



Date: August 16, 2024

Division of Medicaid Services  
Bureau of Programs and Policy  
Attn: Public Comments re: Wisconsin Medicaid HCBS Heightened Scrutiny

Submitted electronically via [dhs1tccpubliccomment@dhs.wisconsin.gov](mailto:dhs1tccpubliccomment@dhs.wisconsin.gov)

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) appreciates this opportunity to comment on the Home and Community Based Settings (HCBS) Rule and the residential care providers currently under heightened scrutiny review.

The majority of the 22 long-term care residential settings under heightened scrutiny review are connected to skilled nursing facilities (SNF). This is not surprising, as the long-term plan to sustain many SNFs has been to diversify the type of care settings offered. In many cases, the move to diversify the care settings available has helped to stabilize the revenue owners need, while also providing access to the continuum of long-term care needed to meet local needs, especially in rural and economically challenged communities. Given transportation challenges and difficulties finding long-term services and supports in many areas of the state, the availability of assisted living care can help to prevent premature nursing home residence.

As advocates for older adults, our concerns regarding community integration, stem less from the residential care facilities proximity to a SNF and more from the facilities ability to address individuals' needs and desires. Enhancing the overall quality of HCBS programs requires addressing concerns such as placements outside of the individual's home community (often many miles away making visits from family and friends difficult), limited access to transportation (beyond medical appointments) so individuals can participate in community and civic activities, inability to access preferred food and snacks or personal funds when desired, and lack of adequate training and staffing ratios to ensure not only physical care needs are met but also social needs; these concerns have proven to be some of the greatest barriers to older adults and people with disabilities ability to live and spend their days as they desire.

Additionally, GWAAR and other aging and disability advocates believe the protection of rights for individuals in all types of assisted living care requires creating uniformity in the regulations for all settings under Wis. Stats. Ch. 50 (requiring all settings to be regulated the same as CBRFs) and updating the statutes and administrative codes to include adult family homes (which are heavily utilized in many areas) not currently included in Ch. 50 (1-2 and 3-4 bed adult family homes) or the administrative rules (1-2 bed adult family homes). Consumers, regardless of what type of assisted living care setting they are living in, want and need the same rights and due process protections related to abuse, discharge planning, notification and closing requirements,

relocation, and contract disputes. Uniformity in the administrative codes would increase transparency in marketing which would assist consumers in making better informed choices, as well as provide greater accountability when the services provided do not align with those advertised and /or may be in violation of regulations or contract requirements. Residents and family members are often caught off guard when the level of service (memory care, medical services, transportation) promised cannot (lack of credentialed or specialized care staff) or is not (lack of staffing) what is delivered.

We (and other aging and disability advocates) have a growing concern related to care facility ownership (increasing number of out-of-state real estate investors and private equity firms) and the lack of transparency regarding who the owner is, how funds are spent (specifically the portion spent on resident care), and owner performance in other states. This lack of transparency can make it difficult for consumers to make informed choices when selecting a new residence. For existing residents, changes in ownership have led to significant changes in policies and practices impacting the quality of care, the level of services provided, and the payment sources accepted (despite promises made to individuals and their families by the prior owner when they initially moved in). We recommend state transparency requirements be included in licensing agreements and a public access data portal be established to help consumers know who owns the facility, what the owner's profit margins are (or they percentage of revenue spent on direct care), staff turnover rates, disclosure of all contractual relationships, and performance at other in- and out- of state facilities under ownership by the company.

Lastly, GWAAR is deeply concerned about the under-resourced adult protective service system, Ombudsman programs, and investigatory/regulatory staff within the state Office of Caregiver Quality and the Division of Quality Assurance (DQA). To ensure individuals receive services in settings that - are integrated in and support full access to - the greater community, we recommend establishing and funding a minimum staffing ratio of long-term care ombudsmen to HCBS participants and residents in long-term care facilities. We further recommend increasing funding for the state's county-based adult protective service system and for the Office of Caregiver Quality and DQA to secure the positions needed to oversee and inspect the growing number of regulated long-term care facilities in Wisconsin.

Thank you for your consideration of our comments.

The Greater Wisconsin Agency on Aging Resources, Inc. (GWAAR) is a nonprofit agency committed to supporting the successful delivery of aging programs and services in our service area consisting of 70 counties (all but Dane and Milwaukee) and 11 tribes in Wisconsin. Our mission is *to deliver innovative support to lead aging agencies as we work together to promote, protect, and enhance the well-being of older people in Wisconsin.* There are over one million adults aged 60 and older residing in our service area.

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