

January 15, 2015

Biniam Gebre
Acting Assistant Secretary for Housing-Federal Housing Administration Commissioner
Regulations Division, Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW
Room 10276
Washington DC 20410-0500

**Re: Comments on Supportive Housing and Services for the Elderly and Persons with Disabilities:
Implementing Statutory Reforms; 24 CFR Parts 891 and 892**

**Document Number: FR-5576-P-01
RIN: 2502-AJ10**

Submitted Electronically through www.regulations.gov

Dear Acting Assistant Secretary Gebre:

The National Consumer Voice for Quality Long-Term Care (Consumer Voice) is a national non-profit organization that advocates on behalf of long-term care consumers across care settings. Our membership consists primarily of consumers of long-term care and services, their families, long-term care ombudsmen, individual advocates, and citizen advocacy groups. Consumer Voice has almost 40 years' experience advocating for quality care.

We thank you for the opportunity to submit comments on the Department of Housing and Urban Development's (HUD) proposed rule on Supportive Housing for the Elderly and Persons with Disabilities. Consumer Voice supports the addition of a new part 892 to establish regulations for the Service Coordinator in Multifamily Housing program and the Assisted Living Conversion program. Such regulations are overdue. While guidance has been provided by Notices of Funding Availability (NOFAs), regulations carry more weight, ensure greater consistency and can be enforced. They also provide greater consumer protection. Our specific comments related to these two new sections of Part 982 follow.

Service Coordinator in Multifamily Housing program

We are pleased to see that HUD is proposing regulations that would apply to service coordinators. These individuals play a key role in the lives of elders and persons with disabilities living in multi-family housing. Regulations would better guarantee that each service coordinator fulfills the same set of duties and receives the necessary training to perform those activities.

The National Consumer Voice for Quality Long-Term Care (formerly NCCNHR) is a 501(c)(3) nonprofit membership organization founded in 1975 by Elma L. Holder that advocates for quality care and quality of life for consumers in all long-term-care settings.

892.205 Definitions

Consumer Voice encourages HUD to define the term “qualified professional” in 892.220(a)(1) so that service coordinators know exactly the types of professionals to whom to refer a resident for a comprehensive assessment.

892.220 Duties

We support the list of service coordinator duties presented in the proposed rule and believe the duties reflect the breadth of the service coordinator’s role. However, we urge HUD to add two important duties that are missing - problem resolution and advocacy. It is inevitable that problems will arise when individuals live in a communal setting and receive services. There will be concerns about the quality and quantity of services, interactions with neighbors, and more. While resolving complaints may be an implied duty, Consumer Voice recommends that this responsibility be explicitly included in order to provide clarity and ensure that such help is available to residents. Problem resolution should only occur upon resident request.

Similarly, we ask HUD to explicitly identify advocacy on behalf of one or more residents as a required duty of the service coordinator. In many situations, residents will have no one else to turn to for advocacy services. Advocacy would involve representing the interests of one or more residents with management, service providers, community agencies and others, as well as educating and empowering residents to advocate for themselves.

892.220(a)(1)

Consumer Voice asks that HUD clarify the conditions or circumstances that would indicate that a comprehensive needs assessment is necessary. Without such guidance, it would be unclear exactly when such an assessment should be conducted. As a result, comprehensive assessments might not be completed for residents for whom such an assessment is critical.

We also believe that an annual review of a resident’s service needs is not sufficient, particularly for a “frail elderly person” and an “at-risk elderly person.” Consumer Voice recommends that a review be conducted at least semi-annually and when a resident’s status changes.

892.235 Training

Consumer Voice is concerned that the proposed rules do not include minimum training requirements. Instead, they merely call for service coordinators to receive training in certain subject areas. As written, the proposed regulations would not adequately equip service coordinators to do their job. Given both the importance and wide range of their duties, we strongly urge HUD to revise the proposed rules to require:

- A minimum number of hours of initial training
- A minimum number of hours of annual continuing education in relevant training topics (e.g., 10 or more hours annually)
- Coverage of additional subject areas, including but not limited to:
 - Conflict resolution
 - Effective communication
 - Working with individuals with cognitive impairments
 - Abuse, neglect and exploitation
 - Resident rights
 - Assessment
 - Care management (since service coordinators must be able to assume this role if care management services are not available)

892.240 and 892.245 Administrative requirements and Confidentiality

We commend HUD for including strong requirements related to confidentiality and private office space. The Consumer Voice houses the National Long-Term Care Ombudsman Resource Center, and we know from long-term care ombudsman experiences how critical it is that residents know their information will be confidential, only released with their consent, and that they can meet in a private place to express their concerns. We are troubled, however, by 892.245(2) which identifies situations in which individually identifiable information may be disclosed without the individual's consent. The language stating that information can be released to protect "safety or security" seems very broad and could therefore lead to misuse. We ask HUD to consider elaborating on what "safety" and "security" mean, or develop and reference guidelines addressing this issue.

Assisted living conversion program

While assisted living can be a less expensive alternative to nursing home care, it still remains costly and largely privately funded. This precludes many older adults and persons with disabilities from living in assisted living facilities. More affordable assisted living options are needed, particularly for low-income individuals. Regulations would create greater certainty and predictability for housing owners who are part of the assisted living conversion program, since regulations are not subject to change as readily as Notices of Funding Availability (NOFAs). This increased stability would help encourage more owners to participate in the assisted living program, making affordable assisted living facilities more available.

892.305 Definitions

892.305(3)

Part of the definition of "assisted living facility" (ALF) in the proposed regulations is that the ALF "provide separate dwelling units for residents, each of which contain a full bathroom and may contain a full kitchen." Consumer Voice agrees with giving owners the option of providing a full kitchen, but we are concerned that use of the word "may" creates the possibility that some dwelling units might not have any kitchen area at all. This would be contrary to the idea of assisted living – which is that the unit should be as much like a person's home as possible. Without some type of kitchen area, consumers could not prepare even simple meals or offer something to eat or drink to visitors – two very basic activities that most of us consider part of life in our homes. For many, the kitchen is the heart and/or hub of the home and often the center of day-to-day living. We therefore urge HUD to revise the language as follows:

*Provide separate dwelling units for residents, each of which contain a full bathroom and ~~may contain a full kitchen or~~ **limited kitchen area equipped with at least a microwave, refrigerator/freezer, and stove.***

In conclusion, we thank you, once again, for the opportunity to provide comments and for your work on this important issue.

Sincerely,



Robyn Grant

Director of Public Policy and Advocacy