



## OHIO ASSISTED LIVING ASSOCIATION

### *Comments on HB64 by the Ohio Assisted Living Association*

Chairman Smith, Ranking Member Driehaus and Members of the House Finance and Appropriations Committee, thank you for this opportunity to respond to Substitute HB 64 as it impacts assisted living. My name is Jean Thompson and I am the Executive Director of the Ohio Assisted Living Association representing over 415 licensed Assisted Living communities in Ohio.

#### *Assisted Living Waiver (ALW) Reimbursement*

Absent in the Substitute version of HB 64 is any increase for the Assisted Living Medicaid Waiver. The Waiver program provides services to Ohioans (over 4,500) who qualify for nursing home placement, and, but for the ALW established in 2006, would be cared for there. The ALW is unique in the waiver system in that it provides 24 hour oversight; offering supervision, Activities of Daily Living and nursing services. This 24-hour custodial type care is often required due to cognitive and physical disability.

Unfortunately, this valuable program that is **saving approximately \$217,759,500 per year** (a mix of federal and state dollars and based on the number of individuals enrolled as of October 2014) **is still being reimbursed at its initial rate set in 2006**. This program cannot continue or grow to meet Ohio's need for home-like, cost-effective options, serving individuals who require a 24-hour supervised environment, without an increase. The ALW is not *sustaining* Assisted Living Waiver providers, evidenced by the rapid growth of Assisted Living in recent years, primarily fueled by the private pay market.

During the last biennial budget (HB 59), while other Home and Community Based Waiver programs (i.e. Adult Day Services, PASSPORT) received increases, ***Assisted Living did not***. At that time, we were told that a study needed to be done to look at the payment structure for the program before determining if an increase was needed. The Ohio Department of Aging did have Scripps Gerontology Center at Miami University, complete a study and although the report was finalized in 2014, the information has not been made publicly available. It is our understanding, from the information we have seen, it appears to indicate that the study concluded that the program reimbursement needed to be increased in some way. We have included in our supporting documents two quotes from the study alluding to a need to increase room and board rates which are currently based on the federal SSI amount, which are well below market rate, especially in urban areas.

Additionally, in the mid-biennium review (HB 483) of the previous General Assembly, there was bipartisan support for an increase in reimbursement for the ALW on both sides of the aisle and an amendment was included during House deliberations on the bill to provide a 1.5% increase for the ALW program. I would like to take this opportunity to publicly thank members of the

House for this much-appreciated funding increase. However, we were informed very late in the HB 483 budget process by the Office of Health Transformation (OHT) that making a rate adjustment to any waiver program operating in our state would trigger a large “rule compliance mandate” from the federal government. OHT indicated that many of the state’s waiver programs would not be able to comply with this mandate and as such, the Senate then removed the 1.5% increase. The OALA cooperated with our fellow waiver programs by not objecting to the Senate’s removal of the funding increase; however, when the increase was removed, we were told that an increase in reimbursement would likely occur in the next biennial budget. This was obviously not the case. Further, in recent discussions with the administration, we have been told they would not oppose an increase if the legislature should determine to include one.

In order to see the need for the increase, we have attached with our materials a chart of what other programs providing similar services, but less than 24 hours a day, like the Assisted Living Waiver, are receiving in reimbursement. Additionally, it shows the average nursing home cost. ***These programs are not overpaid – we are underpaid. We are asking for an amendment to increase the Assisted Living Waiver reimbursement by 6%.*** I would like to publicly thank Representative Sears for offering such an amendment for consideration in the substitute version of House Bill 64. Ultimately that language was not included and at this time we would respectfully ask for reconsideration for the omnibus amendment.

Also in our supporting documents is a slide taken from Governor Kasich’s budget highlight presentation, showing the average annual costs of all waiver programs. While we are fully supportive of services at home, whenever they can meet an individual’s needs, it is worth noting that the average annual cost of Assisted Living providing a 24 hour supportive environment is currently only \$1,600 more per year than the average annual part-time PASSPORT care cost. Generally PASSPORT services depend on needs that can be scheduled and some level of family or friend support available, which is not always the case and which is less likely given our demographics in the future.

Thank you for your time and consideration. I would be glad to answer any questions I can.

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Below are quotes from a **July 2014** report by Robert Applebaum and John Bowlblis from Scripps Gerontology Center at Miami University (Oxford, OH). The report is titled "***A Review of the Reimbursement Approach for Ohio's Assisted Living Medicaid Waiver Program***".

*"A third question was how to set the room and board component of the assisted living rate. To ensure that Medicaid recipients who relied on the Supplemental Security Income Program (SSI) could use the assisted living waiver option, state officials set the room and board rate at the federal SSI amount, minus a \$50 personal allowance. The advantage of this approach is that very low income individuals with qualifying levels of disability can participate in the program. A major disadvantage is that the room and board rate is set below the prevailing private pay charges creating a disincentive for providers to participate in the waiver program. States have dealt with this issue through a range of approaches. The majority of states (40) and all states with 1915C waivers do not include room and board as part of the waiver rates. Twenty three states cap the room and board rate in the program. Twenty four states subsidize the federal SSI payment for waiver participants. Twenty five states allow families or third parties to supplement room and board charges (Mollica, 2009). Currently, Ohio does not allow families or third parties to supplement the room and board charges." (p. 3)*

In the recommendations section of this report:

