Long-term Care of the Sick.
Maine

Governor's Task Force on

Long Term Care for Adults

Preliminary Recommendations

July 1980

JOSEPH E. BRENNAN
Governor

GOVERNOR'S TASK FORCE
ON LONG TERM CARE FOR ADULTS

c/o Department of Human Services
State House Station 11
Augusta, Maine 04333
Tel: 289-2636

MICHAEL R. PETIT
Commissioner

July 30, 1980

To: Interested Maine Citizens

From: Peter Mills, Chairman

Re: Preliminary Recommendations

On behalf of Governor Joseph E. Brennan's Task Force on Long Term Care for Adults, I am pleased to present our preliminary recommendations for your consideration.

Pursuant to the Executive Order which created the Task Force, we have examined ways to meet more fully the long term care needs of adults, regardless of age, who are physically, developmentally or mentally disabled. This has been the first effort in Maine and, perhaps, in the Nation to look at long term care needs and services from such a broad perspective.

These recommendations are a distillation of ideas discussed over the past nine months. The 32 members of the Task Force and many other individuals who have worked with the various committees of the Task Force have put untold hours into the development of the recommendations. Included are many of the ideas expressed by Maine citizens who have contacted individual Task Force members, raised concerns during Task Force work sessions, or testified before the Task Force at one of the six public hearings held last April.

Even though our preliminary document has over 50 pages, it is, in fact, only a partial reflection of the work completed by the Task Force. Our final report will include our rationale(s) for each recommendation.

Because many of the recommendations are so very complicated, your comments and criticisms, I am sure, will be very helpful to us. Unlike so many reports and regulations which go through the public hearing process, our work is truly preliminary. Therefore, we would greatly appreciate knowing your views about the recommendations, before we issue our final report to the Governor in September.

In August, the Task Force will hold two public hearings on the recommendations:

Tuesday, August 12. Council Chambers, City Hall, 73 Harlow Street, Bangor, 2-6 p.m.

Thursday, August 14. Council Chambers, City Hall, 389 Congress Street, Portland, 2-6 p.m.

Comments may be presented orally or in writing either by attending a hearing or by contacting Diana Scully, the staff assistant to the Task Force (Department of Human Services, Office of Special Projects, State House, Station 11, Augusta, Maine 04333 - Telephone 289-2636). Please contact Ms. Scully by August 22, 1980, if you have any comments about the recommendations or questions about the rationale(s) for particular recommendations.

Thank you very much.

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PART ONE:

DEFINITION AND PRINCIPLES OF LONG TERM CARE

A. DEFINITION

1. Types of Services.

Ideally, "long term care" services should include an array of coordinated preventive, diagnostic, therapeutic, rehabilitative, supportive and maintenance services.

2. Consumers.

Long term care services should be available to adults, regardless of age, whose capabilities have been impaired by physical, developmental or mental (including chronic mental) disability.

3. Settings.

Long term care services should be available in the home and in a variety of protected environments.

4. Goals.

The goal of long term care services for each individual should be the highest level of independent functioning possible in the least restrictive environment.

B. PRINCIPLES

The following principles should shape the system of long term care services in Maine.

1. Quality of Life.

There should be emphasis on social aspects of care, with the quality of life the paramount concern.

2. Case Management.

There should be a system for identifying, locating and tracking individuals in need of long term care services. There should also be standardized, periodic assessment of individuals' needs and capabilities.

3. Individual Needs.

There should be a system of services available to fit the needs of individuals, rather than individuals made to fit into the system.

4. Multiple Access.

There should be multiple access to services, which permits easy movement among levels and types of care, according to the needs of individuals.

5. Involvement in Planning.

There should be provision for the individual consumer of long term care services and his or her family, guardian or other interested individual to be consulted and involved in all aspects of placement and treatment planning for the individual, and to be encouraged to assume responsibility for self care.

6. Family; Networks.

There should be action to strengthen and promote the family or other natural networks, as part of a long term care support system. There should be all possible community education and participation to foster informal networks of mutual help and self help.

7. Focus.

There should be a system of long term care services that recognizes strengths and potentials of individuals, as well as limitations and problems.

8. Manpower.

There should be incentives for manpower availability, flexibility and training to meet the needs of consumers of long term care services.

9. Funding.

There should be adequate funding to ensure the availability of long term care services and to make choices available to individual consumers of long term care services.

10. Reimbursement.

There should be reimbursement policies which offer incentives to providers and consumers of long term care services to meet the long term care needs of individuals, regardless of setting.

11. Policy Development.

There should ba a system of policy development that is responsive to the needs of both consumers and providers of long term care services.

PART TWO:

IN-HOME AND COMMUNITY SUPPORT SERVICES

A. IN-HOME SERVICES

1. Home Health Services.

   (a) Legislation. The Governor should submit legislation to the 110th Maine State Legislature to fund long term home health services for individuals.

   (b) Availability. Home health services should be available during evenings and weekends to meet specialized needs and to provide care on an emergency basis. The State should encourage competition among home health agencies.

   (c) License. The Department of Human Services should license all home health agencies, whether proprietary or nonproprietary and whether or not they receive public funds. The Governor should submit enabling legislation to the 110th Maine State Legislature to authorize the Department to license all home health agencies. The legislation should provide that agencies certified as of January 1, 1981, to be reimbursed under the Medicare will not be required to meet additional licensure requirements.

2. Homemaker Services.

   (a) Legislation. The Governor should submit legislation to the 110th Maine State Legislature to fund homemaker services for individuals for whom these services are not presently available.

   (b) Availability. Homemaker services should be available during evenings and weekends to meet specialized needs and to provide care on an emergency basis.

   (c) Sliding Fee Scale. There should be a sliding fee scale for homemaker services. (See page 29)

3. "Participant-Directed" Personal Care Services.

   The Department of Human Services should support the idea of "participant-directed" personal care services. Physically disabled and other consumers of long term care services should have the option of hiring and firing their own personal care assistants and should not have to rely solely on services provided by home health and homemaker agencies. Specifically, the Department should amend the State Medicaid Program to reimburse for personal care assistants, whether or not they are employed by agencies.

4. Family Subsidies.

(a) Demonstration Project. The Department of Human Services and the Department of Mental Health and Corrections should seek federal and foundation funds (with the assistance of the grants writer recommended on page 34 of these recommendations), in order to try out, on a demonstration basis, a family subsidy program.

(b) Purpose of Project. The purpose of the project should be to determine the effectiveness of financial incentives designed to enable individuals to maintain their living arrangements with their families or in their own homes and to prevent unnecessary placement in the various types of long term care facilities.

(c) Purpose of Subsidies. Subsidies should be used to purchase services for use in the home that are ordinarily more readily available in long term care facilities, such as nursing services; physical, occupational and speech therapy; and personal care services. One goal of subsidies should be to provide services at a lower cost than they would cost in long term care facilities.

(d) Form of Subsidies. For individuals who are eligible for Medicaid, subsidies should be either in cash or in the form of vouchers. For individuals who are not eligible for Medicaid, subsidies should take the form of either reduced payments for home care services or tax credits. (See pages 40-41)

(e) Control. The demonstration project should test various controls which would encourage the provision of in-home services that might not otherwise be provided and discourage spending money on services that families would provide even without subsidies.

B. COMMUNITY SUPPORT SERVICES

1. Respite Care.

(a) Department's Responsibility. The Department of Human Services should:

-- Take steps, immediately, to establish "respite care services" (that is, relief) for caretakers (including family members and operators of group homes, transitional living facilities and adult foster care facilities) of individuals with long term needs and for the individuals, themselves.

-- Have a statewide system of respite care services in place by January 1, 1982.

-- Work closely with the Department of Mental Health and Corrections and other interested agencies and individuals to establish these services.

(b) Types of Respite Care. There should be two types of respite care services:

-- "Crisis intervention" or intensive care provided on an emergency basis to meet immediate and critical needs; and

-- "Relief services" or periodic care provided to enable caretakers and individuals being taken care of to have a rest from the constant pressures and demands of their respective roles.

(c) Providers of Respite Care. There should be a variety of providers of respite care services.

-- Homemaker and home health agencies should be encouraged to provide in-home respite care services.

-- Some intermediate care facilities, boarding care facilities, group homes and transitional living facilities should be reimbursed for keeping an extra bed or two available for respite care.

-- Some foster care facilities should be licensed specifically to provide respite care.

-- Some operators of group homes and transitional living facilities should be licensed specifically for the purpose of rotating from facility to facility in order to provide respite care services, so that other operators can have a break.

2. Transportation.

(a) Volunteer Drivers. The Department of Human Services and the Department of Mental Health and Corrections should both encourage more volunteer drivers by: (See page 39)

-- Working with insurance companies to develop flexible liability insurance coverage policies;

-- Reimbursing drivers for actual expenses incurred, including mileage and liability insurance.

(b) Study. There should be a study of the possibility and effects of having all transportation related to social services administered by the Department of Transportation so that social services agencies will no longer have to provide transportation services.

3. Adult Protective Services.

(a) Foster Care Facilities. The Division of Adult Protective Services, Department of Human Services, should not be responsible for the licensing of foster care facilities for adults. The Department should transfer this responsibility to either the Division of Licensing, Bureau of Resource Development, or the Division of Licensing and Certification, Bureau of Medical Services.

