2009 Subsidization Practices of CCRCs

December 2009

In June of 2009 a survey was conducted by the Finance Committee of ORANJ to determine how CCRCs in the ORANJ area help residents who, from no fault of their own, no longer have the income to pay for their monthly service fees. The survey form was sent to the presidents of all 24 Residents Associations/Councils. 15 responded. Four CCRCs declined to answer questions which they viewed as involving confidential information.

Survey Results:

All CCRCs reported having a program in place to provide financial assistance to residents who are outliving their resources. This is documented in their Resident and Care Agreement (RCA), the Annual Disclosure Statement, and/or the Residents' Handbook. CCRC subsidization policies are communicated to the residents in the RCA, in the Disclosure Statement, and during meetings with residents.

Each Community has its own prerequisites for providing subsidization to their residents. They include in most cases that the resident provide up-to-date financial information, spends down remaining assets, including any capital refund due, seeks financial assistance from family and other potential resources, applies for Medicaid if eligible, and moves to a smaller apartment. CCRC staff will aid in helping residents through the required steps. Funds to support financial aid come from various sources, including Benevolent Care Funds, Board-restricted funds and, in some cases, from general funds.

Benevolent Care Funds include proceeds from donations, bequests, charitable gift annuities, proceeds from thrift shops, apartment property sales, and periodic fund raisers. Most funds are administered and disbursed by a staff committee or their board. Privacy rules restrict resident participation in these steps; however, four CCRCs reported having residents on joint committees which exercise some influence over benevolence fund disbursements.

There was a limited response to the question of what steps were taken to insure that sufficient funds would be available to cover projected needs. Four CCRCs reported using some form of actuarial analysis, while six CCRCs reported no specific plans other than to monitor and/or solicit funds as necessary, or gave no response. The policy of a majority of the CCRCs is to seek recapture of subsidization funds from a resident's estate. Only two CCRCs require updated financial disclosure information periodically from residents following admission.

Regarding the percentage of a CCRC's total resident population currently receiving subsidization, five reported "None;" four CCRCs indicated "A few" or "under 0.5%;" one CCRC reported "5.5%" and five CCRCs made no response or declined to respond, considering the information confidential.

Background Information:

Primary legal and regulatory references to the topic of subsidization can be found in federal and state statutes and regulations. The prime federal reference concerns the preservation of a CCRC's income-tax free status as a non-profit corporation under section 501(c)(3) of the tax code.

Specifically, IRS Rulings (especially Rev. Rul. 72-124, 1972-1 CB 145) state that, to qualify as a 501(c)(3) Not-For-Profit organization, a CCRC must demonstrate that it operates so as to satisfy the financial needs of its residents by meeting two conditions:

a. It must be committed to an established policy of maintaining in residence any persons who become unable to pay their regular charges. This may be done by drawing on reserves, by seeking support from local/federal welfare agencies, by soliciting funds from a sponsoring organization, other residents, or the general public, or by some combination thereof.

b. It must operate so as to provide services to its residents at the lowest feasible cost, taking into consideration such expenses as debt service and maintaining adequate reserves to insure lifetime care for each resident and for physical expansion to meet the needs of the community.

There are also state regulations to protect the resident: Specifically New Jersey Regulations (NJAC Title 5 DCA: Ch. 19. Continuing Care…Regulations Subchapter 6, Contracts) specify that The Residence and Care Agreement must describe the circumstances under which a resident may remain in the facility in the event the resident experiences financial difficulties and also that:

a. Failure to pay fees cannot be considered a "just cause" for contract termination until (1) the entire unearned entrance fee plus any third-party insurance are earned by the CCRC and (2) a minimum of 90 days has elapsed following the date of failure to pay, during which time the resident pays a reduced fee based on current income.

b. CCRC residents having financial difficulty have the right to thoroughly investigate with their CCRC any financial assistance which may be available to allow them to remain, and to maintain residence at the CCRC until it demonstrates that the entrance fee has been fully earned.

c. A CCRC resident has the right to request an administrative hearing to contest the decision by the CCRC to dismiss or discharge him/her for just cause.

