

July 27, 2012

Sharon L. Summers  
Planning and Policy Development Unit  
Division of Medicaid and Medical Assistance  
1901 North DuPont Highway  
P.O. Box 906  
New Castle, DE 19720-0906

**RE: DMMA Proposed LTC Ombudsman Program Regulation [16 DE Reg. 42 (July 1, 2012)]**

Dear Ms. Summers:

The Governor's Advisory Council for Exceptional Citizens (GACEC) has reviewed the Division of Medicaid & Medical Assistance (DMMA) proposal to adopt an amendment to the Medicaid State Plan.

As the "Summary of Proposal" section (p. 43) indicates, transfer of three State long-term care facilities (DHCI, EPBH, and GBHC) to DSAAPD in the FY11 budget bill created a conflict of interest. The conflict resulted from the DSAAPD Division Director supervising both the State Long Term Care (LTC) facilities and the Ombudsman since the Ombudsman is expected to be an independent monitor of LTC facilities. To resolve the conflict, legislation (S.B. No. 102) was enacted to place the Ombudsman under the Office of the Secretary. The proposed regulation revises the Medicaid State Plan to reflect this change. Council endorses the revision. However, consistent with the attached June 17, 2011 GACEC letter on Senate Bill No. 102, the GACEC requested a DHSS commitment to address the following: 1) conflicts between DHSS Administration and the Ombudsman; and 2) the need to ensure the availability of independent legal counsel to the Ombudsman. Council would like to request additional information to assess whether the Department ever implemented its commitment.

Thank you for your time and consideration of our comments. Please feel free to contact me or Wendy Strauss should you have questions or concerns.

Sincerely,

Terri A. Hancharick  
Chairperson

TAH:kpc

Enclosures