(b) Staff. The Governor should submit legislation to the 110th Maine State Legislature to increase the staff in the Division of Adult Protective Services, so that resources will finally be available for the Division to meet its statutory responsibilities.

4. Meals.

(a) Expansion. The congregate meals program and the home-delivered meals program for the elderly and other eligible individuals should be expanded to provide a second meal on Mondays through Fridays and at least one meal each day during weekends.

(b) Use of Meal Sites. There should be support for efforts by the Bureau of Maine's Elderly and other agencies to expand the use of congregate meal sites.

(c) Liability Insurance. The Department of Human Services should help develop and pay for liability insurance for volunteers who transport home-delivered meals and for the individuals who prepare the meals.

5. Devices to Minimize Disabilities.

There should be greater efforts to develop low-cost group purchasing arrangements for devices which minimize disability, including eyeglasses, dentures, hearing aids, television decoders, doorbell lighting systems, braille books, teletype devices, wheelchairs, environmental control units, specially equipped motor vehicles, and drugs. (See pages 34-35)

6. Attracting Volunteers.

The Task Force has been trying to determine how to attract active volunteers in each community to assist individuals with long term care needs. Any ideas members of the public might have would be of interest to the Task Force.

7. Day Activity/Day Treatment Services.

The Task Force does not yet have recommendations.

8. Employment Services.

The Task Force does not yet have recommendations.

9. Legal Services.

The Task Force does not yet have recommendations.

C. CONGRESSIONAL ACTION

The Governor should inform members of the Maine Congressional Delegation about the widespread support among Maine citizens for changes in federal law which would encourage the development of more in-home and community support services. The Governor should urge the Delegation to support:

(a) Senate Bill. S. 2809, which adds a new Title XXI to the Social Security Act to:

-- Create a new program of comprehensive, community-based long term care services, including home health, homemaker, adult day care and respite services,

-- Establish tax credits for families caring for dependent elderly relatives, and

-- Set up case management teams of health and social service professionals.

(b) House Bill. H.R. 6194, which provides for an increase in the federal Medicaid match of 25 percent, to encourage the use of non-institutional alternatives for Medicaid eligibles who are at risk of institutionalization.

PART THREE:

RESIDENTIAL SERVICES

A. HOUSING*

1. Section 8 Housing.

The Department of Human Services, the Department of Mental Health and Corrections, the Maine State Housing Authority and interested consumers should meet to determine the need and allocation of Section 8 existing units.

2. Statistics.

The State Planning Office through its Housing Monitoring System should issue, annually, new housing construction statistics relating to the needs of elderly and disabled individuals.

3. Rehabilitating Houses.

The Governor should submit legislation to the 110th Maine State Legislature to increase funding for rehabilitating houses owned by low income elderly and disabled individuals, through a low income home repair grant program.

4. Reverse Mortgage.

The Department of Human Services should continue its study of the use of "reverse annuity mortgages" by private lending institutions. The Department of Mental Health and Corrections should also examine this mechanism.

5. Accessible Buildings.

The Governor should submit legislation to the 110th Maine State Legislature to require all newly constructed, publicly owned buildings (not just State owned buildings) to include design features which allow access for the physically disabled.

6. Low Rental Housing.

There should be more accessible, low rental housing for both elderly and disabled individuals.

7. Tax and Rent Refunds.

The Governor should submit legislation, recommending a tax and rent refund program for disabled heads of households.

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*For the purposes of Section A, "disabled individuals" include the physically and developmentally disabled and the chronically mentally ill.

8. Property Tax Relief.

The Governor should submit legislation to the 110th Maine State Legislature to develop a temporary property tax relief program for developers of housing for the elderly and disabled individuals, who incur additional costs, as the result of obtaining more centrally located land within the community.

9. Revenue Sharing.

The Governor should encourage communities to use revenue sharing and community block grant funds to meet the housing needs of elderly and disabled individuals.

10. Support Efforts.

The Governor and the Legislature should support efforts by the Bureaus of Maine's Elderly and Rehabilitation of the Department of Human Services and by the Bureaus of Mental Retardation and Mental Health of the Department of Mental Health and Corrections to build and retrofit housing for elderly and disabled individuals.

B. CONGREGATE HOUSING

Before making additional financial commitments to congregate housing projects, the Maine State Legislature and the Department of Human Services should study the outcome of the two congregate housing pilot projects, administered by the Bureau of Maine's Elderly and funded by the 109th Maine State Legislature in the amount of $87,000.

C. EATING AND LODGING PLACES

The Task Force is not ready to present recommendations relating to eating and lodging places which have long term residents. Some of the unanswered questions include:

- Are the present licensing standards adequate?
- What agency within the Department of Human Services should be responsible for licensing?
- Should the State supplement Supplementary Security Income payments and ensure continued Medicaid eligibility for low income individuals who wish to reside in eating and lodging places?

D. FOSTER CARE FACILITIES

1. Case Management.

There should be individual program plans for residents of adult foster care facilities, developed through the case management process. (See page 22)

2. Training.

Adult foster home operators should have training about the needs of their residents and programming to meet those needs. (See page 46)

3. Licensing.

The Governor should submit legislation to the 110th Maine State Legislature to modify PL 1979 c. 725 by:

(a) Repeal Sunset. Repealing the sunset provision which states that "rules adopted in 1980" by the Department of Human Services for the approval of foster care facilities "shall expire on December 31, 1980";

(b) Rates. Authorizing rates based on level of care and establishing minimum rates which the State must pay;

(c) Standards. Requiring one set of standards for both foster care and boarding care facilities which have six or fewer beds.

E. BOARDING CARE FACILITIES*

1. New Categories.

The Department of Human Services should establish new and separate categories for the various types of facilities, presently licensed as boarding care facilities:

(a) Large Facilities. Except for facilities which may be licensed at a new level of intermediate care and reimbursed under the State Medicaid Program (see page 16), boarding care facilities with more than 15 beds should be licensed according to departmental regulations which are currently in effect.

(b) Small Facilities. Boarding care facilities with 15 beds or fewer should be licensed as group homes and transitional living facilities, according to new standards developed by the Department, which should be based on the particular needs and characteristics of the individuals who will reside in these facilities.

(c) Names of Categories. Thus, to replace the present category of "boarding care facility," there should be three new categories: "boarding care facility" (over 15 beds), "group home" (15 beds or under) and "transitional living facility" (15 beds or under).

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*For the purposes of Section D, "boarding care facility" includes the three categories under 1 (c), unless the context indicates otherwise.

2. Standards.

(a) Focus. The standards for boarding care facilities should be based on "psychosocial" rather than medical models of care. Psychosocial services should build on strengths and potentials of the residents and should include:

-- Independent living skills training (development of skills in daily decision-making, personal budget planning, personal hygiene, cooking, et cetera);

-- Employment skills training (evaluation of current and potential employability, development of vocational plans for individuals, and participation in transitional employment or a sheltered workshop); and

-- Social skills training (development of skills for interpersonal social behavior through group therapy).

(b) Participation. The Department of Human Services should actively seek consumer and provider participation prior to and during development of new licensing standards for group homes and transitional living facilities.

(c) Statutory Change. The Governor should submit legislation to the 110th Maine State Legislature to amend the licensing statutes for boarding care facilities (22 MRSA § 7904) so that all facilities with 15 beds or fewer will be allowed to meet less stringent Life Safety Code standards. (The law presently includes this as a special provision for facilities for the mentally retarded. The suggested legislation would simply make the special provision a general provision, applicable to all facilities with 15 beds or fewer.)

3. Transitional Living Facilities for Physically Disabled Individuals.

The Department of Human Services should recognize the use of transitional living facilities connected to independent living programs as a viable option for severely physically disabled individuals. The Department should amend the State Medicaid Plan to enable these individuals to receive personal care assistant services in these facilities.

4. Who Lives in Facilities?

(a) Assessment. Because the State of Maine does not know much about the individuals living in boarding care facilities, an assessment of the full range of needs, problems and resources of residents of boarding care facilities should be undertaken, as part of the case management process. (See page 22)

(b) Goal-Oriented System. A goal-oriented facility classification system should be established, in order to determine the levels of independence of residents which can be expected in various facilities.

(c) Placement. Placement of individuals who receive public funds in boarding care facilities should be the result of an assessment which focuses on the social, health, emotional, vocational, financial and legal needs of the resident. The resident's family and other interested individuals should be encouraged to participate in this process. Assessment should also be available, by request, to individuals seeking placement in boarding care facilities who do not receive public funds. (See page 22)

(d) Information. Operators of boarding care facilities should have information about each resident's significant previous history and current treatment plan, and should be informed about any difficulties or extenuating circumstances involving the resident. Operators should participate in the discharge planning process for residents coming into facilities from mental health institutes or other residential facilities.

5. Lack of Programs.

In order to improve upon the current lack of programs and activities in boarding care facilities, the following actions should be taken.

