OBAMA-BIDEN TRANSITION PROJECT

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ahca® American Health Care Association

ISSUE BRIEF

ncal® National Center For Assisted Living

Medicare Part D Copayments Unfair for Dual Eligible Assisted Living Residents

Action for Congress: Cosponsor the *Home and Community Services Copayment Equity Act of 2007 (S. 1107)* or the *Medicare Part D Home and Community Services Copayment Equity Act of 2008 (H.R. 5604)*, which would eliminate Medicare Part D copayments for dually eligible Medicare and Medicaid beneficiaries in assisted living residences and other home and community based settings.

The *Medicare Modernization Act of 2003 (MMA)* introduced the Medicare Part D prescription drug benefit that has transformed the way seniors and many people with disabilities receive prescription drug medications. Recognizing the vulnerability and special needs of very low-income people living in long term care facilities, the *MMA* exempted dual eligible beneficiaries – those eligible for both Medicare and Medicaid – from any cost-sharing for Medicare Part D prescription drugs. Under this new benefit, the Centers for Medicare & Medicaid Services (CMS) defines a long term care facility as a nursing facility, an intermediate care facility serving people with developmental disabilities, or an inpatient psychiatric hospital. **It is important to note that this benefit does not extend the waiver of copayments for prescription drugs to dual eligible residents of assisted living and residential care (AL/RC) facilities, even though these residents are nursing-home eligible and share similar needs and vulnerabilities.**

Currently, 12 percent of the one million residents living in AL/RC facilities are considered dually eligible and have their care financed under home and community-based services (HCBS) programs. Under HCBS waivers, residents placed in AL/RC facilities must also be eligible for placement in nursing homes. Like nursing home residents, these 115,000 dual eligible residents of AL/RC facilities require approximately 8-10 prescriptions daily; so, even copayments of as low as $1 to $5 can present financial hardships for these residents. In many instances, the combined Medicare Part D copayments for these individuals can exceed the monthly Medicaid personal needs allowance.

Continuing to require copayments from this vulnerable population will affect some seniors' access to much-needed medications, and may also negatively impact expansion of Medicaid programs that are designed to offer nursing-home eligible seniors and people with disabilities the option of remaining in community settings. In fact, a study recently published by the U.S. Department of Health & Human Services reports that the number of assisted living residents covered by Medicaid dropped from 121,000 to 115,000 from 2004 – 2007, even as the overall assisted living population continued to grow.

When Medicare Part D took effect on January 1, 2006, dual eligible beneficiaries who previously received medications under Medicaid programs were switched to Medicare Part D drug plans. Under the Part D prescription drug benefit, however, pharmacies and plans are not required to dispense medications if a beneficiary does not pay his or her assigned copayment. Unless the law is changed, dual eligible residents of assisted living and residential care facilities who cannot afford these copayments are at risk of not receiving their much-needed prescription drug medications. We ask that Congress pass *S. 1107* and *H.R. 5604* so that we can make sure residents' needs are met.

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