and regulations and interviews with key informants in four states with this approach:

- In Connecticut, assisted living consists of senior apartment buildings called managed residential communities (MRCs) that contract with assisted living services agencies (ALSAs) to provide services to residents. The state also provides Medicaid funding for ALSA services in 16 state- and three federally-subsidized senior housing communities.
- In Minnesota's version of assisted living, apartment buildings called housing with services establishments (HSEs) contract with home care agencies to provide services to residents. Assisted living services are also available to eligible residents in six low-income apartments and subsidized housing communities. In May 2006, the state passed a law improving consumer protections for assisted living residents.
- New Jersey originally had two types of licensed assisted living settings: (1) assisted living residences and (2) comprehensive personal care homes. In 1996, the state added a third category of assisted living, assisted living programs (ALPs). ALPs are licensed agencies that bring assisted living services to older residents in subsidized housing.
- North Carolina has two types of assisted living. Adult care homes are licensed assisted living settings. Multiunit assisted housing with services (MAHS) are not licensed but contract with home care agencies to provide services to residents. MAHS are private pay, and residents are generally more independent than adult care home residents.

The findings suggest several topics for states to consider regarding assisted living in unlicensed housing:

### **Bringing assisted living services to subsidized housing**

Three of the study states (CT, MN, and NJ) provide Medicaid funding for assisted living services in subsidized housing. Informants agreed that this approach has made assisted living available to people with low incomes. Tenants who are eligible for Medicaid do not have to move, but can stay in their apartments and obtain services. Quality standards in these settings may be more rigorous than in private pay assisted living, because Medicaid waiver requirements apply.

### **Physical environment**

Some of the study states had minimum standards for the building where services are provided, such as requiring security systems, private rooms, and transportation, meals, and

housekeeping. In other states these features and services were optional. A common theme, however, was that assisted living in unlicensed housing generally provides a home or homelike environment that supports residents' privacy and independence.

### **Monitoring and oversight**

Although the housing where services are provided is not licensed in this model, the states use a range of other means of assuring quality, for example the long-term care ombudsman program, fire standards, food and kitchen standards, and requirements for the contracts. Some informants pointed to a need for more oversight of the housing. However, one informant was concerned that increased monitoring could detract from the home environment that appeals to consumers.

### **Resident Assessments, Service Terminations, and Evictions**

The states vary in their requirements for assessments of prospective residents. In North Carolina and Connecticut, providers use their own assessment processes and some informants were concerned that assessments were not always adequate. Because the buildings are governed by landlord-tenant law, discharge criteria are determined by provider policy rather than by state law. Residents may be able to arrange additional help from paid caregivers or family members, just as they could in their own homes. However, barriers to remaining in assisted living include: hiring additional help can be expensive; paid caregivers may not be available (particularly in rural areas); the provider's discharge criteria may require residents to move; and the resident and family may be unable to arrange for the needed services. Some of the states have addressed these concerns by requiring 30 days' notice of discharge, a process to appeal service terminations or evictions, and other consumer protections. Minnesota recently added such protections.

### **Resident information and confusion**

Informants in all four study states mentioned problems related to consumer information, including lack of consumer awareness about their rights, the providers' discharge criteria, and where to go to get concerns addressed, as well as a variety of service packages that make it difficult to compare providers. Minnesota's new law calls for the development of a uniform consumer information guide, requires HSEs to have a designated person to help residents resolve concerns about arranged home care services, and strengthens disclosure requirements.

### **Residents' rights**

Resident rights varied among the four study states. Only New Jersey has an assisted living residents' bill of rights that applies to assisted living in unlicensed housing. In the other states, these residents have rights under the home care bill of rights and landlord-tenant law; informants had different views on whether these protections were sufficient.

### **Conclusions**

Assisted living in unlicensed housing has several potential benefits and problems for consumers: Potential benefits include improved access to assisted living for people with low incomes living in subsidized apartments, a home environment, a range of housing options, and, in some cases, the ability of residents to remain in assisted living when their needs increase. Challenges for states include ensuring that consumers are well informed; protecting residents' rights and ensuring quality of care, particularly regarding assessments, service terminations, and evictions; and providing adequate oversight and enforcement while maintaining the home environment that consumers prefer.