(a) Funding. The State should require and pay for a higher level of activity (including social, psychological and vocational services) so that facilities will more closely approximate "normal" home situations. In addition, the State should provide for increased responsibilities for activity coordinators and commensurate salary increases for these coordinators. (See page 29)

(b) Individual Program Plan. There should be an individual program plan for each resident of every facility. State-level planning should be based on information in these individual plans. (See page 27)

(c) Training. There should be training for state agency consultants and boarding care facility operators and staff regarding the types of programs that are required to meet particular needs of the residents. This training should be provided directly by the Department of Human Services or the Department of Mental Health and Corrections or by private agencies under contract with either department. (See page 45)

(d) Severely Disabled. The Bureau of Rehabilitation, Department of Human Services, should strengthen and expand its efforts to serve the most severely disabled, including the emotionally disabled residents of facilities and residents with little or no employment potential. The Bureau of Rehabilitation should ensure that counselors are provided with modified success criteria. (Present success criteria have been used to limit admission to the Bureau's caseload.)

(e) Vocational Projects. The Commissioner of Manpower Affairs should initiate vocational projects through working with the Bureau of Rehabilitation, Comprehensive Employment and Training Administration and other organizations.

(f) SSI. Supplemental Security Income (SSI) benefits should continue for an initial period while a resident is adjusting to a work situation. SSI benefits, on a scaled down basis, as well as eligibility for Medicaid, should continue for disabled residents who have secured full or part-time employment. (See page 28)

(g) Transportation. Small facilities should be reimbursed for transportation services and should be encouraged to become involved in car pooling and group purchasing of insurance for vehicles. (See pages 5-6)

6. Lack of Mental Health Services.

In order to more adequately equip staff of boarding care facilities, to deal with both emergency and non-emergency mental health problems of residents, the following actions should be taken:

(a) Mental Health Centers. A condition of state funding for community mental health centers should be the development of cooperative agreements, between the centers and facilities. A suitable portion of this funding should be allocated for services listed in the cooperative agreements, which are not allowed under the State Medicaid Plan or other third party payors.

(b) Medicaid Plan. The State Medicaid Plan should be amended to designate facilities as eligible sites for the delivery of mental health services by both community mental health centers and private providers of mental health services. (See page 29)

(c) Aftercare. The Governor should submit legislation to the 110th Maine State Legislature to grant the Bureau of Mental Health, Department of Mental Health and Corrections, or its designee(s) the legal authority to:

-- Require and approve the individual program plans of aftercare and other clients requiring mental health services and living in facilities; and

-- Make available to all residents of facilities who have been discharged from a state mental health institute or psychiatric inpatient unit to receive aftercare services, including case management, for an indefinite length of time, depending on need. (The legislation should also include residents of eating and lodging places and adult foster homes, and other individuals who have been discharged from a state institute or psychiatric inpatient unit.)

(d) Emergency Services. The emergency services of community mental health centers and acute care hospitals should provide, as a priority, crisis intervention at the site where the crisis occurs not only to residents of boarding care facilities, but also to consumers of long term care services who reside in other settings.

(e) Training. The Bureau of Maine's Elderly, Department of Human Services, and the Bureau of Mental Health, Department of Mental Health and Corrections, should establish a training program for mental health professionals, relating to the special needs of the elderly. (See page 45)

(f) Contracts. The Department of Mental Health and Corrections should move toward funding community mental health centers by purchasing "units of services" rather than through the block grant basis which now, generally, is the case. (This new system was proposed and developed several years ago, but has never actually been implemented.)

7. Encouraging Residents to be Independent.

(a) Review Standards. Each licensing standard should be reviewed and modified to encourage residents to function more independently. Regulations for particular client groups should be developed to address the particular needs of each group.

(b) Physical Plant. Physical plant requirements should be modified to enable the creation of more home-like settings. Facilities designed to serve physically disabled individuals should meet American National Standards Institute accessibility criteria, as well as any standards adopted by the Maine State Housing Authority.

(c) Training. Training should be provided to help operators understand that it is acceptable for residents to take risks and that increased independence of the residents will not cause more work.

8. Temporary Absences.

Operators should hold beds for absent residents. No placement should be jeopardized as a result of hospital admission, unless there are extenuating circumstances. (See page 48)

9. Substandard Facilities.

(a) Surveys. Community agencies, providers and local consumers should be involved in licensing surveys to provide different perspectives on the quality of life in boarding care facilities.

(b) Rating System. A rating system for boarding care facilities should be publicized, so that the general public can evaluate facilities and make informed choices.

(c) Uniformity. There should be stronger administrative action to require uniformity in interpretation of regulations.

(d) Vacancies. There should be a boarding care facility information system to apprise agencies and individuals of vacancies on a home-by-home basis.

(e) Board of Visitors. Maine law should be amended to include a "Board of Visitors" for boarding care facilities and other residential facilities. (Tabled by Task Force.)

10. Coordination.

There should be a reorganization of functions relating to boarding care facilities within the Department of Human Services in order to achieve greater regional conformity, as well as state-level coordination. There should be a single responsible entity - other than the commissioner - ultimately responsible for decisions relating to all aspects of boarding care facilities.

11. "Seed" Money for Nonprofit Facilities.

There should be a "seed money" funding source - for use by the Bureaus of Mental Health and Mental Retardation of the Department of Mental Health and Corrections and by the Bureaus of Rehabilitation and Maine's Elderly of the Department of Human Services - to promote the development of non-profit group homes and transitional living facilities.

F. INTERMEDIATE CARE FACILITIES

1. Specialized Intermediate Care Facilities.

(a) For Mentally Retarded Individuals. The Department of Human Services and the Bureau of Mental Retardation should continue to work together to develop ICF-MR (intermediate care facility for the mentally retarded) regulations that will result in the least restrictive facilities.

(b) Chronically Mentally Ill Individuals. The Governor should urge officials in the U. S. Department of Health and Human Services to adopt ICC-MH (intermediate care center for mental health) regulations. The Department of Mental Health and Corrections should take the lead in obtaining from the U. S. Department of Health and Human Services a grant or a waiver which would enable the State to try out the ICC-MH on a demonstration basis, as a first step toward developing these facilities where they are needed.

(c) Physically Disabled Individuals. The Department of Human Services should investigate the desirability and possibility of developing intermediate care facilities for physically disabled individuals.

2. New Level of Intermediate Care.

The Department of Human Services should establish a new level of intermediate care:

(a) Residents. For individuals who need a degree of supervision and assistance which is more than boarding care facilities are presently authorized to provide, but less than that provided in intermediate care facilities;

(b) Reimbursement. Which should be reimbursed under the State Medicaid Program;

(c) Focus. Which should focus on the social, emotional, psychological and physical needs of residents;

(d) Name. Which should be called ICF-BC (intermediate care facility for boarding care); and

(e) Size. Which should include facilities with over 15 beds.

3. Rehabilitation Services in Intermediate Care Facilities.

The Department of Human Services should:

(a) Maintenance Therapy. Adopt a more flexible approach to the issue of maintenance therapy and should reimburse for repetitive physical and occupational therapy services provided by qualified therapists in intermediate care facilities; (See page 29)

(b) Allowances. Review its allowances for physical therapy services and occupational therapy services and increase them so that providers will be willing to make these services available;

(c) Aides. Reimburse intermediate care facilities for the cost of physical and occupational therapy aides, in accordance with standards mutually agreed upon by the Department and the facilities;

(d) Training and Consultation. Permit intermediate care facilities to engage the services of consultant physical and occupational therapists for the purpose of staff education and training in safety procedures and care of residents; (see page 46)

(e) Restorative Nursing. Review its patient classification system and nurse staffing system, with a view toward assuring the provision of "restorative" (that is, rehabilitative) services to residents of intermediate care facilities; and

(f) Social Services. Recognize the importance of the professional social worker in providing rehabilitation services to residents of intermediate care facilities.

G. SKILLED NURSING FACILITIES

1. Role Reaffirmed.

The Governor and the Commissioner of Human Services should reaffirm the importance of the role of skilled nursing facilities in the array of long term care services.

2. Reimbursement.

The Governor should alert members of Maine's Congressional Delegation to the threat to the survival of free-standing skilled nursing facilities, caused by the different reimbursement rates paid to free-standing and hospital-based skilled nursing facilities. ($45 per day for the former and $86 per day for the latter.)

3. Retention in Hospitals.

The unnecessary retention of individuals in hospitals should be discouraged. The Professional Standards Review Organization and the fiscal intermediaries under Medicare should monitor more closely patient needs, adequacy of hospital services to meet those needs and availability of skilled nursing services to meet those needs. Also, there should be improved coordination between physician services (Part B under Medicare) and hospital services (Part A under Medicare.)

4. Availability.

The Maine Health Systems Agency should monitor the need for and availability of skilled nursing facility services in various parts of the State to ensure that those who need these services will receive them.

5. Classification.

The Department of Human Services should continue its flexible posture, with respect to the determination of eligibility for admission to and continued stay in skilled nursing facilities.

H. STATE INSTITUTIONS

1. Part of Array.

The state institutions for individuals who are developmentally and mentally disabled should be part of the array of long term care services for these individuals.

2. Role.

The role of these institutions should be to:

(a) Long Term Services. Provide habilitation, treatment and residential services to a small number of individuals for whom an institution is, in fact, the least restrictive environment, consistent with the best interests of these individuals, as determined by a program plan for each of these individuals.

(b) Specialized Services. Provide time-limited, specialized services such as respite care, emergency service, medical treatment, and other programs for individuals with unique and complex needs until such time that these programs are available in the community.

