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Abuse and Neglect of Vulnerable Populations Widely Recognized: Mandatory National Background Checks for Direct Care Workers Needed

In support of its *voluntary* national background checks program for states, the Centers for Medicare & Medicaid Services (CMS), noted that “long term care (LTC) patient abuse, neglect and misappropriation of funds have been identified as a widespread problem for millions of Americans receiving LTC services.”¹

VOR is grateful to Congress for its past support of national background checks. The 2003 Medicare Modernization Act (Section 307) provided for a demonstration program, and the Affordable Care Act’s national background check grant program was even more robust. According to CMS, “both actions point in the direction of potential national applicability.”²

We agree and now ask for your support in making this necessary program mandatory.

The opportunity for caregiver abuse has grown along with the numbers of individuals with intellectual and developmental disabilities (I/DD) receiving Medicaid home and community-based (HCBS) supports. Currently, the Medicaid HCBS program provides services to 616,491 individuals with I/DD, with nearly half receiving supports from non-family caregivers. Between 1977 and 2010, the number of residential settings serving people with I/DD increased by **1,598%**.³

Federal regulations require that states, as a condition of participation, ensure the health and welfare of HCBS service recipients, defined as being freedom from abuse, neglect, and exploitation.⁴

Yet, abuse is widespread, including at the hands of caregivers.

Caregiving is stressful, personal and often behind closed doors. “The PAS [personal assistance service provider] relationship often has an inherent imbalance of power and authority, and an increased chance for harm may exist if the abuse is kept hidden and the person is afraid to disclose abuse that may threaten the relationship or lead to retribution.”⁵ Abuse can range from unreliable hours, financial misappropriations, withholding medications or disabled equipment, or physical and verbal abuse.⁶

Congress must build on existing models and good intentions.

The CMS voluntary national background check program for states is only as good as the number of States that apply for, and receive, grant money – just 24 so far⁷. Until every state participates, however, there are opportunities for “bad apples” to be re-employed and continue working with vulnerable populations in non-participating states.

Forced deinstitutionalization and long waiting lists are resulting in more and more vulnerable people being served in small settings. To ensure consistent staffing expectations across all care settings and states, mandatory national background checks are necessary.

Congress is now urged to *mandate* a National Background Check Program for direct care workers of all Medicaid long-term care homes, building on the existing voluntary program within CMS and existing state laws (e.g., Kentucky).

¹ CMS National Background Checks Program, <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/BackgroundCheck.html>

² “[National Background Check Program \(NBCP\) For Long Term Care Facilities and Providers: Frequently Asked Questions](#),” CMS (Updated January 2014)

³ Residential Services for Persons with Developmental Disabilities: Status and Trends Through 2010,” University of Minnesota (2012).

⁴ See, [Safe at Home? Developing Effective Criminal Background Checks and Other Screening Policies for Home Care Workers](#), AARP, (September 2010) (citing 42 CFR 441.302: conditions of HCBS waiver participation).

⁵ Powers, L.E., Oschwald, M., “[Violence and Abuse Against People with Disabilities: Experiences, Barriers and Prevention Strategies](#),” Center on Self-Determination Oregon Institute on Disability and Development, Oregon Health & Science University (2004)

⁶ *Id.*

⁷ Alaska; Connecticut; Delaware; Florida; Missouri; Rhode Island; California; District of Columbia; Illinois; New Mexico; Oklahoma; Kentucky; Utah; North Carolina; Maine; Nevada; West Virginia; Georgia; Minnesota; Hawaii; Puerto Rico; Maryland; Ohio; and Michigan.