*"3b. Explore a payment system that allows facilities to receive a room and board rate that is closer to actual cost, rather than one set by the SSI amount. We estimate that more than 80% of waiver participants could afford to pay a higher monthly room and board rate out of personal income. When combined with the opportunity for family supplementation described above, we believe this could serve as a vehicle to more accurately reimburse assisted living facilities under the waiver and help to ensure additional access for low income individuals. Under such an approach a portion of this increase should be used to enhance the personal needs allowance. This would also be consistent with the new CMS-HCBS setting regulations which emphasize the community nature of the assisted living option. The development of such an option would have to consider how to mitigate the impact on low income residents." (p. 16)*



## OHIO ASSISTED LIVING ASSOCIATION

*A cost comparison of Medicaid programs providing similar services to the Assisted Living Waiver program.*

MEDICAID Reimbursement		
Assisted Living Waiver	24 hours per day service package	Tier 1 \$49.98* Tier 2 \$60.00 Tier 3 \$69.98
Certified Adult Day Services	4-8 hours (Transportation & additional services billed separately)	Enhanced \$49.39** Intensive \$64.84
PASSPORT Personal Care Service	4 hours	\$69.44 (\$17.36/hr)**
Nursing Home	24 hours per day	\$ 167.00 per day***

Source: \*OAC 5101:3-1-06.5 Appendix A

\*\*OAC 5160-1-06.1 Appendix A

\*\*\*Scripps Gerontology Center 2011 Biennial Survey (average, double occupancy)

**The Association has prepared this comparison to highlight the Medicaid reimbursement rates for similar services being provided to older adults in Ohio.**

Based on this comparison, the Assisted Living Medicaid waiver service reimbursement *needs to be increased*.

- It is especially important for the state to offer a significantly *increased rate for memory care*. Residents with cognitive impairment require much more supervision and staff time, even though their needs are not necessarily medical in nature. This makes Assisted Living the appropriate cost-effective setting for memory care, versus the much more expensive nursing home alternative. However, with the current Assisted Living waiver reimbursement rate, providers cannot make this staff intensive care available; especially placements in secure units.
- Additionally the **room and board payment**, which at \$683 per month is well below market value, *needs to be increased*; or other cost-savings options, such as sharing an apartment with another resident considered.

Below is what is included in the Assisted Living waiver service, compared with the other Medicaid programs offering long-term services and supports.

**I. Assisted Living Medicaid Waiver Reimbursement Rates:** 60% Federal, 40% State Funded  
Service Package

- **Tier 1-** \$49.98/day- includes occasional cognitive prompts, or up to 2.75 hrs of personal care/day
- **Tier 2-**\$60.00/day- includes daily cuing and prompts, supervision with medications (staff involved in procurement, storage and reminders), weekly or monthly hands on care by LPN or RN, or more than 2.75, but not more than 3.35 hours per day of personal care.
- **Tier 3-**\$69.98/day- includes ongoing cuing prompts, and redirection, medication administration by licensed nurse, daily nursing care, or more than 3.35 hours of personal care per day.

**All Service Tiers include:** ADL assistance, laundry and housekeeping services, 24 hour staff to respond to needs, social programming, non-medical transportation, and licensed nurse.

**Room and Board:** \$683/monthly (rate set by SSI) - **Paid by the resident**

- Private apartment/bath (includes shower or tub)

AL Waiver Providers are also subject to additional compliance reviews by the Dept. of Aging, in addition to the annual RCF licensure inspection conducted by the Dept. of Health.

**II. Certified Adult Day Services (4-8 hours )** **Enhanced:** \$49.39 **Intensive :** \$64.84

- **Enhanced** - Structured activities, health assessments, supervision of ADLs and medication, assistance with 1 ADL (except bathing), assistance with medication administration, therapeutic activities, intermittent health status, assistance with personal hygiene (except bathing).
- **Intensive** - Services in the Enhanced level plus, assistance with 2 or more ADLs and bathing, regular health status monitoring and intervention, skilled nursing services, rehabilitative/restorative services (physical, speech, occupational therapy & social work).  
(Source: [www.aspe.hhs.gov](http://www.aspe.hhs.gov) ; Ohio reports & the National Adult Day Services Association.)

**III. PASSPORT Personal Care Service** \$69.44 (4 hours); \$17.36/hr) can include...

- Assisting the consumer with ADLs and IADLs
- Assistance with self-administration of medications
- Meal preparation and household chores; can include assisting consumer with managing household or handling personal affairs.

Source: OAC 173-39-02.11

**IV. Average Nursing Home Medicaid reimbursement :** \$167.00/day

- Assistance with ADLs
- All nursing services
- Double occupancy permitted
- No requirement for space in room “separate from the sleeping area”

# Ohio Medicaid Home and Community Based Services (HCBS) Waiver Programs

Waiver	Enrollment	Average Cost	Lead Agency
MyCare Ohio	24,105	Within MCO cap	Medicaid
Ohio Home Care	5,705	\$23,360	Medicaid
Transitions II	1,374	\$24,106	Medicaid
PASSPORT	18,069	\$10,936	Medicaid/Aging
Assisted Living	2,598	\$12,564	Medicaid/Aging
Transitions DD	2,903	\$23,944	Medicaid/DODD
Individual Options	17,803	\$58,181	Medicaid/DODD
Level One	13,765	\$11,124	Medicaid/DODD
S.E.L.F.	332	--	Medicaid/DODD