(c) Resource Center. Serve as a training, educational and resource center for individuals working with consumers of long term care services, including operators and administrators of facilities and agencies and staff providing direct care and support services.

PART FOUR:

PLANNING FOR AND COORDINATION OF LONG TERM CARE SERVICES

A. LONG TERM CARE PLAN

1. Single Plan Required.

A single State Long Term Care Plan for addressing the long term care needs of individuals who are elderly, physically disabled, actual and potential adult protective services clients, developmentally disabled or chronically mentally ill should be completed at least every two years.

2. Responsibility for Plan.

The Department of Human Services should have primary responsibility for completing those parts of the plan involving the elderly, the physically disabled and actual and potential adult protective services clients. The Department of Mental Health and Corrections should have primary responsibility for completing those parts of the plan involving the developmentally disabled and the chronically mentally ill.

3. Content of Plan. (See page 34)

The Plan should:

(a) Prevention. Include steps for preventing conditions which cause individuals to need long term care services and for preventing placement in settings or receipt of services which are unnecessarily restrictive or intensive;

(b) Purposes. Define, precisely and concisely, the purposes of the various long term care facilities and services, including the state institutions for the mentally ill and developmentally disabled;

(c) Mental Health Needs. Identify and specify ways to address the mental health needs of all types of long term care clients; and

(d) Implementation and Costs. Describe, clearly and specifically:

-- Who is responsible for carrying out each aspect of the plan and by when,

-- The costs involved in carrying out each aspect, and

-- The source(s) of funding which should be used to cover the costs.

4. Role of Commissioners.

The commissioners of both Departments should:

(a) Planning. Strengthen intra- and interdepartmental planning activities, and

(b) Information. Make sure that information needed for the plans is collected in a form that can be compared among agencies, both within each department and across the two departments.

5. Deadlines; Submitting Plan to Legislature.

The single State Long Term Care Plan should be completed by the first of October of every even-numbered year, beginning in 1981. The commissioners of both departments should submit the plan to the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Institutional Services of the Legislature by the first day of the legislative session in every odd-numbered year, beginning in 1983.

B. MEDICAID PLAN

1. Policy Vehicle.

The Governor, the Legislature, the Commissioner of Human Services and the Commissioner of Mental Health and Corrections should use the Medicaid Program as a major vehicle for formulating and carrying out public policies in the area of long term care, including policies affecting health care, social and rehabilitative services, deinstitutionalization, right to treatment and other areas.

2. Updated Plan.

To accomplish this, the Commissioner of Human Services should be required to complete an updated State Medicaid Plan every two years.

3. Content of Plan.

The State Medicaid Plan should:

(a) Goals. Define, precisely and concisely, the goals and objectives of the State Medicaid Program;

(b) Changes. Describe all changes in the State Medicaid Program which are proposed for the period covered by the current plan and which have occurred since the previous plan;

(c) Options. Include a summary of financing, regulatory and program options available to the State under the federal Medicaid law and regulations, and a determination of which of these options are appropriate for meeting the long term care needs of Maine's citizens;

(d) Other Plans. Cite the goals and priorities relating to all aspects of long term care contained in other plans developed at the state level;

(e) Dollars. Identify all actual or potential sources of state and local dollars ("seed money") which can be matched with the federal Medicaid dollars;

(f) Eligibility. Describe eligibility criteria and the categories of individuals served; and

(g) Costs. Analyze the costs of the Program, broken down by:

- category of individuals served,
- age of individuals served,
- geographic location of individuals served,
- type of service provided, and
- type of provider.

4. Public Comment.

The Department of Human Services should provide opportunity for public comment and review by consumers, providers and other Maine citizens early in the process of:

(a) Format. Initially developing and subsequently changing format of and procedures related to the State Medicaid Plan;

(b) Amendments. Making any amendments to the State Medicaid Plan; and

(c) Updated Plan. Preparing the updated State Medicaid Plan every two years.

The Department should respond in the Plan to all recommendations which result from public comment and review.

5. Deadlines; Submitting Plan to Legislature.

The deadlines for completing and submitting the State Medicaid Plan should be the same as the deadlines for the single State Long Term Care Plan. The State Medicaid Plan should be completed by the first of October of each even-numbered year, beginning in 1982. The Commissioner of Human Services should submit the updated State Medicaid Plan to the Joint Standing Committee on Appropriations and Financial Affairs and to the Joint Standing Committee on Health and Institutional Services of the Legislature by the first day of the legislative session of every odd-numbered year, beginning in 1983.

C. CASE MANAGEMENT (See pages 9, 11, 12, 28, 34, 36, 38)

1. Definition.

"Case management" should be defined as a flexible, state-administered, locally based process which serves, for individuals who need long term care services, as a point of entry into the system of these services. Case management should include:

(a) Assessment. Initial and periodic assessment of the long term care needs of individuals;

(b) Services. Arrangement for or, if needed services are not available, direct provision of services;

(c) Monitoring. Monitoring of appropriateness and quality of services;

(d) Coordination. Coordination of services for individuals;

(e) Gaps. Identification of gaps in services for individuals;

(f) Advocacy. Development of ways to fill in the gaps; and

(g) Entry Points. Visible entry points which are acceptable to individuals seeking long term care services.

2. Scope.

Case management should be provided throughout the State and should be available to all individuals with long term care needs, regardless of income. Case management should not be mandatory for individuals who pay for long term care services with private funds. Case management should be developed incrementally, building on strengths of processes already in place.

3. State's Role.

(a) Administration. The Department of Human Services should administer case management for the elderly, the physically disabled and actual and potential adult protective services clients. The Department of Mental Health and Corrections should administer case management for the developmentally disabled and the chronically mentally ill.

For the purposes of this section, the word "administer" means:

-- Determining how case management should be done;

-- Assigning responsibility at the local level for carrying out case management; and

-- Making sure that case management is being carried out adequately.

(b) Assigning Responsibility. The departments should either:

-- Assign state workers located in local offices to provide case management, or

-- Enter into contracts with private agencies which are qualified to provide case management.

4. Local Agencies' Role.

(a) Links. Case management should be provided by agencies at the local level. (Such agencies are more inclined than state-level agencies to have links to the community and the family of an individual who needs long term care services and to be flexible and responsive in meeting the individual's needs.)

(b) Criteria. The Department of Human Services and the Department of Mental Health and Corrections should require each agency which wants to provide case management to meet the following criteria:

-- The agency should be unbiased with respect to the types of services and agencies which, potentially, could be used by individuals who need long term care services.

-- The agency should be willing and able to work cooperatively and effectively with other agencies which provide long term care services.

-- The agency should be willing and able to address, first, the long term care needs of individuals, rather than its own needs (such as drumming up business, ensuring future funding, et cetera).

-- The agency should agree to offer case management to all individuals who seek entry into the system of long term care services through the agency, regardless of how the long term care services will be paid for.

-- The agency should be able to provide advocacy on behalf of individuals who need long term care services.

-- If a provider of direct services, the agency should be able:

- to provide case management for both individuals who are and who are not receiving services provided directly by the agency,

- to ensure continuity of case management, even after the agency has ceased to provide direct services to individuals,

- to carry out case management according to the model developed by the State, without regard for the agency's role as a direct service provider, and

- to specify a procedure for ensuring advocacy which is not related solely to the services it provides.

(c) Carrying out Case Management. All relevant local providers and consumer groups and representatives should be involved in establishing a case management system at the local level. The local case management agency should:

-- Keep all providers and consumer groups fully informed about changes in the case management system; and

-- Enter into negotiations and develop written cooperative agreements with other agencies and facilities regarding the case management process.

5. Team.

(a) Members of Team. Case management should be provided by a team, including at least the following individuals:

-- The individual who needs long term care services, or, if this is not possible or appropriate, a representative of the individual;

-- A representative of the local case management agency;

-- A physician or nurse, if the client has health needs;

-- A social worker or psychologist, if the client has psychosocial needs;

-- The individual providing or likely to provide most of the service (for example, homemaker, nurse, personal care attendant, aide, et cetera).

(b) Team Decisions. Decisions of the team should be based on a majority vote of the members of the team.

(c) Mix of Services. The team should be responsible for putting together a mix of services, tailored to meet the multiple needs of the individual consumer of long term care services.

(d) Responsibility of Case Manager. It should be the responsibility of the case management agency to:

-- Initially organize the team, ensuring that the appropriate members are serving on it;

-- Set up meetings of and related to the team; and

-- Make sure that the decisions of the team are carried out.

6. Utilization Control.

(a) Relationship to Case Management. Utilization control should be part of a larger case management process. If an individual needs services paid for by Medicaid, then utilization control staff should be either consulted or part of the case management team.

The Division of Medicaid Surveillance, Department of Human Services, should not be a lead state agency for case management. The staff of the Division should not be required to be part of the case management team, even when an individual is receiving or applying for long term care services paid for by Medicaid and subject to utilization control requirements.

(b) Study. Prior to January 1, 1981, the Department of Human Services should analyze data collected by the Division of Medicaid Surveillance to see what, if any, effects utilization control has had in Maine.

