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## New Jersey Probes Assisted Living Company's Evictions of Medicaid Residents

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The New Jersey Public Advocate is investigating claims that an assisted living provider is kicking out residents once they have used up all their savings and need to go on Medicaid.

Following dozens of complaints, the Public Advocate's office sent out letters to 538 current residents and former residents who have been discharged from eight New Jersey facilities run by Assisted Living Concepts, Inc. (ALC). The office is asking for information about the circumstances of the residents' departure, specifically if it was related to their need to transfer from being a private-pay resident to being one supported by Medicaid. So far, 122 people have asked to be part of the investigation. According to these residents' responses, says the Public Advocate's office, the problem at ALC facilities may be more widespread than originally thought and they raise new questions about ALC's actions.

"The response we are getting indicates that there may indeed be many more people out there who have been subject to ALC's unreasonable and unfair involuntary discharge policy," said New Jersey Public Advocate Ronald K. Chen.

The investigation into the company's practices was announced after ALC refused to answer a subpoena from the Public Advocate to produce the information itself. Assisted Living Concepts is a Wisconsin-based company that operates more than 200 assisted living facilities in 20 states. Despite having made \$8.3 million in net profits in the first half of 2008, the company has decided to phase out its 1,800 remaining Medicaid residents over the next five years, allegedly because of fears of bankruptcy. ALC filed for

bankruptcy twice in the 1990s, before becoming profitable.

On average, Medicaid pays assisted living facilities \$24,812 a year for each resident, 31 percent less than the \$36,200-a-year average that private residents pay. "You can't make ends meet [on Medicaid]," the company's president and CEO Laurie Bebo [told ElderLawAnswers last year](#). "Now we are making the right decisions for the company."

The company, which is already embroiled in court fights in Washington State over similar complaints, has a license in New Jersey that states that no resident should be discharged because of a "spend-down." The Public Advocate's office believes ALC has not fulfilled the terms of its license.

"They made representations that they would allow residents to change to Medicaid once they had spent down their money," Laurie Facciarossa Brewer, spokesperson for the Public Advocate, told ElderLawAnswers. "When that moment came, they didn't stick to it. They have changed their business model. They don't want Medicaid business anymore, and a lot of people are affected in the transition."

One of the problems for residents of assisted living facilities is that different regulations apply to them than to nursing home patients. Federal and state laws give powerful protections to nursing home residents that do not apply to those in assisted living units. However, following dozens of complaints from residents in both New Jersey and Washington State, lawmakers are trying to tighten regulations.

New Jersey state senator Jeff Van Drew (D-Cape May and Atlantic) is drafting legislation to prohibit assisted living facilities from discharging residents when they become eligible for Medicaid, and to require all such facilities in New Jersey to establish a fixed quota of units for those who will eventually become eligible for Medicaid, as well as for those on Medicaid to begin with. Currently, the state requires all assisted-living facilities built after 2001 to allocate at least 10 percent of their beds to residents on Medicaid. (The assisted living facilities at issue were built before 2001.) In addition, Some legal aid attorneys are looking into using federal fair-housing rules and the Americans with Disabilities Act to help assisted living residents stay in their homes.

The Public Advocate's office plans to continue its interviews with former residents and their families throughout September. The responses so far have revealed new issues. One man reported

that ALC told his father that once he had spent down his money, he would be eligible for a Medicaid place, even though the company knew his income exceeded the threshold for assisted living Medicaid. The families of other former residents complained that ALC facilities refused to rebate down payments used to hold rooms for short periods, even when the residents died before they could move in or when ALC itself decided not to admit them.

Brewer says that people in similar positions can contact their own state [long-term care ombudsman](#), officials who investigate cases of eviction or elder abuse. Or, she adds: "If you live in an Assisted Living Concepts facility, don't make the mistake of outliving your money."

For an article in *lehighvalleylive.com* on the investigation, [click here](#).

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