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COMMENTARY

N.J. Law Out of Sync on Spending by Residents of Nursing Homes

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Imagine that you retired about 20 years ago.

You planned well for your retirement and are collecting Social Security and a decent return on your 401(k). Maybe you even have some pension income. But about 10 years ago, health problems required you to go into long-term care. At first an assisted living facility worked well, but now you need nursing home care. You've spent down your assets and are applying for Medicaid.

Would you be surprised to learn that, out of your Social Security and retirement funds, you will be allowed to keep only \$35 a month for your personal needs?

In 1974, federal law mandated that nursing home residents receiving assistance from Medicaid could keep \$25 of their monthly income to cover their "personal needs." Nursing home residents need this personal needs allowance, or PNA, to meet varied personal expenses such as clothing, personal care items, social support (telephone, stationery, etc.) and occasional outings. In our consumer-oriented society, it is important for residents to have an adequate monthly PNA to be able to participate on the most basic level. This is particularly true for residents

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who are isolated and have no family or friends to purchase personal items for them.

The federal minimum stayed at \$25 until July 1, 1988, when it was raised to \$30. The federal minimum has not increased in 20 years, despite a 2001 effort by an Illinois congresswoman to increase it to \$50. If adjusted for inflation since the federal PNA minimum was first established in 1974, it would be more than \$100 today.

States can opt to allow more than the federal minimum, and all but nine states have done so, recognizing that the federal minimum of \$30 per month is simply not adequate to afford nursing home residents a minimum level of comfort and dignity.

As of 2007, 40 states and the District of Columbia allowed \$40 or more, according to the National Citizens Coalition on Nursing Home Reform in Washington, D.C. Twenty-seven of those allowed more than \$50. The highest were Arizona, \$93; Minnesota, \$82; Alaska, \$75; the District of Columbia, \$70; and Maryland, \$66. Four states automatically increase the nursing home PNA annually, tying it to the Social Security cost-of-living allowance.

In New Jersey, the statutory PNA for nursing home residents has remained unchanged since Nov. 1, 1985 (N.J.S.A. 30:4D-6a). For more than 22 years, nursing home residents have been allowed to keep only \$35 of their income each month. Curiously, another provision of

state law (N.J.S.A. 44:7-87) allows the commissioner of Human Services to set the PNA for residents of rooming or boarding houses and residential health care facilities. That rate is currently \$103.50, and is adjusted by the COLA (N.J.A.C. 10:123-3.4). This inconsistency in state law is particularly cruel to nursing home residents.

Last term, the New Jersey Assembly passed a bill to increase the PNA to \$50. The session ended before the Senate could consider a similar bill, and the measure died. On March 6 of this year, the Senate Health, Human Services and Senior Citizens Committee considered two bills, *S-940* and *S-1001*, which would increase the PNA. The committee reported out a substitute bill, which now goes to the Senate Budget and Appropriations Committee. The bill would raise the personal needs allowance for nursing home residents from \$35 to \$50 per month. According to the legislation, the increase would affect about 36,000 people and cost \$6.2 million, of which the state's share would be about \$3.3 million.

It's a step in the right direction, but it doesn't go far enough. The recommended \$15 increase should be accompanied by a provision that would permit the PNA to be increased annually by the Social Security COLA. Such an increase would not affect the amounts currently received by nursing homes, and would cost the state nothing. It would only re-direct a small portion of the COLA increase of each resident's Social Security income directly to the resident.

The New Jersey Legislature should join Connecticut, Minnesota, Washington, and our state's Department of Human Services in recognizing that inflation affects our poor elderly, too, and assure that the final bill include a COLA equivalent to the percentage increase to that in the Social Security benefits. ■