(c) Waiver. If the study indicates that utilization control has not been effective, the State should apply to the Federal Government for a waiver from at least some of the utilization control requirements. If the State successfully obtains a waiver, the money and staff, formerly used for utilization control, should be redirected to support other aspects of the case management process, such as ensuring quality and appropriateness of care.

7. Advocacy.

Advocacy to fill in gaps in services should be one function of the case management process. However, professional advocates (see page 49) should not be required to be part of the case management team. They may serve as the case manager, if the State has entered into a contract with them to do so.

8. Developing Compatible Case Management Plans.

(a) Responsibility of Commissioners. The Governor should require the Commissioner of Human Services and the Commissioner of Mental Health and Corrections to work together to develop compatible case management plans for the elderly, the physically disabled, actual and potential adult protective services clients, the developmentally disabled and the chronically mentally ill.

The Governor should also require the two commissioners to:

-- Match funding priorities to the services gaps identified through the case management process;

-- Assure that funds are available for case management; and

-- Use case management as a means of identifying service gaps for the purposes of planning and funding long term care services.

(b) Participating Agencies. The Governor should require the Commissioner of Mental Health and Corrections to appoint representatives from the Bureaus of Mental Health and Mental Retardation and the Commissioner of Human Services to appoint representatives from the Bureaus of Maine's Elderly, Rehabilitation, Resource Development, Medical Services, and Health Planning and Development to participate in the development of compatible case management plans. The Governor should appoint a representative of the Maine Health Systems Agency to participate.

The Governor should designate a lead agency to help coordinate the development of the plans.

(c) Content of Plans. The case management plans should include:

-- Timetables for establishing case management on a statewide basis;

-- Uniform definitions;

-- Consistent requirements for the assessment method to be used to determine long term care needs of individuals; and

-- Formats for data collection which will facilitate the comparison of important characteristics across the various groups of consumers of long term care services.

(d) Deadlines. The following deadlines should be met in the development and implementation of case management plans:

-- By _____, the Commissioner of Human Services and the Commissioner of Mental Health and Corrections should report to the Governor and the Legislature on the definitions and assessment method(s) to be used in all of the case management plans.

-- By _____, the two departments should have completed the case management process for all of their present clients, including an assessment of the long term care needs of these clients.

-- By _____, the two commissioners should report to the Governor and the Legislature on the results of the assessments and the models to be used for case management.

-- By _____, fully operational case management processes should be in place for the elderly, the physically disabled, actual and potential adult protective services clients, the developmentally disabled and the chronically mentally ill.

(e) Relationship to Other Plans. After the case management process has become fully operational, it should be a primary source of information to be used in both the single State Long Term Care Plan and the State Medicaid Plan.

D. CLEARINGHOUSE

In the collection of information for the purposes of planning, coordinating, regulating and paying for long term care services, the Department of Human Services should refrain from making unnecessary and repetitive demands for the information. The Department should consider the creation of a clearinghouse, the purpose of which would be to protect individuals from having to answer questions more than once. (See page 32)

Ideas from the public about how this might work would be of interest to the Task Force.

PART FIVE:

REGULATING LONG TERM CARE SERVICES

A. ELIGIBILITY

1. Instant Eligibility.

The Governor should:

(a) Urge Congressional Action. Contact, immediately, members of Maine's Congressional Delegation and urge them to seek enactment of federal legislation (S 934 and HR 4000) to deny Medicaid eligibility for a specified amount of time to individuals who apply for admission to intermediate care and skilled nursing facilities and who have disposed of significant assets in order to establish eligibility.

(b) Submit Legislation at State Level. Submit to the 110th Maine State Legislature legislation to prohibit the transfer of assets in Maine, including a provision to make the state law effective if and when the federal enabling or mandatory legislation goes into effect.

2. Deeming.

The Governor should submit legislation to the 110th Maine State Legislature to prohibit deeming. "Deeming" is the practice of taking into account the incomes of a spouse and other household members in the determination of an individual's financial eligibility for home health services.

3. Medicaid after Employment.

The Governor should propose legislation to the 110th Maine State Legislature to require that individual consumers of long term care services, in particular physically disabled individuals, should continue to be eligible for Medicaid if they become employed on a full time basis and if no other comprehensive medical insurance is available to them as a fringe benefit of the employment. (See page 13)

4. Uniform Requirements.

(a) Urge Congressional Action. The Governor should urge members of Maine's Congressional Delegation to support federal legislation to require uniform federal financial eligibility requirements across the various types of federally funded long term care services.

(b) Assessment Form. The Department of Human Services and the Department of Mental Health and Corrections should use a uniform assessment form, developed to encompass the various eligibility requirements of all funding sources for long term care services. (See page 26)

5. Mental Health Services and Occupational and Physical Therapy.

The State should consider intermediate care and boarding care facilities as Medicaid eligible sites for the provision of mental health services, occupational therapy and physical therapy. The State should negotiate with the fiscal intermediary for the Medicare Program to get occupational and physical therapy covered, when ordered by a physician. (See pages 12, 13, 16)

6. Functional Need.

Eligibility for long term care services should be related to functional need - not just financial status. "Functional need" means the type and level of long term care service(s) needed by an individual.

7. Sliding Fee Scale.

The Department of Human Services should use sliding fee scales to a greater extent for non-residential long term care services. (See page 3)

8. Eligibility Determinations.

The Department of Human Services should amend its Public Assistance Payments Manual to require financial eligibility determination for each individual who seeks long term care services to be completed within 10 working days from the date of application by the individual.

9. Catastrophic Illness Program.

The Department of Human Services should examine the Catastrophic Illness Program, which is funded entirely by state dollars, to determine whether these state dollars can be matched with federal dollars, and, thereby, be used more effectively.

10. Dependents' Allowance.

The Department of Human Services should study the adequacy of income for dependents of individuals who reside in the various types of long term care facilities, and should determine whether allowances for dependents are needed.

11. Medical Advisory Committee.

The Medical Advisory Committee should: rewrite the Public Assistance Payments Manual so that it is clearer and better organized; encourage interested groups and individuals to submit recommendations about the rewriting; and consider combining the Public Assistance Manual and the Medical Assistance Manual. (Tabled by Task Force.)

B. LICENSING AND CERTIFICATION

1. Rating System.

The Department of Human Services should institute a rating system for intermediate care and boarding care facilities, based on types, severity and duration of deficiencies in the facilities. Ratings should be:

(a) Reimbursement. Tied to reimbursement, such that facilities with good ratings receive higher reimbursement;

(b) Directory. Published in a directory of licensed facilities, which should be more readable and readily available to the public than are the directories currently kept in Social Security offices and public libraries; and

(c) Displayed on License. Clearly stated on the license of facilities, which should be displayed openly in a public part of the facilities.

2. Limit on Admissions; Emergency Situations.

To ensure the health, safety and welfare of residents of skilled nursing, intermediate care and boarding care facilities, the Governor should submit legislation to the 110th Maine State Legislature to:

(a) License Under Appeal. Prohibit any facility from admitting new residents while its license is under appeal;

(b) Conditional License. Authorize the Department of Human Services to limit admissions, as a condition of a conditional license; and

(c) Emergency Situations. Authorize the Department of Human Services to place a licensed administrator in any facility in an emergency situation, that is, when conditions exist which cause danger to the health and safety of the residents.

3. Promoting "Home-Like" Facilities.

The Certificate of Need process and licensure review by the Division of Licensing and Certification, Department of Human Services, should show preference for new designs that are "home-like."

4. Quality of Life; Contact with Residents.

There should be increased focus on the quality of life of and contact with residents of skilled nursing, intermediate care and boarding care facilities.

(a) Commissioner's Responsibility. The Commissioner of Human Services should:

-- Require the staff of the Division of Licensing and Certification to make periodic, announced visits solely for the purpose of consultation with and education of staff of the facilities regarding improvements in the quality of life of the residents;

-- Require the Division of Licensing and Certification and the Division of Medicaid Surveillance to evaluate the job responsibilities of their staff members, examine the survey and utilization control processes, and eliminate unnecessary duties, in order to free up time for contact with residents; and

-- Require the Division of Licensing and Certification to establish priority areas to be checked during inspection visits, in order to eliminate the need to review areas in which there have been no deficiencies and to free up time for contact with residents.

(b) Governor's Responsibility. The Governor should inform Maine's Congressional Delegation and officials of the U. S. Department of Health and Human Services that changes are needed in the areas of utilization review, physician certification of residents, the survey process and requirements for the licensing and certification of facilities, in order to enable staff of both the Department of Human Services and facilities to concentrate more on care of individuals and less on paperwork.

5. Sanctions.

(a) Eliminate Non-Compliance. The Department of Human Services should establish procedures and sanctions to promote corrective action in a timely manner and to eliminate on-going non-compliance with licensing laws and regulations.

(b) Economic Sanction. The economic sanction of reducing payment to 90 percent of costs, which is presently permitted in the Principles of Reimbursement of the Department of Human Services, should be strengthened by creating and enforcing standards to ensure that the 10 percent reduction in payment does not reduce the quality of care. The Principles should stipulate that the 10 percent reduction will occur in the areas of depreciation, return on equity and administrative allowance.

6. Fire Safety Evaluation System.

The Fire Safety Evaluation System (FSES) concept should be supported for purposes of licensing all types of residential facilities.