Survey Questions & Responses

When answering survey questions assume that (1) when residents initially applied for admission they were able to demonstrate that they had adequate financial resources to cover admission costs, monthly charges, and personal obligations for their lifetime in the community and that (2) after admission they made a good faith effort to preserve their financial resources until it became apparent that they might outlive them, and they had then applied for subsidization from their CCRC.

1. Is it your CCRC's policy to retain residents who may outlive their resources?
Response: All CCRCs report having a program in place to provide financial assistance to residents who are outliving their resources.

1A. Is that policy documented and, if so, where?
Response: In the Residence and Care Agreement (RCA), in the Disclosure Statement, and/or in the Residents Handbook.

2. How are your CCRC's subsidization policies and procedures communicated to residents?
Response: In the RCA, the Disclosure Statement, the Residents Handbook, and/or during meetings with residents.

3. What specific steps does your CCRC require be taken prior to providing subsidization, such as investigating the availability of financial support from Medicaid or other outside sources?
Response: Generally, a resident is required to (1) demonstrate financial need, (2) spend down most of available financial assets, including any capital refund due, (3) seek financial assistance from other potential resources, (4) possibly move to a smaller apartment, and go on Medicaid, as applicable.

3A. To what extent does your CCRC assist residents in this regard?
Response: By overseeing subsidization processes, assisting residents with

applying for and obtaining outside assistance, and reviewing information provided by the resident.

4. What funds are used by your CCRC for subsidization, such as restricted funds set aside for that purpose?
Response: Eleven CCRCs have established restricted funds; the other four draw from general funds, from interest from Board restricted funds, or from outside charitable fund sources.

4A. Has your CCRC designated a staff member to publicize, solicit for, and track these funds?
Response: Five CCRCs reported “Yes,” two CCRCs responded “No,” five CCRCs responded that their parent company is responsible for benevolence funds, and three CCRCs responded either “Not Applicable” or made no response.

4B. Who controls these funds, disbursements from them, and how are they invested?
Response: For 13 CCRCs the Management/Governing Board or the parent company controls disbursement and investment of the funds. For four of these CCRCs, joint committees, including residents, exercise some control over disbursement of funds. Two CCRCs responded either “Not Applicable” or made no response.

4C. What primary financial sources are used to establish and maintain these funds?
Response: A variety of responses from ten CCRCs, including solicited and unsolicited donations, gifts, bequests, charitable gift annuities, proceeds from stores and gift shops, and periodic fund-raisers. Five CCRCs responded with “Not Applicable,” responded that general funds are used for subsidization, or made no response.

4D. To what extent are residents involved with your CCRC’s subsidization program?
Response: Generally, only to assist with fund-raisers and to make donations. Only four CCRCs reported having residents on joint committees which exercise some influence over benevolence fund disbursements.

4E. What steps has your CCRC taken (such as actuarial analysis) to ensure that sufficient subsidization funds will be available to cover projected needs?
Response: Four CCRCs reported using some form of actuarial analysis, four CCRCs reported that this is a parent company responsibility, one CCRC would use general funds to provide subsidization if their benevolence fund

was depleted, and six CCRCs reported no specific plans other than to monitor/solicit funds as necessary or made no response.

4F. Is it your CCRC's policy to seek recovery of subsidy funds from a resident's estate?
Response: nine CCRCs responded "Yes," three CCRCs responded "No," and three CCRCs made no response.

5. What percentage of your total resident population is currently receiving some amount of subsidization?
Response: five CCRCs reported "None," four CCRCs indicated "A few" or "Under 0.5%," one CCRC reported "5.5%", and five CCRCs made no response or declined to respond, considering the information confidential.

6. Does your CCRC require updated financial disclosure information from residents following admission, and, if so, how often?
Response: five CCRCs responded "No," two CCRCs responded "Yes," four responded "Yes, on a case by case basis, as for residents on subsidy," and four CCRCs made no response.

7. What additional comments or questions do you have regarding subsidization?
Response: eight CCRCs made additional comments, generally expanding on their prior answers, as by underscoring that residents have not been required to leave for financial problems not their own fault, or indicating that they were developing subsidization policies and procedures, or noting that they had once considered using association funds for subsidization.