7. Statewide Panel.

There should be a statewide panel of consumers, providers, advocates and staff of the Division of Licensing and Certification to review complaints and deficiencies. The Department of Human Services should be required to report to the panel all facilities with on-going deficiencies. (Tabled by Task Force.)

8. Board of Visitors.

There should be a board of visitors for all long term care facilities. (Tabled by Task Force.)

C. COSTS OF REGULATIONS

1. Criteria.

All regulations should be evaluated in light of specific criteria:

Is the purpose of the regulation still a concern?
What would happen if the regulation were deleted or not adopted?
What is the outcome of enforcement of the regulation?
What are the total compliance costs, in relation to the benefits?

2. Alternatives.

Alternatives should be considered to accomplish what some regulations are intended to do.

3. Clearinghouse.

All reports requested by the Department of Human Services, should be cleared through one office to assure that duplicative information is not being requested. (See page 27)

4. Safety Requirements.

The State must continue to enforce the Life Safety Code and ANSI requirements in a reasonable manner. However, certain requirements should be waived:

(a) Ramps and Elevators. Ramps for access to existing boarding care facilities should not be required; nor should elevators be required in existing buildings. (Tabled by Task Force)

(b) Visual Fire Alarms. Certain ANSI requirements, such as visual fire alarm signals, should not be required for existing facilities. The items that can be waived should be clearly identified, based on the value of these changes in supervised situations.

5. Reimbursement.

The Department of Human Services should provide funding to facilities and agencies providing long term care services for the costs of carrying out regulations and meeting standards required by the Department.

PART SIX:

FINANCING LONG TERM CARE SERVICES

A. FUNDING

1. New Optional Services under Medicaid.

   (a) Governor's Responsibility. The Governor should submit legislation to the 110th Maine State Legislature to require that at least three percent of the State's share of the Medicaid budget for fiscal years 1982 and 1983 should be for optional services not presently paid for under the State Medicaid Program.

   (b) Department's Responsibility. The Department of Human Services should use these state dollars to generate federal Medicaid dollars for optional services for consumers of long term care services. The services should address the gaps and needs identified through the case management process. (See page 22)

2. Governmental Responsibility for Funding.

   (a) State Government. (?)

   (b) Municipal Government. (?)

3. Grant Writer. (See pages 4, 41)

   The Department of Human Services and the Department of Mental Health and Corrections should employ and share the costs of an experienced grant writer. The grant writer should provide leadership and direction to state agencies in locating, applying for and obtaining both federal funds and support from private foundations for various long term care projects.

4. Keeping Pace with Inflation.

   The Maine State Legislature should be responsible for ensuring that funding of long term care facilities and services at least keeps pace with increased costs caused by inflation. The effects of inflation should be included in the single State Long Term Care Plan and presented to the Legislature. (See page 19)

5. Saving Funds through Purchasing Practices. (See page 6)

   (a) Group Purchasing Organization. The Maine Health Care Association and the Maine Personal Care Association should begin to work immediately with their members to establish an organization for group purchasing for both proprietary and nonproprietary skilled nursing, intermediate care and boarding care facilities.

(b) Relationship with HASS. The organization should establish relationships with the Hospital Association's Shared Services program (HASS), in order to build on their experiences and contracts, to the extent possible.

(c) Incentive to Participate. As an incentive for providers to participate in group purchasing, the Department of Human services should allow providers to:

-- Retain part of the savings for their personal gain; or

-- Use the savings for additional staffing, activities, or other operational costs to improve the quality of life.

(d) Prompt Payment. Cash discounts for prompt payment of bills should be an allowable income item that should not offset cost.

B. REIMBURSEMENT

1. Single Set of Principles.

(a) Department's Responsibility. The Department of Human Services should establish a single set of reimbursement regulations to be used for all health and human services purchased by the Department.

(b) Governor's Responsibility. If federal regulations are found to impede the development of a set of reasonable across-the-board reimbursement regulations, the Governor should inform members of Maine's Congressional Delegation and officials in the U. S. Department of Health and Human Services that particular statutory and regulatory changes are needed at the federal level.

2. Statement of Philosophy.

The Department of Human Services should add a statement of philosophy to its Principles of Reimbursement, including the goals and objectives it wishes to accomplish through the Principles.

3. Costs.

(a) Reasonable Costs. Representatives of the Joint Standing Committee on Health and Institutional Services and the Joint Standing Committee on Appropriations and Financial Affairs of the 110th Maine State Legislature should:

-- Undertake a study of what constitutes reasonable costs for purposes of state reimbursements to private providers of long term care services; and

-- Develop legislation to present to the 111th Maine State Legislature to establish statutory standards for reasonable costs on which the Department of Human Services will be required to base its reimbursement regulations.

(b) Allowable Costs. The Department of Human Services should allow the costs of legal retainers and other fees incurred in disputes, pension plans for employees (see page 42), and ward clerks to be included in payments to skilled nursing and intermediate care facilities and boarding care facilities that are reimbursed on a reasonable cost basis. However, the Department should reimburse for the costs of legal retainers and other fees incurred in disputes, only when a facility wins a dispute.

(c) Prior Approval. The Department of Human Services should eliminate the prior approval process for staffing, consultants and educational expenses. (Tabled by Task Force.)

(d) Cost Centers. The Department of Human Services should establish "cost centers" for all providers of long term care services whom it reimburses. Through a provider agreement, the Department should specify the services to be purchased from the provider and the characteristics of the consumers for whom it will purchase the services.

(e) Case Management. The Department of Human Services should use information gathered during the case management process (see page 22) to determine:

-- What services are required for an individual's care, and, therefore,

-- What services should be included as allowable costs in payments to the skilled nursing, intermediate care, or boarding care facility in which the individual resides.

4. Payments; Payment Rates and Profits.

(a) Delayed Payments. In order to reduce delayed payments to skilled nursing, intermediate care, boarding care and foster care facilities and other programs providing long term care services, the Department of Human Services should:

-- Determine financial eligibility and expedite related paperwork prior to admission or receipt of services;

-- Require residents who have been paying with private funds, but who apply for Medicaid or other public funds, to continue paying with their private funds until the day on which their financial eligibility is approved; and

-- Eliminate the practice of "redlining" (that is, holding up payments to facilities and agencies because of apparent errors or inconsistencies) and correct any errors in the payments made during the subsequent month.

(b) Advance Payments. The Department of Human Services:

-- Should make advance payments, based on reasonable budget projections, to boarding care facilities;

-- Should make advance payments, based on estimated charge per case, to home health and homemaker agencies;

-- Under Title XX and similarly financed programs should make advance payments available at least one full month in advance; and

-- Every twelve months facilities and agencies should receive an advance payment of 1/12 of the previous year's payment, as done in the "PIP" system for hospitals.

(c) Administrative Allowances. For skilled nursing and intermediate care facilities and boarding care facilities that are reimbursed on a reasonable cost basis, the Department of Human Services should:

-- Eliminate the administrative allowance;

-- Allow reasonable administrative expenses as reimbursable costs; and

-- Determine the salary for each administrator (whether owner or employee) as part of the contracting process and relate the salary to:

- the location of the facility,
- the types and numbers of residents, and
- the qualifications of the administrator.

(d) Payments for Business Costs. The State should reimburse skilled nursing, intermediate care and boarding care facilities for all reasonable costs associated with doing business.

(e) Occupancy Requirement. In order to remove one incentive for skilled nursing and intermediate care facilities and boarding care facilities that are reimbursed on a reasonable cost basis to admit or keep residents unnecessarily, the Department of Human Services should drop its 90 percent occupancy requirement for determining payment rates for

these facilities. This means that no matter whether the occupancy of a facility is 90 percent or higher or less than 90 percent, the Department should establish the per diem rate by dividing costs by the actual number of "patient days." (See page 47)

(f) Payment Incentives for Providers. With respect to skilled nursing and intermediate care facilities and boarding care facilities that are reimbursed on a reasonable cost basis, and other agencies providing long term care services, the Department of Human Services should establish a system of reimbursements in which:

-- Rates are negotiated - based on budgets, prior year's experience, valid aggregate data and clearly defined responsibilities - before the Department and a facility or agency enter into an agreement;

-- Rates are related to the needs of different types of residents or other consumers and are based, in part, on information about needs collected during the case management process (see page 22)

-- Rates are higher for a specified length of time for services provided to any resident or other consumer who is temporarily severely impaired and who needs intensive services for a limited length of time; and

-- Financial rewards beyond the negotiated rate are related to outcomes of care, based on aggregate data and achievement of goals established as part of the case management process (there should be a demonstration project to test this).

(g) Profit. The State should provide an opportunity for greater profit for skilled nursing, intermediate care and boarding care facilities and other agencies which provide high quality long term care services effectively and efficiently.

(h) Ceiling. The Department of Human Services should remove the artificial ceiling from payments to boarding care facilities.

5. Contracting and Auditing Processes.

(a) "Reactive" Regulations. In order to avoid the formulation and interpretation of "reactive" reimbursement regulations (that is, regulations adopted across the board to address problems that are present in only a few instances), the Department of Human Services should:

-- Resolve particular situations, through the agreement mechanism, on an individually negotiated basis;

-- Spell out more clearly in agreements, the rights and responsibilities of both the Department and the provider; and

-- When faced with an exceptional situation, bring together representatives of both the provider and the Department, in order to negotiate a solution, rather than imposing additional regulations, applicable to all providers. (Tabled by Task Force.)

(b) Negotiations. A Department of Human Services contract officer within the agency with program responsibility for the long term care service the Department wishes to purchase should handle negotiations with the provider.

(c) Contractual Relationship. There should be a clear contractual relationship between the Department of Human Services and each provider of long term care services.

(d) Title XX Contracts. Contracts for services under Title XX and other similarly financed programs should be written on 2-3 year cycles, whenever possible, with budgetary amendments to replace the annual contracting process.

(e) Interest Incurred. Interest incurred as a result of the contracting process should be reimbursable at cost.

(f) Single Audit. Each provider of long term care services should be subject to only a single audit for all of its contracts.

(g) Scope. The scope of the single audit should be defined in the contract between the Department of Human Services and the provider. The audit should not encompass policy matters.

(h) Certified Public Accountant. The Department of Human Services should accept the report of a competent certified public accountant, audit for exceptions based on desk review, and do sampling. (Tabled by Task Force.)

(i) Policy Decisions. Auditors should not make policy decisions. Final decisions about allowable costs should be made by the contracting officer. (Tabled by Task Force)

6. Volunteers.

The Department of Human Services and the Department of Mental Health and Corrections should pay for supportive incentives for volunteers, such as meals, transportation and liability insurance. (See pages 5-6)

D. FINANCIAL IMPLICATIONS OF UTILIZATION PATTERNS

1. State Institutions.

(Tabled by Task Force. See pages 17-18)

2. Placement in Facilities.

Individuals should not be admitted to skilled nursing, intermediate care, boarding care or foster care facilities unless available in-home care that can be financed has been considered, first.

3. Boarding Care Facilities.

The 110th Maine State Legislature should provide funding to increase payments to boarding care facilities to a level that will promote the development of these facilities.

4. Congregate Housing.

The Maine State Legislature and the Department of Human Services should establish a funding plan for congregate housing, after reviewing the outcome of the two congregate housing pilot projects funded by the 109th Legislature and administered by the Bureau of Maine's Elderly. (See page 9)

5. Eating and Lodging Places for Long Term Residents.

(Tabled by Task Force. See page 9)

6. Shared Housing.

Shared housing should be supported with funds to renovate and make these homes functional and energy efficient.

7. In-Home Care.

(a) Studies. The Department of Human Services and the Department of Mental Health and Corrections should conduct research to determine the cost effectiveness of in-home care, as compared with the cost effectiveness of care in various types of facilities. In addition to cost data, the quality of life and satisfaction level should be evaluated as part of the research. The research should be based on costs per case rather than on costs per day.

(b) Tax Credits. The Governor should submit legislation to the 110th Maine State Legislature to amend the state income tax laws to allow tax credits to families which provide substantial caring services to individuals in their homes who would be eligible for and require admission to a skilled nursing, intermediate care, boarding care or foster care facility without these services. (Tabled by Task Force.)

(c) Spend Down. The Department of Human Services should develop sliding fee scales for in-home services, as part of the "spend down" provisions of the Medically Needy Program.

8. Voucher System.

The Department of Human Services and the Department of Mental Health and Corrections should seek federal and private foundation funds (with the assistance of the grants writer recommended on page 34) in order to try out, on a demonstration basis, a voucher system for consumers of long term care services. The system should allow consumers to purchase whatever services they choose, regardless of their financial eligibility for the services.

E. SEPARATE RATE SETTING COMMISSION

(Tabled by the Task Force. The Task Force would find the public's views on this idea very helpful. Should the rate setting function be removed from the Department of Human Services?)

PART SEVEN:

EMPLOYEES INVOLVED IN PROVISION OF LONG TERM CARE SERVICES*

A. AIDES

1. Wages and Benefits. (See page 36)

   (a) Wages; Pension Benefits. Wages should be increased by ? and pension benefits (in addition to Social Security) should be available for aides. The 110th Maine State Legislature should enact legislation to pay for wage increases and pension benefits for aides.

   (b) Turnover. The Governor should:

   -- Inform the Legislature and the public about the high rate of turnover among aides and the human and financial costs involved; and

   -- Urge the Legislature to appropriate adequate funding for improved wages and pension benefits for aides, which will result in a more stable and productive work force.

   (c) Organized Efforts. There should be more organized efforts by both employees and employers to improve wages, fringe benefits and working conditions for aides.

2. Training and Certification.

   (a) Standardized Training and Certification. Training and certification of aides should be standardized throughout the State.

   (b) Partners. The Department of Human Services, the Department of Educational and Cultural Services, and the State Board of Nursing should work together as equal partners to:

   -- Develop a statewide approach for the training and certification of aides, including a plan for statewide adult education and vocational technical institute programs in the area of long term care;

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*For the purposes of PART SEVEN, the following terms have the following meanings:

"Aides" include individuals who have all of the following characteristics: are employed in long term care facilities and programs, work directly with consumers of long term care services, and earn wages at or close to the minimum wage established by Maine law.

"Long term care facilities and programs" include skilled nursing facilities, intermediate care facilities, boarding care facilities (including group homes and transitional living facilities), home health agencies and homemaker agencies.

-- Approve curricula proposals for training aides;

-- Provide technical assistance to instructors and ensure that they use standardized curricula;

-- Certify training programs for aides offered by both schools and long term care facilities and programs.

(c) Content of Curricula. Curricula for aides should:

-- Be geared to the total needs of consumers of long term care services, including an emphasis not only on medical and physical needs, but also on areas such as mental health, gerontology and psychosocial needs;

-- Include classroom and clinical experience with a designated number of hours required in long term care facilities and programs, and, when appropriate, in hospitals;

-- Be thorough with respect to the administration of medications, in particular for aides who will be working in boarding care facilities.

(d) Role of Public Education. Both vocational technical institutes (post-secondary level) and adult education programs (secondary level) should:

-- Become part of a statewide system of training centers for aides; and

-- Offer more training programs for aides, including "traveling road shows" to areas not served by close-by vocational technical institutes or adult education programs.

(e) Allowable Cost. The Department of Human Services should allow training programs for aides as a reasonable cost item for long term care facilities and programs. The individual receiving the training should pay for it, initially, and should be reimbursed for this cost only after working in a long term care facility or program for a specified amount of time (for example, six months or one year).

(f) Job Applications. Applicants for aide positions in long term care facilities and programs should be required to include copies of their certificates with their applications. Applicants should receive written job descriptions.

4. Career Development.

Individuals beginning employment in long term care facilities and programs at the basic aide level should have opportunities, through a variety of qualifying processes, to progress to specialized paraprofessional responsibilities (such as activities assistants, rehabilitation aides, and medication technicians) and to advance to professional levels (such as nursing, social work and therapy).

5. Single Classification.

Serious consideration should be given to eliminating the present classifications of "certified nurses assistant" and "medical technician" and having the single classification of "nurses aide." If the classification of medical technician is to continue, then the technicians should be required to take periodic refresher courses, in order to retain their certification.

B. NURSES

1. Mandatory Continuing Education.

There should be mandatory continuing education for both registered nurses and licensed practical nurses who work in long term care facilities and programs. Continuing education for these individuals should be allowed as a reasonable cost item for the long term care facilities and programs in which they are employed.

2. Licensed Practical Nurses.

The State Board of Nursing should examine how to increase enrollment opportunities in licensed practical nurse training programs.

C. STAFF AND OPERATORS OF BOARDING CARE FACILITIES

1. Training Opportunities.

Title XX training, community mental health centers training and other educational opportunities, such as programs offered by the University of Maine and the Comprehensive Employment and Training Administration (CETA) should be available to staff of boarding care facilities. The Maine Council of Community Mental Health Centers should be encouraged to continue its training program for boarding care facility personnel.

2. Medications.

There should be more adequate training, especially in large facilities, in the administration of medications.

3. Programming.

Operators and staff of facilities and regional consultants employed by the Department of Human Services should receive training about the needs of residents and programming to meet those needs. In particular, activity coordinators should receive more training. (See page 12)

4. Risks.

Training should be provided to help operators and staff understand that it is acceptable for residents to take risks and that increased independence of residents will not cause more work. (See page 14)

5. Basic Training for Operators.

(a) 80-Hour Course. The Department of Human Services should require an 80-hour course covering areas such as reimbursement policies, physical plant requirements, individual program planning and theories of normalization for operators. Operators should pay for the course out of pocket. The Department should reimburse operators for the course, only if they stay with facilities for a specified length of time.

(b) Continuing Education. The Board of Licensure of Administrators should require a minimum number of hours of continuing education in certain subject areas, such as those listed in (a) above.

6. Qualification of Operators.

(a) Type of Qualifications. Qualifications for operators should be expanded to demonstrate commitment and determination to achieve the goal of quality home-like environment which addresses the needs of consumers of long term care services.

(b) References. References from the local community should be used in the approval of operators.

7. Input into Training.

Staff and operators should have continuous and substantial input into the content of training programs.

D. MENTAL HEALTH PROFESSIONALS

Mental health professionals should receive training regarding the special mental health needs of elderly and other consumers of long term care services. The Bureau of Maine's Elderly, Department of Human Services, and the Bureau of Mental Health, Department of Mental Health and Corrections, should establish a training program about the special mental health needs of the elderly. (See page 14)

E. FOSTER CARE FACILITY OPERATORS

Foster care facility operators should have training about the needs of residents and about programming to meet those needs. (See page 10)

F. STAFF DEVELOPMENT, GENERALLY

1. In-House Staff Development.

The Department of Human Services should require administrators of long term care facilities and programs to provide regularly scheduled in-house staff development programs in which all employees should be required to participate, and should reimburse long term care facilities and programs for the costs of such programs.

2. Outside Continuing Education.

The Department of Human Services should reimburse long term care facilities and programs for permitting employees to have time off with pay to participate in continuing education programs outside of the facilities and programs. Transportation and, in some cases, respite care should be routine allowable costs for meeting staff training needs.

3. Prior Approval.

The Department of Human Services should approve staff development programs, including in-house programs and outside continuing education programs, on an annual basis, and should not require prior approval for each course or session offered pursuant to the plan.

4. Physical and Occupational Therapists.

The Department of Human Services should permit intermediate care facilities to engage the services of consultant physical and occupational therapists for staff education and training about safety procedures and care of residents. (See page 16)

PART EIGHT:

DISCRIMINATION AGAINST AND ADVOCACY ON BEHALF OF CONSUMERS OF LONG TERM CARE SERVICES

A. DISCRIMINATION IN INTERMEDIATE CARE FACILITIES

1. Equal Services.

(a) Residents. Each intermediate care facility should be required to provide equal services to all residents, regardless of their source of payment for services (Medicaid versus private funds) and their demand for services ("easy" versus "difficult" residents).

(b) Individuals Seeking Admission. Each intermediate care facility which enters into a provider agreement with the Department of Human Services should be required to accept all individuals seeking admission on a first come, first served basis.

(c) Conditions. The requirements in (a) and (b) above, should be subject to the following conditions:

-- Each intermediate care facility, including those which do not admit individuals who are eligible for Medicaid, should be required to keep residents who have exhausted their private funds and who have become eligible for Medicaid. Each provider agreement between the Department of Human Services and an intermediate care facility should stipulate that the facility cannot discharge residents because they have run out of funds. This stipulation should be consistent with the amount of time established for the private pay rate which the resident and the facility have agreed to in the admissions contract.

-- Each intermediate care facility should be required to accept individuals eligible for Medicaid, provided that the facility is able to address adequately the long term care needs of these individuals, and provided, further, that the occupancy rate is at 95 percent or lower or there are two vacant beds in the facility, whichever is higher. (See pages 37-38)

-- Each intermediate care facility should be required to admit "difficult" residents, unless the facility can document that it is not able to address adequately the long term care needs of any such residents. In addition, each intermediate care facility should be prohibited from discharging a "difficult" resident without full documentation and adherence to residents' rights provisions concerning transfer and discharge.

(d) Implementation. The recommendations in (a), (b), and (c) above should be carried out immediately through regulations promulgated by the Department of Human Services. The recommendations should be interim steps, which should remain in effect until the Legislature enacts a residents' rights act.

2. Security Deposits.

Intermediate care facilities should not require security deposits by individuals who are eligible for Medicaid at the time of application for admission. The Department of Human Services should reimburse facilities for the bad debts of these individuals.

B. HOLDING BEDS IN INTERMEDIATE CARE AND BOARDING CARE FACILITIES (See page 14)

1. Discharge to Hospital.

Intermediate care facilities and boarding care facilities should be required to notify the Department of Human Services when a resident is discharged to a hospital and should request prior approval of reimbursement for the resident's bed for up to 15 days in any calendar year. The Department of Human Services should grant this approval.

2. Leave of Absence.

Intermediate care facilities and boarding care facilities should not be required to obtain prior approval to hold the bed of a resident who takes a leave of absence for up to and including 18 days in any calendar year.

C. ADVOCACY

1. Residents' Rights.

The Governor should submit legislation to the 110th Maine State Legislature in January 1981 to establish a law in long term care residents' rights act.

The legislation should:

(a) Affirm Rights. Not give individuals special rights, but should affirm basic rights which can be eroded by misunderstanding, administrative convenience, or neglect;

(b) Apply to all Residents. Apply to all residents of skilled nursing facilities, intermediate care facilities, boarding care facilities (including group homes and transitional living facilities), adult foster care facilities, and eating and lodging places with long term residents; and

(c) Consolidate other Laws. Consolidate existing laws relating to rights of various groups which receive long term care services.

2. Funding.

The Governor should recommend to the 110th Maine State Legislature that:

(a) Ombudsman Program. There should be increased funding for the Nursing Home and Boarding Home Ombudsman Program of the Maine Committee on Aging; and

(b) Chronically Mentally Ill. There should be an appropriation to the Office of Advocacy, Department of Mental Health and Corrections, to provide to chronically mentally ill individuals who reside in the community advocacy services, through contracts between the Office and private agencies.

3. Role of Advocates.

(a) Coordination. The various agencies providing advocacy services for consumers of long term care services should meet periodically to discuss goals and areas of mutual concern.

(b) Self-Advocacy. The various agencies providing advocacy services should assist in the development of "self-advocacy." (The Southern Maine Association for the Handicapped is a good example of the type of effort that is needed.)

(c) Family Support Groups. The various agencies providing advocacy services should encourage the organization of family support groups. (The Alliance for the Mentally Ill, a group of concerned family members of mentally ill individuals, is a good example of this type of effort.)

OFFICE OF
THE GOVERNOR

NO. 11FY 79/80

AN ORDER ESTABLISHING THE GOVERNOR'S TASK FORCE ON LONG TERM CARE FOR ADULTS

WHEREAS, over 10,000 elderly persons and hundreds of developmentally disabled, mentally ill and other adults reside in nursing and boarding homes in the State of Maine; and

WHEREAS, the persons who are 75 years of age or older represent the most rapidly growing segment of Maine's population, and 75 percent of the residents in nursing homes, are 75 or older; and

WHEREAS, A U.S. Senate Subcommittee on Long Term Care has concluded that 30 percent of the low income elderly persons would not be there if other services had been available at the time those persons entered the nursing homes; and

WHEREAS, payments made to nursing homes under the State Medicaid Program increased by 182 percent from $18.7 million in 1974 to $52.7 million in 1978; and

WHEREAS, there are diverse and diverging planning efforts relating to long term care for Maine citizens, which need to be coordinated:

NOW, THEREFORE, I, JOSEPH E. BRENNAN, Governor of the State of Maine, establish a Governor's Task Force on Long Term Care for Adults to examine the needs of dependent and semi-dependent adults in the State and to make recommendations for improving the services provided to meet these needs.

Membership

There shall be 32 voting members on the full Task force. Twenty-three of these members shall be state legislators, private sector providers and other members of the general public appointed by the Governor. Nine of these members shall be state employees invited to participate by the Commissioner of Human Services.

The Governor may invite other interested Maine citizens to serve as nonvoting members on subcommittees of the full Task Force.

The Commissioner may invite other appropriate state and federal officials to participate on the Task Force or any of its subcommittees as nonvoting members.

Responsibilities

The responsibilities of the Task Force shall be:

1. to identify and examine the plans developed by various public and private agencies and groups to meet the long term needs of dependent and semi-dependent adults;

2. to determine which aspects of the various plans do the most to enable these adults to make as many decisions as possible about their own lives and to reside in the least restrictive, yet safe, settings available;

3. to complete a comprehensive review of statutes, regulations, policies and financing which direct and affect the provision of services to meet the long term needs of these adults, with an emphasis on improving the coordination of the administration of long term care services by various State agencies;

4. to make recommendations to the Governor for more fully meeting the long term needs of Maine's dependent and semi-dependent adults, including a plan for administrative action and a plan for action by the 110th Maine State Legislature;

5. to hold public hearings during the development of these recommendations; and

6. to build public awareness of the problems and issues involved in the particular substantive area to be examined.

Administration

1. The Department of Human Services shall provide clerical and staff support services for the Task Force, making use of any federal funds which become available for this purpose.

2. The Department of Human Services shall reimburse members of the Task Force for actual and reasonable mileage, lodging and meal expenses directly related to the activities of the Task Force.

3. The Final Report and recommendations shall be submitted by the Task Force on or before Labor Day, 1980.

4. This Executive Order shall terminate with the submission of the Final Report and recommendations.

Joseph E. Brennan

JOSEPH E. BRENNAN, Governor

GOVERNOR'S TASK FORCE
ON LONG TERM CARE FOR ADULTS

CONSUMER MEMBERS

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Farmington

William Cunningham
Manchester

Robert Dyer
South Waterford

E. Stuart Fergusson
North Whitefield

Audrey Libbey
Auburn

Reverend Roger Nichols
Bangor

Charles O'Leary
(Ken Morgan)
Brewer

Sandra K. Prescott
State Representative
Hampden

Thomas Perkins
State Senator
Blue Hill

Janet Prickett
Greenville

Lynnie York
South Paris

PROVIDER MEMBERS

J. Richard Beach
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Raymond Bishop
Dover-Foxcroft

Gloria Burd
Readfield

Mary Lou Cormier
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Presque Isle

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